

COUNTER-TERRORISM ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Powers to Gather and Share Information

Retention and use of fingerprints and samples

Section 18 – Material not subject to existing statutory restrictions

54. *Section 18* provides a statutory framework for the use and retention of DNA samples and fingerprints that are not held subject to other existing statutory restrictions.
55. *Subsection (2)* restricts the uses to which such samples and fingerprints held by a law enforcement authority in England, Wales or Northern Ireland may be put. They may only be used in the interest of national security, for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution or for the purposes related to the identification of a deceased person or of the person from whom the material came.
56. *Subsection (3)* imposes a condition that must be met before the samples and fingerprints may be used for the purposes set out in *subsection (2)*. The condition is that the material must have been either: (i) obtained by the authority pursuant to an authorisation under the Police Act 1997 or the Regulation of Investigatory Powers Act 2000; (ii) supplied to the authority by another law enforcement body (domestic or foreign); or (iii) otherwise lawfully obtained by the authority for one of the purposes in *subsection (2)*.
57. *Subsection (4)* clarifies certain terms used in *subsection (2)*: use of material includes allowing a check to be made against it and disclosing to another person. This phrase is used principally to allow samples to be exchanged with the security agencies who are not included in the definition of “law enforcement authority” and “police force” in section 18(5). The reference in *subsection (2)* to crime includes actions which constitute a criminal offence under law of any part of the UK or a territory outside the UK or actions which would have been a criminal offence had they been conducted in the UK; and the references to investigations and prosecutions are also given a wide meaning, so as to apply equally to investigations and prosecutions which are conducted outside the UK.
58. *Subsection (5)* defines terms used in this section.
59. *Subsection (6)* sets out “the existing statutory restrictions” which are referred to in *subsection (1)*.