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**Changes to legislation:** Protection of Freedoms Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 1

#### AMENDMENTS OF REGIMES OTHER THAN PACE

##### PART 5

###### MATERIAL SUBJECT TO THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

- 6 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 18(3), for “18F” substitute “ 18G ”.
- (3) After section 18F insert—

###### “18G Retention of samples etc: national security

- (1) This section applies to—
- (a) relevant physical data taken from or provided by a person under section 18(2) (including any taken or provided by virtue of paragraph 20 of Schedule 8 to the Terrorism Act 2000),
  - (b) any sample, or any information derived from a sample, taken from a person under section 18(6) or (6A) (including any taken by virtue of paragraph 20 of Schedule 8 to the Terrorism Act 2000),
  - (c) any relevant physical data, sample or information derived from a sample taken from, or provided by, a person under section 19AA(3),
  - (d) any relevant physical data, sample or information derived from a sample which is held by virtue of section 56 of the Criminal Justice (Scotland) Act 2003, and
  - (e) any relevant physical data, sample or information derived from a sample taken from a person—
    - (i) by virtue of any power of search,
    - (ii) by virtue of any power to take possession of evidence where there is immediate danger of its being lost or destroyed, or
    - (iii) under the authority of a warrant.
- (2) The relevant physical data, sample or information derived from a sample may be retained for so long as a national security determination made by the relevant chief constable has effect in relation to it.
- (3) A national security determination is made if the relevant chief constable determines that is necessary for the relevant physical data, sample or information derived from a sample to be retained for the purposes of national security.
- (4) A national security determination—

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- (a) must be made in writing,
  - (b) has effect for a maximum of 2 years beginning with the date on which the determination is made, and
  - (c) may be renewed.
- (5) Any relevant physical data, sample or information derived from a sample which is retained in pursuance of a national security determination must be destroyed as soon as possible after the determination ceases to have effect (except where its retention is permitted by any other enactment).
- (6) In this section, “the relevant chief constable” means the chief constable of the police force of which the constable who took the relevant physical data, or to whom it was provided, or who took or directed the taking of the sample, was a member.”

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**Commencement Information**

- II** Sch. 1 para. 6 in force at 31.10.2013 by [S.I. 2013/1814](#), [art. 2\(k\)](#) (with transitional provisions and savings in [S.I. 2013/1813](#))

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/2234 art. 13 by [S.I. 2014/831 art. 2\(2\)](#)
- specified provision(s) transitional provisions and savings for commencing S.I. 2013/1814 by [S.I. 2013/1813 art. 2-9](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 7A inserted by [2019 c. 3 Sch. 2 para. 20](#)