



# Counter-Terrorism Act 2008

## 2008 CHAPTER 28

### PART 1

#### POWERS TO GATHER AND SHARE INFORMATION

##### *Retention and use of fingerprints and samples*

#### **18 Material not subject to existing statutory restrictions**

- (1) This section applies to—
  - (a) DNA samples or profiles, or
  - (b) fingerprints,that are not held subject to existing statutory restrictions.
- (2) Material to which this section applies that is held by a law enforcement authority in England and Wales or Northern Ireland may be retained by that authority and used—
  - (a) in the interests of national security,
  - (b) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
  - (c) for purposes related to the identification of a deceased person or of the person from whom the material came,if the following condition is met.
- (3) The condition is that the material has been—
  - (a) obtained by the authority—
    - (i) pursuant to an authorisation under Part 3 of the Police Act 1997 (c. 50) (authorisation of action in respect of property), or
    - (ii) in the course of surveillance, or use of a covert human intelligence source, authorised under Part 2 of the Regulation of Investigatory Powers Act 2000 (c. 23),
  - (b) supplied to the authority by another law enforcement authority, or

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*Status: This is the original version (as it was originally enacted).*

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- (c) otherwise lawfully obtained or acquired by the authority for any of the purposes mentioned in subsection (2).
- (4) In subsection (2)—
- (a) the reference to using material includes allowing a check to be made against it, or against information derived from it, or disclosing it to any person;
  - (b) the reference to crime includes any conduct that—
    - (i) constitutes a criminal offence (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
    - (ii) is, or corresponds to, conduct that, if it took place in the United Kingdom, would constitute a criminal offence;
  - (c) the references to investigation and prosecution include, respectively, the investigation outside the United Kingdom of a crime or suspected crime and a prosecution brought in respect of a crime in a country or territory outside the United Kingdom.
- (5) In this section—
- “DNA sample” means any material that has come from a human body and consists of or includes human cells;
  - “DNA profile” means any information derived from a DNA sample;
  - “fingerprints” means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of a person’s fingers or either of a person’s palms;
  - “law enforcement authority” means a police force, the Serious Organised Crime Agency or the Commissioners for Her Majesty’s Revenue and Customs or an authority having functions under the law of a country or territory outside the United Kingdom—
    - (a) corresponding to those of a police force, or
    - (b) otherwise involving the investigation or prosecution of offences;
  - “police force” means any of the following—
    - (a) the metropolitan police force;
    - (b) a police force maintained under section 2 of the Police Act 1996 (c. 16) (police forces in England and Wales outside London);
    - (c) the City of London police force;
    - (d) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
    - (e) the Police Service of Northern Ireland;
    - (f) the Police Service of Northern Ireland Reserve;
    - (g) the Ministry of Defence Police;
    - (h) the Royal Navy Police;
    - (i) the Royal Military Police;
    - (j) the Royal Air Force Police;
    - (k) the British Transport Police.
- (6) The following are “the existing statutory restrictions” referred to in subsection (1)—
- (a) sections 63A and 64 of the Police and Criminal Evidence Act 1984 (c. 60);
  - (b) Articles 63A and 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

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- (c) paragraph 14 or 20(3) of Schedule 8 to the Terrorism Act 2000 (c. 11);
- (d) section 2(2) of the Security Service Act 1989 (c. 5);
- (e) section 1(2) of the Intelligence Services Act 1994 (c. 13).