
Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Paragraph 20. (See end of Document for details)

SCHEDULES

SCHEDULE 6

DETENTION UNDER SECTION 27

PART 4

DEALING WITH FINGERPRINTS AND SAMPLES ETC: UNITED KINGDOM

Retention of fingerprints and samples etc: general

- 20 (1) This paragraph applies to paragraph 19 material relating to a person who is detained under section 27.
- (2) Paragraph 19 material may be retained indefinitely if—
- (a) the person has previously been convicted—
 - (i) of a recordable offence (other than a single exempt conviction), or
 - (ii) in Scotland, of an offence which is punishable by imprisonment, or
 - (b) the person is so convicted before the end of the period within which the material may be retained by virtue of this paragraph.
- (3) In sub-paragraph (2)—
- (a) the reference to a recordable offence includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute—
 - (i) a recordable offence under the law of England and Wales if done there, or
 - (ii) a recordable offence under the law of Northern Ireland if done there, (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted);
 - (b) the reference to an offence in Scotland which is punishable by imprisonment includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute an offence under the law of Scotland which is punishable by imprisonment if done there (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).
- (4) Paragraph 19 material may be retained until the end of the retention period specified in sub-paragraph (5) if—
- (a) the person has no previous convictions, or
 - (b) the person has only one exempt conviction.
- (5) The retention period is—

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- (a) in the case of fingerprints or relevant physical data, the period of 3 years beginning with the date on which the fingerprints or relevant physical data were taken or provided, 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).
- (6) The responsible chief officer of police or a specified chief officer of police may apply to a relevant court for an order extending the retention period.
- (7) An application for an order under [sub-paragraph \(6\)](#) must be made within the period of 3 months ending with the last day of the retention period.
- (8) An order under [sub-paragraph \(6\)](#) may extend the retention period by a period which—
- (a) begins with the date on which the material would otherwise be required to be destroyed under [this paragraph](#), and
 - (b) ends with the end of the period of 2 years beginning with that date.
- (9) The following persons may appeal to the relevant appeal court against an order under [sub-paragraph \(6\)](#) 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.
- (10) In Scotland—
- (a) an application for an order under [sub-paragraph \(6\)](#) is to be made by summary application;
 - (b) an appeal against an order under [sub-paragraph \(6\)](#), or a refusal to make such an order, must be made within 21 days of the relevant court’s decision, and the relevant appeal court’s decision on any such appeal is final.
- (11) Nothing in [this paragraph](#) prevents the start of a new retention period in relation to [paragraph 19](#) material if a person is detained again under [section 27](#) when an existing retention period (whether or not extended) is still in force in relation to that material.
- (12) In [this paragraph](#)—
- “relevant court” means—
- (a) in England and Wales, a District Judge (Magistrates’ Courts),
 - (b) in Scotland, the sheriff—
 - (i) in whose sheriffdom the person to whom the material relates resides,
 - (ii) in whose sheriffdom that person is believed by the applicant to be, or
 - (iii) to whose sheriffdom that person is believed by the applicant to be intending to come, and
 - (c) in Northern Ireland, a district judge (magistrates’ court) in Northern Ireland;
- the “relevant appeal court” means—
- (a) in England and Wales, the Crown Court,

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- (b) in Scotland, the Sheriff Appeal Court, and
- (c) in Northern Ireland, the County Court;
a “specified chief officer of police” means—
 - (a) in England and Wales—
 - (i) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
 - (ii) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer’s police area, and
 - (b) the chief constable of the Police Service of Scotland, where—
 - (i) the person who provided the material, or from whom it was taken, resides in Scotland, or
 - (ii) the chief constable believes that the person is in, or is intending to come to, Scotland, and
 - (c) the Chief Constable of the Police Service of Northern Ireland, where—
 - (i) the person from whom the material was taken resides in Northern Ireland, or
 - (ii) the chief constable believes that the person is in, or is intending to come to, Northern Ireland.

Commencement Information

- 11** Sch. 6 para. 20 not in force at Royal Assent, see 100(1)
- 12** Sch. 6 para. 20 in force at 20.12.2023 by S.I. 2023/1272, **reg. 2(a)**

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