



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART V

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

[^{F1}63F Retention of section 63D material: persons arrested for or charged with a qualifying offence

- (1) This section applies to section 63D material which—
 - (a) relates to a person who is arrested for, or charged with, a qualifying offence but is not convicted of that offence, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.
- (2) If the person has previously been convicted of a recordable offence which is not an excluded offence, or is so convicted before the material is required to be destroyed by virtue of this section, the material may be retained indefinitely.

[In subsection (2), references to a recordable offence include an offence under the law ^{F2}(2A) of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (and, in the application of subsection (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).]

- (3) Otherwise, material falling within subsection (4) or (5) may be retained until the end of the retention period specified in subsection (6).
- (4) Material falls within this subsection if it—
 - (a) relates to a person who is charged with a qualifying offence but is not convicted of that offence, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.
- (5) Material falls within this subsection if—

Status: Point in time view as at 03/04/2017. This version of this provision has been superseded.

Changes to legislation: Police and Criminal Evidence Act 1984, Section 63F is up to date with all changes known to be in force on or before 02 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)

- (a) it relates to a person who is arrested for a qualifying offence but is not charged with that offence,
 - (b) it was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence, and
 - (c) the Commissioner for the Retention and Use of Biometric Material has consented under section 63G to the retention of the material.
- (6) The retention period is—
- (a) in the case of fingerprints, the period of 3 years beginning with the date on which the fingerprints were taken, and
 - (b) in the case of a DNA profile, the period of 3 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).
- (7) The responsible chief officer of police or a specified chief officer of police may apply to a District Judge (Magistrates' Courts) for an order extending the retention period.
- (8) An application for an order under subsection (7) must be made within the period of 3 months ending on the last day of the retention period.
- (9) An order under subsection (7) may extend the retention period by a period which—
- (a) begins with the end of the retention period, and
 - (b) ends with the end of the period of 2 years beginning with the end of the retention period.
- (10) The following persons may appeal to the Crown Court against an order under subsection (7), or a refusal to make such an order—
- (a) the responsible chief officer of police;
 - (b) a specified chief officer of police;
 - (c) the person from whom the material was taken.
- (11) In this section—
- “excluded offence”, in relation to a person, means a recordable offence—
- (a) which—
 - (i) is not a qualifying offence,
 - (ii) is the only recordable offence of which the person has been convicted, and
 - (iii) was committed when the person was aged under 18, and
 - (b) for which the person was not given a relevant custodial sentence of 5 years or more,
- “relevant custodial sentence” has the meaning given by section 63K(6),
- “a specified chief officer of police” means—
- (a) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
 - (b) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer's police area.]
- [^{F3}(12) For the purposes of the definition of “excluded offence” in subsection (11)—
- (a) references to a recordable offence or a qualifying offence include an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the

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- case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and
- (b) in the application of paragraph (b) of that definition in relation to an offence under the law of a country or territory outside England and Wales, the reference to a relevant custodial sentence of 5 years or more is to be read as a reference to a sentence of imprisonment or other form of detention of 5 years or more.]

Textual Amendments

- F1** S. 63F inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 3, 120** (with s. 97); S.I. 2013/1814, art. 2(a)
- F2** S. 63F(2A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(2), 183(1)(5)(e)**; S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)
- F3** S. 63F(12) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(3), 183(1)(5)(e)**; S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

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