

## SCHEDULES

### SCHEDULE 1

Section 16

#### FOREIGN INTERFERENCE IN ELECTIONS

##### PART 1

##### RELEVANT ELECTORAL OFFENCES

##### OFFENCES UNDER THE ELECTORAL LAW ACT (NORTHERN IRELAND) 1962 (C.14 (N.I.))

<i>An offence under any of these provisions of Schedule 9 to the Electoral Law Act (Northern Ireland) 1962 (c.14 (N.I.))</i>	<i>Maximum term of imprisonment</i>
Paragraph 1 (bribery)	4 years
Paragraph 2 (treating)	4 years
Paragraph 3 (undue influence)	4 years
Paragraph 4 (personation)	7 years
Paragraph 4A (postal and proxy votes)	7 years
Paragraph 5A (false statements in nomination papers etc)	4 years
Paragraph 26(2) (tampering with nomination papers etc)	7 years

##### OFFENCES UNDER THE REPRESENTATION OF THE PEOPLE ACT 1983

<i>An offence under any of these provisions of the Representation of the People Act 1983</i>	<i>Maximum term of imprisonment</i>
Section 60 (personation)	7 years
Section 62A (postal and proxy votes)	7 years
Section 62B (postal and proxy votes: Scottish local government elections)	7 years
Section 65 (tampering with nomination papers etc)	7 years
Section 65A (false statements in nomination papers etc)	4 years
Section 65B (false information in nomination papers etc: Scottish local government elections)	4 years
Section 112A (handling of postal voting documents by political campaigners)	7 years
Section 113 (bribery)	4 years

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<i>An offence under any of these provisions of the Representation of the People Act 1983</i>	<i>Maximum term of imprisonment</i>
Section 114 (treating)	4 years
Section 114A (undue influence)	4 years
Section 115 (undue influence in a local government election in Scotland or Wales)	4 years

OFFENCES UNDER THE POLITICAL PARTIES,  
ELECTIONS AND REFERENDUMS ACT 2000

<i>An offence under any of these provisions of the Political Parties, Elections and Referendums Act 2000</i>	<i>Maximum term of imprisonment</i>
Section 54(7) (information about donors)	4 years
Section 54A(5) (false declaration about source of donation)	4 years
Section 54B(3) (false declaration as to residence condition)	4 years
Section 56(3), (3B) or (4) (failure to return donations)	4 years
Section 61 (evading restrictions on donations)	4 years
Section 65(4) (failure to comply with requirements about recording donations)	4 years
Section 66(5) (false declaration in donation report)	4 years
Section 89A (4) or (5) (incurring controlled expenditure in contravention of restriction)	2 years
Section 148 (general offences)	4 years
In Schedule 7 (donations to individuals and members associations)— paragraph 6A(5) (false declaration as to source of donation) paragraph 6B(3) (false declaration as to residence condition)	4 years
In Schedule 7A (loans to individuals and members associations)— paragraph 4A(5) (false declaration as to residence condition) paragraph 8(9) (facilitating controlled transaction involving unauthorised participant)	4 years
In Schedule 11 (donations to recognised third parties)— paragraph 6A(5) (false declaration as to source of donation) paragraph 6B(3) (false declaration as to residence condition)	4 years
In Schedule 15 (donations to permitted participants)— paragraph 6A(5) (false declaration as to source of donation) paragraph 6B(3) (false declaration as to residence condition)	4 years

## PART 2

### AMENDMENTS

#### *Electoral Law Act (Northern Ireland) 1962 (c.14 (N.I.))*

- 1 (1) The [Electoral Law Act \(Northern Ireland\) 1962 \(c.14 \(N.I.\)\)](#) is amended as follows.
  - (2) In section 105 (restrictions on summary prosecution) after subsection (8) insert—
    - “(9) A corrupt practice or electoral offence in relation to which section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies is triable only on indictment.”
  - (3) In section 106 (prosecution of offences disclosed on election petition) after subsection (1) insert—
    - “(1A) The duty in subsection (1) to obey a direction given by an election court does not apply to a direction with respect to the prosecution of a corrupt practice or electoral offence in relation to which the Director has reasonable grounds to believe section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies.”
  - (4) In section 108 (penalties for corrupt practices) after subsection (4) insert—
    - “(5) This section does not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the corrupt practice.”
  - (5) In section 111 (penalties for electoral offences) after subsection (2A) insert—
    - “(2B) Subsections (1) to (2A) do not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the electoral offence.”
  - (6) In section 112(1H) (incapacities resulting from convictions) after “109” insert “or under section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference)”.
  - (7) In section 118 (time limit for prosecutions) after subsection (3) insert—
    - “(4) This section does not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the electoral misdemeanour.”

#### *Representation of the People Act 1983 (c. 2)*

- 2 (1) The Representation of the People Act 1983 is amended as follows.
  - (2) In section 65 (offence of tampering with nomination papers etc) after subsection (4) insert—
    - “(5) Subsections (3) and (4) do not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the offence.”
  - (3) In section 168 (penalties for corrupt practices) after subsection (1) insert—

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“(1A) Subsection (1) does not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the corrupt practice.”

(4) In section 176 (time limit for prosecutions) after subsection (1) insert—

“(1A) Subsection (1) does not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the offence.”

*Political Parties, Elections and Referendums Act 2000 (c. 41)*

3 (1) The Political Parties, Elections and Referendums Act 2000 is amended as follows.

(2) In section 147 (civil sanctions)—

- (a) the existing text becomes subsection (1);
- (b) after that subsection insert—

“(2) Schedule 19C does not apply in relation to the commission of an offence under this Act where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the offence.”

(3) In section 150 (punishment of offences) at the end insert—

“(6) Schedule 20 does not apply where section 16 of the National Security Act 2023 (which provides for higher sentences in cases of foreign interference) applies in relation to the offence.”

## SCHEDULE 2

Section 23

### POWERS OF ENTRY, SEARCH AND SEIZURE

#### PART 1

#### ENGLAND AND WALES AND NORTHERN IRELAND

*Introductory*

1 (1) **This Part** of **this Schedule** applies in England and Wales and in Northern Ireland.

(2) In **this Part** of **this Schedule** “relevant act” means—

- (a) an offence under **this Part** of this Act, other than an offence under—
  - (i) section 5 (unauthorised entry to a prohibited place);
  - (ii) section 6 (prohibited place: failure to comply with order of constable);
  - (iii) section 11 (cordoned area: failure to comply with order of constable);
  - (iv) **this Schedule**;
  - (v) Schedule 3 (disclosure orders);

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- (vi) Schedule 4 (customer information orders);
- (b) an act or threat within section 33(3)(b) or (c).

*Material other than confidential material: search, seizure and retention*

- 2 (1) A constable may make an application for the issue of a warrant under [this paragraph](#)—
- (a) in England and Wales, to a justice of the peace;
  - (b) in Northern Ireland, to a lay magistrate.
- (2) The justice of the peace or lay magistrate may grant the application if satisfied that—
- (a) conditions 1 and 2 are met, and
  - (b) in the case of an application for an all premises warrant, condition 3 is met.
- (3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
- (4) Condition 2 is that there are reasonable grounds for suspecting that there is on the relevant premises material which—
- (a) is likely to be evidence that a relevant act has been, or is about to be, committed, and
  - (b) does not consist of or include confidential material.
- (5) Condition 3 is that it is not reasonably practicable to specify in the application all the premises which the person specified in the application occupies or controls and which might need to be searched.
- (6) A warrant under [this paragraph](#) is a warrant authorising any constable—
- (a) to enter the relevant premises,
  - (b) to search the relevant premises and any person found there, and
  - (c) to seize and retain any material found on a search under [paragraph \(b\)](#) which is likely to be evidence that a relevant act has been, or is about to be, committed.
- (7) A warrant under [this paragraph](#) does not authorise—
- (a) the seizure and retention of confidential material, or
  - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat or jacket and gloves.
- (8) In [this paragraph](#) the “relevant premises” are—
- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

*Confidential material: production orders*

- 3 (1) A constable may apply to a judge for an order under [this paragraph](#).
- (2) The judge may grant the application if satisfied that conditions 1 to 4 are met.

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- (3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
  - (4) Condition 2 is that there are reasonable grounds for suspecting that a person specified in the application has in their possession, custody or control material which—
    - (a) is likely to be evidence that a relevant act has been, or is about to be, committed,
    - (b) consists of or includes confidential material, and
    - (c) does not include items subject to legal privilege.
  - (5) Condition 3 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
  - (6) Condition 4 is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard to—
    - (a) the benefit likely to accrue to the investigation if the material is obtained, and
    - (b) the circumstances under which the person concerned has any of the material in their possession, custody or control.
  - (7) An order under [this paragraph](#) is an order that the person specified in the application must do any of the following—
    - (a) produce to a constable within a specified period for seizure and retention any material which the person has in their possession, custody or control and to which the application relates;
    - (b) give a constable access to any material of the kind mentioned in [paragraph \(a\)](#) within a specified period;
    - (c) state to the best of the person’s knowledge and belief the location of the material to which the application relates if it is not in, and will not come into, the person’s possession, custody or control within the period specified under [paragraph \(a\)](#) or [\(b\)](#).
  - (8) The specified period is to be the period of 7 days beginning with the date of the order, unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.
- 4
- (1) A constable may apply to a judge for an order under [this paragraph](#).
  - (2) The judge may grant the application if satisfied that conditions 1 to 5 are met.
  - (3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
  - (4) Condition 2 is that there are reasonable grounds for suspecting that, within the period of 28 days beginning with the date of the order, there is likely to come into existence material which—
    - (a) is evidence that a relevant act has been, or is about to be, committed,
    - (b) consists of or includes confidential material, and
    - (c) does not include items subject to legal privilege.
  - (5) Condition 3 is that there are reasonable grounds for suspecting that a person specified in the application is likely within that period to have in their possession, custody or control any of the material to which the application relates.

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- (6) Condition 4 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
- (7) Condition 5 is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard to—
  - (a) the benefit likely to accrue to the investigation if the material is obtained, and
  - (b) the circumstances under which the person concerned is likely to have any of the material in their possession, custody or control.
- (8) An order under [this paragraph](#) is an order that the person specified in the application must do any of the following—
  - (a) notify a named constable as soon as reasonably practicable after any material to which the application relates comes into the person’s possession, custody or control;
  - (b) produce to a constable within a specified period for seizure and retention any material to which the application relates which comes into the person’s possession, custody or control;
  - (c) give a constable access to any material of the kind mentioned in [paragraph \(b\)](#) within a specified period;
  - (d) state to the best of the person’s knowledge and belief the location of the material to which the application relates if it is not in, and will not come into, the person’s possession, custody or control within the period of 28 days beginning with the date of the order.
- (9) The specified period is to be the period of 7 days beginning with the date of the notification required by sub-paragraph [\(8\)\(a\)](#), unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.

*Production orders: supplementary provision*

- 5 An application for an order under [paragraph 3](#) or [4](#) may be made without notice to a judge in chambers.
- 6 (1) An order under [paragraph 3](#) or [4](#)—
  - (a) does not confer any right to production of, or access to, items subject to legal privilege, and
  - (b) has effect despite any restriction on the disclosure of information imposed by an enactment or otherwise.
- (2) Where the material consists of information stored in electronic form—
  - (a) an order under [paragraph 3\(7\)\(a\)](#) or [4\(8\)\(b\)](#) has effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form, and
  - (b) an order under [paragraph 3\(7\)\(b\)](#) or [4\(8\)\(c\)](#) has effect as an order to give a constable access to the material in a form in which it is visible and legible.
- 7 (1) An order under [paragraph 3](#) or [4](#) may be made in relation to material in the possession, custody or control of a government department or a Northern Ireland department.

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- (2) Where an order is made by virtue of [sub-paragraph \(1\)](#)—
- (a) it is to be served as if the proceedings were civil proceedings against the department, and
  - (b) it may require any officer of the department, whether named in the order or not, who may for the time being have in their possession, custody or control the material concerned, to comply with the order.
- (3) In [this paragraph](#) “government department” means an authorised government department for the purposes of the Crown Proceedings Act 1947.
- 8 An order under [paragraph 3](#) or [4](#) has effect as if it were an order of the court.

*Confidential material: search, seizure and retention*

- 9 (1) A constable may apply to a judge for the issue of a warrant under [this paragraph](#).
- (2) The judge may grant the application if satisfied that an order made under [paragraph 3](#) or [4](#) in relation to material on the relevant premises has not been complied with.
- (3) The judge may also grant the application if satisfied that—
- (a) conditions 1 to 5 are met, and
  - (b) in the case of an application for an all premises warrant, condition 6 is met.
- (4) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
- (5) Condition 2 is that there are reasonable grounds for suspecting that there is on the relevant premises material which—
- (a) is likely to be evidence that a relevant act has been, or is about to be, committed,
  - (b) consists of or includes confidential material, and
  - (c) does not include items subject to legal privilege.
- (6) Condition 3 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
- (7) Condition 4 is that there are reasonable grounds for believing that it is in the public interest that the material should be obtained having regard to—
- (a) the benefit likely to accrue to the investigation if the material is obtained, and
  - (b) the circumstances under which the person concerned has any of the material in their possession, custody or control.
- (8) Condition 5 is that any of the following apply—
- (a) it is not practicable to communicate with any person entitled to produce the material;
  - (b) it is not practicable to communicate with any person entitled to grant access to the material;
  - (c) the investigation may be seriously prejudiced unless a constable can secure immediate access to the material.
- (9) Condition 6 is that it is not reasonably practicable to specify in the application all the premises which the person specified in the application occupies or controls and which might need to be searched.



- (10) A warrant under [this paragraph](#) is a warrant authorising any constable—
- (a) to enter the relevant premises,
  - (b) to search the relevant premises and any person found there, and
  - (c) to seize and retain any material found on a search under [paragraph \(b\)](#) which is likely to be evidence that a relevant act has been, or is about to be, committed.
- (11) A warrant under [this paragraph](#) does not authorise—
- (a) the seizure and retention of items subject to legal privilege, or
  - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat or jacket and gloves.
- (12) In [this paragraph](#) the “relevant premises” are—
- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

### *Explanations*

- 10 (1) A constable may apply to a judge for an order under [this paragraph](#) requiring any person specified in the order to provide an explanation of material—
- (a) seized under a warrant under [paragraph 2](#) or [9](#), or
  - (b) produced or made available to a constable under [paragraph 3](#) or [4](#).
- (2) An application for an order under this paragraph may be made without notice to a judge in chambers.
- (3) An order under [this paragraph](#) may not require any person to disclose any information which they would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.
- (4) But a lawyer may be required to provide the name and address of their client.
- (5) A statement by a person in response to a requirement imposed by an order under [this paragraph](#)—
- (a) may be made orally or in writing, and
  - (b) may be used in evidence against the person only on a prosecution for an offence under [paragraph 11](#).
- (6) An order under this paragraph has effect as if it were an order of the court.
- 11 (1) A person commits an offence if, in purported compliance with an order under [paragraph 10](#), they—
- (a) make a statement which they know to be false or misleading in a material particular, or
  - (b) recklessly make a statement which is false or misleading in a material particular.
- (2) A person who commits an offence under [sub-paragraph \(1\)](#) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both),

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- (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

#### *Urgent cases*

- 12 (1) A police officer of at least the rank of superintendent may by a written order signed by them give to any constable the authority which may be given by—
- (a) a warrant under [paragraph 2](#), or
  - (b) a warrant under [paragraph 9](#),
- but subject to [sub-paragraph \(2\)](#).
- (2) An order under [this paragraph](#) giving the authority which may be given by a warrant under [paragraph 9](#) does not authorise a constable to retain confidential journalistic material.
- (3) An officer may not make an order under [this paragraph](#) unless the officer —
- (a) is satisfied as mentioned in [paragraph 2\(2\)](#) or [paragraph 9\(2\)](#) or (3) (as the case may be), and
  - (b) has reasonable grounds for believing that the case is one of great emergency and that immediate action is necessary.
- (4) Where an order is made under [this paragraph](#) particulars of the case must be notified as soon as is reasonably practicable to the Secretary of State.
- (5) A person who wilfully obstructs a search under [this paragraph](#) commits an offence.
- (6) A person who commits an offence under [sub-paragraph \(5\)](#) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).
- 13 (1) [This paragraph](#) applies where confidential journalistic material is seized by virtue of an order under [paragraph 12](#) giving the authority which may be given by a warrant under [paragraph 9](#).
- (2) A constable may apply to a judge for the issue of a warrant under [this paragraph](#).
- (3) An application under [sub-paragraph \(2\)](#) must be made as soon as reasonably practicable after the material is seized.
- (4) The judge may grant an application under [sub-paragraph \(2\)](#) if satisfied that conditions 1 to 3 are met.
- (5) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
- (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
- (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the investigation if the material is retained.

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- (8) A warrant under [this paragraph](#) is a warrant authorising the retention of confidential journalistic material.
  - (9) A warrant under [this paragraph](#) may impose conditions on the retention and use of the material.
  - (10) If the judge does not grant an application for the issue of a warrant under [this paragraph](#) in relation to any of the material to which the application relates, the judge may direct that the material is—
    - (a) returned to the person from whom it was seized, or
    - (b) destroyed.
- 14
- (1) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is one of great emergency the officer may by a written notice signed by them require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under [paragraph 12](#).
  - (2) [Paragraph 10\(3\) to \(5\)](#) and [paragraph 11](#) apply to a notice under [this paragraph](#) as they apply to an order under [paragraph 10](#).
  - (3) A person who fails to comply with a notice under [this paragraph](#) commits an offence.
  - (4) It is a defence for a person charged with an offence under [sub-paragraph \(3\)](#) to show that they had a reasonable excuse for their failure.
  - (5) A person is taken to have shown that they had a reasonable excuse for their failure if—
    - (a) sufficient evidence of that fact is adduced to raise an issue with respect to it, and
    - (b) the contrary is not proved beyond reasonable doubt.
  - (6) A person guilty of an offence under [sub-paragraph \(3\)](#) is liable—
    - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
    - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

#### *Application of PACE*

- 15
- (1) For the purposes of the provisions mentioned in [sub-paragraph \(2\)](#)—
    - (a) an investigation into whether a relevant act has been, or is about to be, committed is to be treated as an investigation into, or in connection with, an offence, and
    - (b) material produced in pursuance of an order under [paragraph 3](#) or [4](#) is to be treated as if it were material seized by a constable.
  - (2) The provisions are—
    - (a) sections 21 and 22 of the Police and Criminal Evidence Act 1984;
    - (b) Articles 23 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)),(seized material: access, copying and retention).

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### *Procedure rules*

- 16 (1) Criminal Procedure Rules may make provision about proceedings in England and Wales relating to a warrant or order under [this Part of this Schedule](#) (other than an order under paragraph 12).
- (2) Crown Court rules and magistrates' courts rules may make provision about proceedings in Northern Ireland relating to a warrant or order under [this Part of this Schedule](#) (other than an order under paragraph 12).
- (3) The provision which may be made by virtue of [this paragraph](#) includes in particular provision about the variation or discharge of an order.

### *Interpretation*

- 17 (1) This paragraph applies for the interpretation of this Part of this Schedule.
- (2) “Confidential material” means—
- (a) confidential journalistic material, and
  - (b) protected material.
- (3) “Confidential journalistic material” has the same meaning as in the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act).
- (4) “Protected material”—
- (a) in relation to England and Wales, means—
    - (i) items subject to legal privilege,
    - (ii) material falling within section 11(1)(a) or (b) of the Police and Criminal Evidence Act 1984 (certain personal records, human tissue or tissue fluid held in confidence), or
    - (iii) material to which section 14(2) of that Act applies (other material acquired in the course of a trade etc that is held in confidence);
  - (b) in relation to Northern Ireland, means—
    - (i) items subject to legal privilege;
    - (ii) material falling with Article 13(1)(a) or (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)) (certain personal records, human tissue or tissue fluid held in confidence), or
    - (iii) material to which Article 16(2) of that Order applies (other material acquired in the course of a trade etc that is held in confidence).
- (5) “Items subject to legal privilege”—
- (a) in relation to England and Wales, has the meaning given by section 10 of the Police and Criminal Evidence Act 1984;
  - (b) in relation to Northern Ireland, has the meaning given by Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)).
- (6) “Judge”—
- (a) in relation to England and Wales, means a judge entitled to exercise the jurisdiction of the Crown Court;
  - (b) in relation to Northern Ireland, means a judge of the Crown Court.

## PART 2

### SCOTLAND

#### *Introductory*

- 18 (1) [This Part](#) of [this Schedule](#) applies in Scotland.
- (2) In [this Part](#) of [this Schedule](#) “relevant act” means—
- (a) an offence under [this Part](#) of this Act, other than an offence under—
    - (i) section 5 (unauthorised entry to a prohibited place);
    - (ii) section 6 (prohibited place: failure to comply with order of constable);
    - (iii) section 11 (cordoned area: failure to comply with order of constable);
    - (iv) [this Schedule](#);
    - (v) Schedule 3 (disclosure orders);
    - (vi) Schedule 4 (customer information orders);
  - (b) an act or threat within section 33(3)(b) or (c).

#### *Production orders*

- 19 (1) The procurator fiscal may apply to a sheriff for an order under [this paragraph](#).
- (2) The sheriff may grant the application if satisfied that conditions 1 to 4 are met.
- (3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
- (4) Condition 2 is that there are reasonable grounds for suspecting that a person specified in the application has in their possession, custody or control material which is likely to be evidence that a relevant act has been, or is about to be, committed.
- (5) Condition 3 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
- (6) Condition 4 is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard to—
- (a) the benefit likely to accrue to the investigation if the material is obtained, and
  - (b) the circumstances under which the person concerned has any of the material in their possession, custody or control.
- (7) An order under [this paragraph](#) is an order that the person specified in the application must do any of the following—
- (a) produce to a constable within a specified period for seizure and retention any material which the person has in their possession, custody or control and to which the application relates;
  - (b) give a constable access to any material of the kind mentioned in [paragraph \(a\)](#) within a specified period;
  - (c) state to the best of the person’s knowledge and belief the location of the material to which the application relates if it is not in, and will not come

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into, the person's possession, custody or control within the period specified under [paragraph \(a\)](#) or [\(b\)](#).

- (8) The specified period is to be the period of 7 days beginning with the date of the order, unless it appears to the sheriff that a different period would be appropriate in the particular circumstances of the application.
- (9) Where the sheriff makes an order under [sub-paragraph \(7\)\(b\)](#) in relation to material on any premises, they may, on the application of the procurator fiscal, order any person who appears to them to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.
- 20 (1) The procurator fiscal may apply to a sheriff for an order under [this paragraph](#).
- (2) The sheriff may grant the application if satisfied that conditions 1 to 5 are met.
- (3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
- (4) Condition 2 is that there are reasonable grounds for suspecting that, within the period of 28 days beginning with the date of the order, there is likely to come into existence material which is evidence that a relevant act has been, or is about to be, committed.
- (5) Condition 3 is that there are reasonable grounds for suspecting that a person specified in the application is likely within that period to have in their possession, custody or control any of the material to which the application relates.
- (6) Condition 4 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
- (7) Condition 5 is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard to—
- (a) the benefit likely to accrue to the investigation if the material is obtained, and
  - (b) the circumstances under which the person concerned is likely to have any of the material in their possession, custody or control.
- (8) An order under [this paragraph](#) is an order that the person specified in the application must do any of the following—
- (a) notify a named constable as soon as reasonably practicable after any material to which the application relates comes into the person's possession, custody or control;
  - (b) produce to a constable within a specified period for seizure and retention any material to which the application relates which comes into the person's possession, custody or control;
  - (c) give a constable access to any material of the kind mentioned in [paragraph \(b\)](#) within a specified period;
  - (d) state to the best of the person's knowledge and belief the location of the material to which the application relates if it is not in, and will not come into, the person's possession, custody or control within the period of 28 days beginning with the date of the order.
- (9) The specified period is to be the period of 7 days beginning with the date of the notification required by [sub-paragraph \(8\)\(a\)](#), unless it appears to the sheriff

that a different period would be appropriate in the particular circumstances of the application.

- (10) Where the sheriff makes an order under [sub-paragraph \(8\)\(c\)](#) in relation to material on any premises, they may, on the application of the procurator fiscal, order any person who appears to them to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.

*Production orders: supplementary*

- 21 An application for an order under paragraph 19 or 20 may be made without notice to a sheriff in chambers.
- 22 (1) An order under paragraph 19 or 20 has effect despite any obligation as to secrecy or other restriction on the disclosure of information imposed by an enactment or otherwise.
- (2) Where the material consists of information stored in electronic form—
- (a) an order under paragraph 19(7)(a) or 20(8)(b) has effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form, and
  - (b) an order under paragraph 19(7)(b) or 20(8)(c) has effect as an order to give a constable access to the material in a form in which it is visible and legible.
- 23 (1) An order under paragraph 19 or 20 may be made in relation to material in the possession, custody or control of a government department.
- (2) Where an order is made by virtue of [sub-paragraph \(1\)](#)—
- (a) it is to be served as if the proceedings were civil proceedings against the department, and
  - (b) it may require any officer of the department, whether named in the order or not, who may for the time being have in their possession, custody or control the material concerned, to comply with the order.
- (3) In [this paragraph](#) “government department” means—
- (a) a public department within the meaning of the Crown Suits (Scotland) Act 1857, and
  - (b) any part of the Scottish Administration.
- 24 (1) Without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, provision may be made by the High Court of Justiciary by Act of Adjournal as to—
- (a) the recall and variation of orders under paragraph 19 or 20; and
  - (b) proceedings relating to such orders.
- (2) The following provisions have effect pending the coming into force of an Act of Adjournal under [sub-paragraph \(1\)](#)—
- (a) an order under paragraph 19 or 20 may be recalled or varied by a sheriff on a written application made to the sheriff by any person subject to the order;
  - (b) unless the sheriff otherwise directs on grounds of urgency, the applicant must, not less than 48 hours before making the application, send a copy of it and a notice in writing of the time and place where the application is to be made to the procurator fiscal on whose application the order was made.



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### *Search, seizure and retention*

- 25 (1) The procurator fiscal may apply to a sheriff for the issue of a warrant under [this paragraph](#).
- (2) The sheriff may grant the application if satisfied that an order made under [paragraph 19](#) or [20](#) in relation to material on the relevant premises has not been complied with.
- (3) The sheriff may also grant the application if satisfied that—
- conditions 1 to 5 are met, and
  - in the case of an application for an all premises warrant, condition 6 is met.
- (4) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
- (5) Condition 2 is that there are reasonable grounds for suspecting that there is on the relevant premises material which is likely to be evidence that a relevant act has been, or is about to be, committed.
- (6) Condition 3 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
- (7) Condition 4 is that there are reasonable grounds for believing that it is in the public interest that the material should be obtained having regard to—
- the benefit likely to accrue to the investigation if the material is obtained, and
  - the circumstances under which the person concerned has any of the material in their possession, custody or control.
- (8) Condition 5 is that any of the following apply—
- it is not practicable to communicate with any person entitled to produce the material;
  - it is not practicable to communicate with any person entitled to grant access to the material;
  - the investigation may be seriously prejudiced unless a constable can secure immediate access to the material.
- (9) Condition 6 is that it is not reasonably practicable to specify in the application all the premises which the person specified in the application occupies or controls and which might need to be searched.
- (10) A warrant under [this paragraph](#) is a warrant authorising any constable—
- to enter the relevant premises,
  - to search the relevant premises and any person found there, and
  - to seize and retain any material found on a search under [paragraph \(b\)](#) which is likely to be evidence that a relevant act has been, or is about to be, committed.
- (11) In [this paragraph](#) the “relevant premises” are—
- one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or
  - any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).



### *Explanations*

- 26 (1) The procurator fiscal may apply to a sheriff for an order under [this paragraph](#) requiring any person specified in the order to provide an explanation of material—
- (a) seized under a warrant under [paragraph 25](#), or
  - (b) produced or made available to a constable under [paragraph 19](#) or [20](#).
- (2) An application for an order under this paragraph may be made without notice to a sheriff in chambers.
- (3) Without prejudice to [paragraph 30](#), an order under [this paragraph](#) may require a lawyer to provide the name and address of their client.
- (4) A statement by a person in response to a requirement imposed by an order under [this paragraph](#) may only be used in evidence against the person—
- (a) on a prosecution for an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995, or
  - (b) on a prosecution for some other offence where in giving evidence they make a statement inconsistent with it.
- (5) [Paragraphs 23](#) and [24](#) apply to orders under [this paragraph](#) as they apply to orders made under [paragraph 19](#) or [20](#).

### *Urgent cases*

- 27 (1) A police officer of at least the rank of superintendent may by a written order signed by them give to any constable the authority which may be given by a warrant under [paragraph 25](#) (subject to [sub-paragraph \(2\)](#)).
- (2) An order under [this paragraph](#) does not authorise a constable to retain confidential journalistic material.
- (3) An officer may not make an order under [this paragraph](#) unless the officer—
- (a) is satisfied as mentioned in [paragraph 25\(2\)](#) or [\(3\)](#), and
  - (b) has reasonable grounds for believing that the case is one of great emergency and that immediate action is necessary.
- (4) Where an order is made under [this paragraph](#) particulars of the case must be notified as soon as is reasonably practicable to the Secretary of State.
- (5) A person who wilfully obstructs a search under [this paragraph](#) commits an offence.
- (6) A person who commits an offence under [sub-paragraph \(5\)](#) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).
- (7) “Confidential journalistic material” has the same meaning as in the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act).
- 28 (1) [This paragraph](#) applies where confidential journalistic material is seized by virtue of an order under [paragraph 27](#).
- (2) The procurator fiscal may apply to a sheriff for the issue of a warrant under [this paragraph](#).
- (3) An application under [sub-paragraph \(2\)](#) must be made as soon as reasonably practicable.

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- (4) The sheriff may grant an application under [sub-paragraph \(2\)](#) if satisfied that conditions 1 to 3 are met.
  - (5) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.
  - (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.
  - (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the investigation if the material is retained.
  - (8) A warrant under [this paragraph](#) is a warrant authorising the retention of confidential journalistic material.
  - (9) A warrant under [this paragraph](#) may impose conditions on the retention and use of the material.
  - (10) If the sheriff does not grant an application for the issue of a warrant under [this paragraph](#) in relation to any of the material to which the application relates, the sheriff may direct that the material is—
    - (a) returned to the person from whom it was seized, or
    - (b) destroyed.
  - (11) “Confidential journalistic material” has the same meaning as in [paragraph 27](#).
- 29
- (1) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is one of great emergency the officer may by a written notice signed by them require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under [paragraph 27](#).
  - (2) [Paragraph 26\(3\)](#) and [\(4\)](#) apply to a notice under [this paragraph](#) as they apply to an order under that paragraph.
  - (3) A person who fails to comply with a notice under [this paragraph](#) commits an offence.
  - (4) It is a defence for a person charged with an offence under [sub-paragraph \(3\)](#) to show that they had a reasonable excuse for their failure.
  - (5) A person is taken to have shown that they had a reasonable excuse for their failure if—
    - (a) sufficient evidence of that fact is adduced to raise an issue with respect to it, and
    - (b) the contrary is not proved beyond reasonable doubt.
  - (6) A person guilty of an offence under [sub-paragraph \(3\)](#) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

### *Supplementary*

- 30
- (1) [This Part](#) of [this Schedule](#) is without prejudice to any rule of law under which—
    - (a) communications between a professional legal adviser and their client, or

- (b) communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings, are in legal proceedings protected from disclosure on the ground of confidentiality.
- (2) For the purpose of exercising any powers conferred on them under [this Part](#) of [this Schedule](#) a constable may, if necessary, open lockfast places on premises which they are entitled to enter in pursuance of an order under [paragraph 19](#) or [20](#), a warrant under [paragraph 25](#) or an order under [paragraph 27](#).
- (3) A search of a person under [this Part](#) of [this Schedule](#) may only be carried out by a person of the same sex.

## SCHEDULE 3

Section 24

### DISCLOSURE ORDERS

#### PART 1

#### ENGLAND AND WALES AND NORTHERN IRELAND

##### *Introductory*

- 1 (1) This Part of this Schedule applies in England and Wales and Northern Ireland.
- (2) “Relevant investigation” means an investigation into the identification of relevant property or its movement or use.
- (3) “Relevant property” means—
  - (a) money or other property which is likely to be used for the purposes of foreign power threat activity, or
  - (b) proceeds of involvement in foreign power threat activity.
- (4) The reference to proceeds of involvement in foreign power threat activity includes a reference to any money, other property or benefit in money’s worth, which wholly or partly, and directly or indirectly, represents the proceeds of the involvement (including payments or rewards in connection with the involvement).
- (5) “Appropriate officer” means—
  - (a) a constable, or
  - (b) a National Crime Agency officer.

##### *Disclosure orders*

- 2 (1) An appropriate officer may apply to a judge for a disclosure order.
- (2) The application must state that a person or property specified in the application is subject to a relevant investigation and the order is sought for the purposes of the investigation.
- (3) The judge may grant the application if satisfied that conditions 1 to 3 are met.

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- (4) Condition 1 is that there are reasonable grounds for suspecting that the property specified in the application is relevant property.
- (5) Condition 2 is that there are reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value, whether by itself or with other information, to the investigation.
- (6) Condition 3 is that there are reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.
- (7) A disclosure order is an order authorising an appropriate officer to give to any person the officer considers has relevant information notice in writing requiring the person to do any or all of the following with respect to any matter relevant to the investigation—
  - (a) answer questions, either at a time specified in the notice or at once, at a place so specified;
  - (b) provide information specified in the notice, by a time and in a manner so specified;
  - (c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.
- (8) “Relevant information” means information (whether or not contained in a document) which the appropriate officer considers to be relevant to the investigation.
- (9) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced.
- (10) An appropriate officer may not make an application under this paragraph unless the officer is a senior officer or is authorised to do so by a senior officer.

#### *Supplementary provision*

- 3 (1) A disclosure order does not confer the right to require a person—
  - (a) to answer any question,
  - (b) to provide any information, or
  - (c) to produce any document or other material,which the person would be entitled to refuse to answer, provide or produce on grounds of legal professional privilege in proceedings in the High Court.
- (2) But a lawyer may be required to provide the name and address of a client.
- (3) A disclosure order does not confer the right to require a person to produce excluded material.
- (4) A disclosure order has effect despite any restriction on the disclosure of information imposed by an enactment or otherwise.
- (5) An appropriate officer may take copies of any documents produced in compliance with a requirement to produce them imposed under a disclosure order.
- (6) The documents may be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with the investigation for the purposes of which the order was made.

- (7) But if an appropriate officer has reasonable grounds for believing that—
- (a) the documents may need to be produced for the purposes of any legal proceedings, and
  - (b) they might otherwise be unavailable for those purposes,
- they may be retained until the proceedings are concluded.
- (8) An appropriate officer may retain documents under sub-paragraph (7) only if the officer is a senior officer or is authorised to do so by a senior officer.

### *Applications*

- 4 An application for a disclosure order may be made without notice to a judge in chambers.

### *Discharge or variation*

- 5 (1) An application to discharge or vary a disclosure order may be made to the Crown Court by—
- (a) the person who applied for the order;
  - (b) any person affected by the order.
- (2) If the application for the disclosure order was made by a constable, an application to discharge or vary the order may be made by a different constable.
- (3) If the application for the disclosure order was made by a National Crime Agency officer, an application to discharge or vary the order may be made by a different National Crime Agency officer.
- (4) An appropriate officer may not make an application to discharge or vary a disclosure order unless the officer is a senior officer or is authorised to do so by a senior officer.
- (5) The Crown Court may—
- (a) discharge the order;
  - (b) vary the order.

### *Rules of court*

- 6 Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to disclosure orders.

### *Offences*

- 7 (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a disclosure order.
- (2) A person guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

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- (3) A person commits an offence if, in purported compliance with a requirement imposed under a disclosure order, the person—
- (a) makes a statement which the person knows to be false or misleading in a material particular, or
  - (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A person guilty of an offence under sub-paragraph (3) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

### *Statements*

- 8 (1) A statement made by a person in response to a requirement imposed under a disclosure order may not be used in evidence against that person in criminal proceedings.
- (2) Sub-paragraph (1) does not apply on a prosecution for—
- (a) an offence under paragraph 7(3),
  - (b) an offence under section 5 of the Perjury Act 1911 or Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statements), or
  - (c) some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used against a person by virtue of sub-paragraph (2)(c) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.

### *Interpretation*

- 9 (1) This paragraph applies for the interpretation of this Part of this Schedule.
- (2) “Disclosure order” has the meaning given by paragraph 2.
- (3) “Judge” means—
- (a) in relation to England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;
  - (b) in relation to Northern Ireland, a judge of the Crown Court.
- (4) “Senior officer” means—
- (a) a constable of at least the rank of superintendent;
  - (b) the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.

- (5) “Document” means anything in which information of any description is recorded.
- (6) “Excluded material”—
- (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984;
  - (b) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (7) The terms defined in paragraph 1 have the meanings given in that paragraph.

## PART 2

### SCOTLAND

#### *Introductory*

- 10 (1) This Part of this Schedule applies in Scotland.
- (2) In this Part of this Schedule “relevant investigation” and “relevant property” have the same meaning as in Part 1 of this Schedule.

#### *Disclosure orders*

- 11 (1) The Lord Advocate may apply to the High Court of Justiciary for a disclosure order.
- (2) The application must state that a person or property specified in the application is subject to a relevant investigation and the order is sought for the purposes of the investigation.
- (3) The court may grant the application if satisfied that conditions 1 to 3 are met.
- (4) Condition 1 is that there are reasonable grounds for suspecting that the property specified in the application is relevant property.
- (5) Condition 2 is that there are reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value, whether by itself or with other information, to the investigation.
- (6) Condition 3 is that there are reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.
- (7) A disclosure order is an order authorising the Lord Advocate to give to any person the Lord Advocate considers has relevant information notice in writing requiring the person to do any or all of the following with respect to any matter relevant to the investigation—
- (a) answer questions, either at a time specified in the notice or at once, at a place so specified;
  - (b) provide information specified in the notice, by a time and in a manner so specified;
  - (c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.

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- (8) “Relevant information” means information (whether or not contained in a document) which the Lord Advocate considers to be relevant to the investigation.
- (9) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced.

#### *Supplementary provision*

- 12 (1) A disclosure order does not confer the right to require a person—
- (a) to answer any question,
  - (b) to provide any information, or
  - (c) to produce any document,
- which the person would be entitled to refuse to answer, provide or produce in legal proceedings on grounds of confidentiality of communications.
- (2) A disclosure order has effect despite any obligation as to secrecy or other restriction on the disclosure of information imposed by an enactment or otherwise.
- (3) The Lord Advocate may take copies of any documents produced in compliance with a requirement to produce them imposed under a disclosure order.
- (4) The documents may be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with the investigation for the purposes of which the order was made.
- (5) But if the Lord Advocate has reasonable grounds for believing that—
- (a) the documents may need to be produced for the purposes of any legal proceedings, and
  - (b) they might otherwise be unavailable for those purposes,
- they may be retained until the proceedings are concluded.

#### *Applications*

- 13 An application for a disclosure order may be made without notice to a judge of the High Court of Justiciary.

#### *Discharge or variation*

- 14 (1) An application to discharge or vary a disclosure order may be made to the High Court of Justiciary by—
- (a) the Lord Advocate;
  - (b) any person affected by the order.
- (2) The High Court of Justiciary may—
- (a) discharge the order;
  - (b) vary the order.

#### *Rules of court*

- 15 (1) Provision may be made in rules of court as to the discharge and variation of disclosure orders.



- (2) Rules of court are, without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, to be made by Act of Adjournal.

### *Offences*

- 16 (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a disclosure order.
- (2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (3) A person commits an offence if, in purported compliance with a requirement imposed under a disclosure order, the person—
- (a) makes a statement which the person knows to be false or misleading in a material particular, or
  - (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A person guilty of an offence under sub-paragraph (3) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both).

### *Statements*

- 17 (1) A statement made by a person in response to a requirement imposed under a disclosure order may not be used in evidence against that person in criminal proceedings.
- (2) Sub-paragraph (1) does not apply on a prosecution for—
- (a) an offence under paragraph 16(3),
  - (b) perjury, or
  - (c) some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used against a person by virtue of sub-paragraph (2)(c) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.

### *Interpretation*

- 18 (1) This paragraph applies for the interpretation of this Part of this Schedule.
- (2) “Disclosure order” has the meaning given by paragraph 11.
- (3) “Document” means anything in which information of any description is recorded.

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## SCHEDULE 4

Section 25

## CUSTOMER INFORMATION ORDERS

*Customer information orders*

- 1 (1) An appropriate officer may apply to a judge for a customer information order.
- (2) The judge may grant the application if satisfied that—
  - (a) the order is sought for the purposes of an investigation into foreign power threat activity, and
  - (b) the order will enhance the effectiveness of the investigation.
- (3) “Appropriate officer” means—
  - (a) in relation to England and Wales or Northern Ireland, a constable or a National Crime Agency officer;
  - (b) in relation to Scotland, the procurator fiscal.
- (4) The application must state that—
  - (a) a person specified in the application is subject to an investigation within sub-paragraph (2)(a) and the order is sought for the purposes of the investigation;
  - (b) the order is sought against the financial institution or financial institutions specified in the application.
- (5) The application may specify—
  - (a) all financial institutions,
  - (b) a particular description, or particular descriptions, of financial institutions, or
  - (c) a particular financial institution or particular financial institutions.
- (6) A customer information order is an order authorising an appropriate officer to give to a financial institution covered by the application notice in writing requiring it to provide any customer information it has relating to the person specified in the application.
- (7) The financial institution must provide the information at or by the time, and in a manner, specified in the notice.
- (8) A financial institution is not bound to comply with a requirement imposed by a notice given under a customer information order unless evidence of authority to give the notice is produced.
- (9) An appropriate officer may not make an application under this paragraph unless the officer is a senior officer or is authorised to do so by a senior officer.
- (10) Sub-paragraph (9) does not apply in relation to Scotland.

*Supplementary provision*

- 2 A customer information order has effect despite any obligation as to secrecy or other restriction on the disclosure of information imposed by an enactment or otherwise.

### *Applications*

- 3 An application for a customer information order may be made without notice to a judge in chambers.

### *Discharge or variation*

- 4 (1) An application to discharge or vary a customer information order may be made to the court by—
- (a) the person who applied for the order;
  - (b) any person affected by the order.
- (2) If the application for the customer information order was made by a constable, an application to discharge or vary the order may be made by a different constable.
- (3) If the application for the customer information order was made by a National Crime Agency officer, an application to discharge or vary the order may be made by a different National Crime Agency officer.
- (4) An appropriate officer may not make an application under this paragraph unless the officer is a senior officer or is authorised to do so by a senior officer.
- (5) Sub-paragraph (4) does not apply in relation to Scotland.
- (6) The court may—
- (a) discharge the order;
  - (b) vary the order.

### *Rules of court*

- 5 (1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to customer information orders.
- (2) In Scotland rules of court are, without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, to be made by Act of Adjournal.

### *Offences*

- 6 (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a customer information order.
- (2) A person guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);
  - (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

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### *Statements*

- 7 (1) A statement made by a person in response to a requirement imposed under a customer information order may not be used in evidence against them in criminal proceedings.
- (2) Sub-paragraph (1) does not apply on a prosecution for an offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used against a person by virtue of sub-paragraph (2) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.

### *Interpretation*

- 8 (1) This paragraph applies for the interpretation of this Schedule.
- (2) “Appropriate officer” has the meaning given by paragraph 1(3).
- (3) “The court” means—
- (a) in relation to England and Wales or Northern Ireland, the Crown Court;
  - (b) in relation to Scotland, the sheriff.
- (4) “Customer information”—
- (a) in relation to England and Wales or Northern Ireland, has the meaning given by section 364 of the Proceeds of Crime Act 2002;
  - (b) in relation to Scotland, has the meaning given by section 398 of that Act.
- (5) “Financial institution” has the same meaning as in Schedule 6 to the Terrorism Act 2000 (see paragraph 6 of that Schedule).
- (6) “Judge” means—
- (a) in relation to England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;
  - (b) in relation to Northern Ireland, a judge of the Crown Court;
  - (c) in relation to Scotland, the sheriff.
- (7) “Senior officer” means—
- (a) a constable of at least the rank of superintendent;
  - (b) the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.

## SCHEDULE 5

Section 26

### ACCOUNT MONITORING ORDERS

#### *Account monitoring orders*

- 1 (1) An appropriate officer may apply to a judge for an account monitoring order.

- (2) The judge may grant the application if satisfied that—
  - (a) the order is sought for the purposes of an investigation into foreign power threat activity, and
  - (b) the order will enhance the effectiveness of the investigation.
- (3) “Appropriate officer” means—
  - (a) in relation to England and Wales or Northern Ireland, a constable or a National Crime Agency officer;
  - (b) in relation to Scotland, the procurator fiscal.
- (4) The application must state that the order is sought against the financial institution specified in the application in relation to information which—
  - (a) relates to an account or accounts held at the institution by the person specified in the application (whether solely or jointly with another), and
  - (b) is of the description so specified.
- (5) The application may specify information relating to—
  - (a) all accounts held by the person specified in the application at the financial institution so specified,
  - (b) a particular description, or particular descriptions, of accounts so held, or
  - (c) a particular account, or particular accounts, so held.
- (6) An account monitoring order is an order that the financial institution specified in the application must—
  - (a) for the period specified in the order,
  - (b) in the manner so specified,
  - (c) at or by the time or times so specified, and
  - (d) at the place or places so specified,provide information of the description specified in the application to an appropriate officer.
- (7) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

### *Applications*

- 2 An application for an account monitoring order may be made without notice to a judge in chambers.

### *Discharge or variation*

- 3 (1) An application to discharge or vary an account monitoring order may be made to the court by—
  - (a) the person who applied for the order;
  - (b) any person affected by the order.
- (2) If the application for the account monitoring order was made by a constable, an application to discharge or vary the order may be made by a different constable.
- (3) If the application for the account monitoring order was made by a National Crime Agency officer, an application to discharge or vary the order may be made by a different National Crime Agency officer.

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- (4) The court may—
- (a) discharge the order;
  - (b) vary the order.

#### *Rules of court*

- 4 (1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.
- (2) In Scotland rules of court are, without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, to be made by Act of Adjournal.

#### *Effect of orders*

- 5 (1) In England and Wales and Northern Ireland, an account monitoring order has effect as if it were an order of the court.
- (2) An account monitoring order has effect in spite of any obligation as to secrecy or other restriction on the disclosure of information imposed by an enactment or otherwise.

#### *Statements*

- 6 (1) A statement made by a person in response to an account monitoring order may not be used in evidence against them in criminal proceedings.
- (2) But sub-paragraph (1) does not apply—
- (a) in the case of proceedings for contempt of court;
  - (b) on a prosecution for an offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used against a person by virtue of sub-paragraph (2)(b) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.

#### *Interpretation*

- 7 (1) This paragraph applies for the interpretation of this Schedule.
- (2) “Appropriate officer” has the meaning given by paragraph 1(3).
- (3) “The court” means—
- (a) in relation to England and Wales or Northern Ireland, the Crown Court;
  - (b) in relation to Scotland, the sheriff.
- (4) “Financial institution” has the same meaning as in Schedule 6 to the Terrorism Act 2000 (see paragraph 6 of that Schedule).
- (5) “Judge” means—
- (a) in relation to England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;

- (b) in relation to Northern Ireland, a judge of the Crown Court;
- (c) in relation to Scotland, the sheriff.

## SCHEDULE 6

Section 27

### DETENTION UNDER SECTION 27

#### PART 1

#### TREATMENT OF PERSONS DETAINED UNDER SECTION 27

##### *Place of detention*

- 1 (1) The Secretary of State may designate places at which persons may be detained under [section 27](#).
- (2) The power in sub-paragraph (1) may be exercised only in relation to land or a building in the United Kingdom which is owned or controlled by a police force.
- (3) In [this Schedule](#) a reference to a police station includes a reference to any place which the Secretary of State has designated under [sub-paragraph \(1\)](#) as a place where a person may be detained under [section 27](#).
- (4) A constable who arrests a person under [section 27](#) must take the person as soon as is reasonably practicable to the police station which the constable considers the most appropriate.
- (5) Where a person is arrested under [section 27](#) in one part of the United Kingdom and some or all of the person's detention under that section takes place in another part, the provisions of [this Schedule](#) which apply to detention in a particular part of the United Kingdom apply in relation to the person while detained in that part.
- (6) In this paragraph—  
“building” includes any part of a building;  
“police force” has the same meaning as in [paragraph 28](#).

##### *Identification*

- 2 (1) An authorised person may take any steps which are reasonably necessary for—  
(a) photographing the detained person,  
(b) measuring the detained person, or  
(c) identifying the detained person.
- (2) In [sub-paragraph \(1\)](#) “authorised person” means any of the following—  
(a) a constable;  
(b) a prison officer;  
(c) a person authorised by the Secretary of State.
- (3) [This paragraph](#) does not confer the power to take—

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- (a) fingerprints, non-intimate samples or intimate samples (see instead [paragraphs 10 to 14](#) below), or
- (b) relevant physical data or samples as mentioned in section 18 of the Criminal Procedure (Scotland) Act 1995, as applied by [paragraph 18](#) below.

*Video recording of interviews*

- 3
- (1) [This paragraph](#) applies to any interview by a constable of a detained person that takes place in a police station.
  - (2) The Secretary of State must—
    - (a) issue a code of practice about the video recording of interviews to which [this paragraph](#) applies, and
    - (b) make regulations requiring the video recording of interviews to which [this paragraph](#) applies in accordance with any relevant code of practice under [paragraph \(a\)](#).
  - (3) Regulations under [sub-paragraph \(2\)](#) must state that the video recording is to be with sound.
  - (4) A code of practice under [this paragraph](#)—
    - (a) may make provision in relation to a particular part of the United Kingdom, and
    - (b) may make different provision for different parts of the United Kingdom.
  - (5) The failure by a constable to observe a provision of a code does not of itself make the constable liable to criminal or civil proceedings.
  - (6) A code—
    - (a) is admissible in evidence in criminal and civil proceedings, and
    - (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
  - (7) The Secretary of State may revise a code and issue the revised code.
- 4
- (1) Before issuing a code of practice under [paragraph 3](#), the Secretary of State must—
    - (a) publish a draft code,
    - (b) consider any representations made about the draft, and
    - (c) if the Secretary of State thinks it appropriate, modify the draft in the light of any such representations.
  - (2) The Secretary of State must lay a draft of the code before Parliament.
  - (3) After the code has been laid before Parliament the Secretary of State may bring it into operation by regulations.
  - (4) [Sub-paragraphs \(1\) to \(3\)](#) apply to the issue of a revised code as they apply to the first issue of the code.

*Status*

- 5 A detained person is to be treated as being in legal custody throughout the period of the person's detention.



## PART 2

### RIGHTS OF PERSONS DETAINED UNDER SECTION 27: ENGLAND, WALES AND NORTHERN IRELAND

#### *Right to have named person informed of detention*

- 6 (1) Subject to [paragraph 9](#), a person detained under [section 27](#) at a place in England, Wales or Northern Ireland is entitled, if the person so requests, to have one named person informed as soon as is reasonably practicable that the person is being detained there.
- (2) The person named must be—
- (a) a friend of the detained person,
  - (b) a relative of the detained person, or
  - (c) a person who is known to the detained person or who is likely to take an interest in the detained person’s welfare.
- (3) A detained person must be informed of the right under [this paragraph](#) on first being detained.
- (4) Where a detained person is transferred from one place to another, the person is entitled to exercise the right under [this paragraph](#) in respect of the place to which the person is transferred.

#### *Right to consult a solicitor*

- 7 (1) Subject to [paragraph 9](#), a person detained under [section 27](#) in England, Wales or Northern Ireland is entitled, if the person so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time.
- (2) Where a request is made under [sub-paragraph \(1\)](#), a record must be made of the request and the time at which it was made.
- (3) A detained person must be informed of the right under [this paragraph](#) on first being detained.
- 8 (1) Where a person exercises the right under [paragraph 7](#) to consult a solicitor, a police officer of at least the rank of superintendent may direct that—
- (a) the person may not consult the solicitor who attends for the purpose of the consultation, or who would so attend but for the giving of the direction, but
  - (b) the person may consult a different solicitor of the person’s choosing.
- (2) A direction under [this paragraph](#) may be given before or after a person’s consultation with a solicitor has started (and if given after it has started, the right to further consult that solicitor ceases on the giving of the direction).
- (3) An officer may give a direction under [this paragraph](#) only if the officer has reasonable grounds for believing that—
- (a) unless the direction is given, the person’s consultation with the solicitor will have any of the consequences specified in [sub-paragraph \(4\)](#), or
  - (b) the person has benefited from their criminal conduct and that, unless the direction is given, the person’s consultation with the solicitor will hinder the recovery of the value of the property constituting the benefit.

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- (4) Those consequences are—
- (a) interference with or harm to evidence of an indictable offence,
  - (b) interference with or physical injury to any person,
  - (c) the alerting of persons who are suspected of having committed an indictable offence but who have not been arrested for it,
  - (d) the hindering of the recovery of property obtained as a result of an indictable offence,
  - (e) interference with the gathering of information about a person’s involvement in foreign power threat activity,
  - (f) making it more difficult, by the alerting of a person, to prevent foreign power threat activity, and
  - (g) making it more difficult, by the alerting of a person, to secure a person’s apprehension, prosecution or conviction in connection with the person’s involvement in foreign power threat activity.
- (5) For the purposes of [sub-paragraph \(3\)\(b\)](#), the question whether a person has benefited from their criminal conduct is to be decided in accordance with Part 2 or 4 of the Proceeds of Crime Act 2002.

#### *Delay in exercise of rights*

- 9 (1) A police officer of at least the rank of superintendent may authorise a delay—
- (a) in informing the person named by a detained person under [paragraph 6](#);
  - (b) in permitting a detained person to consult a solicitor under [paragraph 7](#).
- (2) But the detained person must be permitted to exercise the rights under [paragraphs 6 and 7](#) before the end of the period mentioned in [section 27\(3\)](#).
- (3) An officer may authorise a delay under [sub-paragraph \(1\)](#) only if the officer has reasonable grounds for believing—
- (a) in the case of an authorisation under [sub-paragraph \(1\)\(a\)](#), that informing the named person of the detained person’s detention will have any of the consequences specified in [paragraph 8\(4\)](#), or
  - (b) in the case of an authorisation under [sub-paragraph \(1\)\(b\)](#), that the exercise of the right under [paragraph 7](#) at the time when the detained person desires to exercise it will have any of the consequences specified in [paragraph 8\(4\)](#).
- (4) An officer may also authorise a delay under [sub-paragraph \(1\)](#) if the officer has reasonable grounds for believing that—
- (a) the detained person has benefited from their criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by—
    - (i) informing the named person of the detained person’s detention (in the case of an authorisation under [sub-paragraph \(1\)\(a\)](#)), or
    - (ii) the detained person’s consultation with a solicitor (in the case of an authorisation under [sub-paragraph \(1\)\(b\)](#)).
- (5) For the purposes of [sub-paragraph \(4\)](#), whether the detained person has benefited from their criminal conduct is to be decided in accordance with Part 2 or 4 of the Proceeds of Crime Act 2002.

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- (6) Where an officer authorises a delay under [sub-paragraph \(1\)](#) orally, the officer must confirm it in writing as soon as is reasonably practicable.
- (7) Where an officer authorises a delay under [sub-paragraph \(1\)](#)—
  - (a) the detained person must be told the reason for the delay as soon as is reasonably practicable, and
  - (b) the reason must be recorded as soon as is reasonably practicable.
- (8) Where the reason for authorising delay no longer applies, there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under [sub-paragraph \(1\)](#).

#### *Taking of intimate and non-intimate samples*

- 10 (1) [This paragraph](#) applies where a person is detained under [section 27](#) in England, Wales or Northern Ireland.
- (2) Fingerprints may be taken from the detained person only if they are taken by a constable—
    - (a) with the appropriate consent given in writing, or
    - (b) without that consent under [sub-paragraph \(4\)](#).
  - (3) A non-intimate sample may be taken from the detained person only if it is taken by a constable—
    - (a) with the appropriate consent given in writing, or
    - (b) without that consent under [sub-paragraph \(4\)](#).
  - (4) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if—
    - (a) the person is detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken (but see [sub-paragraphs \(6\) and \(7\)](#)), or
    - (b) the person has been convicted of a recordable offence and, where a non-intimate sample is to be taken, the person was convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland).
  - (5) An intimate sample may be taken from the detained person only if—
    - (a) the person is detained at a police station,
    - (b) the appropriate consent is given in writing,
    - (c) a police officer of at least the rank of superintendent authorises the sample to be taken (but see [sub-paragraph \(6\)](#)), and
    - (d) subject to [paragraph 13\(2\) and \(3\)](#), the sample is taken by a constable.
  - (6) An officer may give an authorisation under [sub-paragraph \(4\)\(a\)](#) or [\(5\)\(c\)](#) only if—
    - (a) the officer reasonably suspects that the detained person has been involved in foreign power threat activity, and
    - (b) the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove the person’s involvement.
  - (7) An officer may also give an authorisation under [sub-paragraph \(4\)\(a\)](#) for the taking of fingerprints if—

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- (a) the officer is satisfied that the detained person's fingerprints will help determine the person's identity, and
  - (b) the person has refused to identify themselves or the officer has reasonable grounds for suspecting that the person is not who they claim to be.
- (8) In [this paragraph](#) references to determining a person's identity include showing that the detained person is not a particular person.
- (9) If an authorisation under [sub-paragraph \(4\)\(a\)](#) or [\(5\)\(c\)](#) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.
- 11 (1) Before fingerprints or a sample are taken from a detained person under [paragraph 10](#), the person must be informed—
- (a) that the fingerprints or sample may be used for the purposes of—
    - (i) a relevant search (within the meaning given by [paragraph 19\(6\)](#)),
    - (ii) section 63A(1) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), or
    - (iii) Article 63A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)) (checking of fingerprints and samples), and
  - (b) where the fingerprints or sample are to be taken under [paragraph 10\(2\)\(a\)](#), [\(3\)\(a\)](#) or [\(4\)\(b\)](#), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a person on an authorisation given under [paragraph 10\(4\)\(a\)](#) or [\(5\)\(c\)](#), the person must be informed—
- (a) that the authorisation has been given,
  - (b) of the grounds upon which it has been given, and
  - (c) where relevant, of the nature of the offence in which the person is suspected of having been involved.
- (3) After fingerprints or a sample are taken under [paragraph 10](#), any of the following which apply must be recorded as soon as reasonably practicable—
- (a) the fact that the person has been informed in accordance with [sub-paragraphs \(1\)](#) and [\(2\)](#),
  - (b) the reason referred to in [sub-paragraph \(1\)\(b\)](#),
  - (c) the authorisation given under [paragraph 10\(4\)\(a\)](#) or [\(5\)\(c\)](#),
  - (d) the grounds on which that authorisation has been given, and
  - (e) the fact that the appropriate consent has been given.
- 12 (1) [This paragraph](#) applies where—
- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a detained person under [paragraph 10](#),
  - (b) those samples have proved insufficient, and
  - (c) the person has been released from detention.
- (2) An intimate sample may be taken from the person if—
- (a) the appropriate consent is given in writing,
  - (b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
  - (c) subject to [paragraph 13\(2\)](#) and [\(3\)](#), the sample is taken by a constable.

- (3) Paragraphs 10(6) and (9) and 11 apply in relation to the taking of an intimate sample under this paragraph as if references to a detained person are references to a person who was detained under section 27 when the non-intimate samples mentioned in sub-paragraph (1)(a) were taken.
- 13 (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence—
- (a) the court, in determining whether to commit the person for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and
  - (b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.
- (2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a registered medical practitioner acting on the authority of a constable.
- (3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a registered dentist acting on the authority of a constable.
- (4) Where a sample of hair other than pubic hair is to be taken under paragraph 10, the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- 14 (1) In the application of paragraphs 10 to 13 in relation to a person detained in England or Wales, the following expressions have the meaning given by section 65 of the Police and Criminal Evidence Act 1984—
- (a) “appropriate consent”,
  - (b) “fingerprints”,
  - (c) “insufficient”,
  - (d) “intimate sample”,
  - (e) “non-intimate sample”,
  - (f) “registered dentist”, and
  - (g) “sufficient”.
- (2) In the application of section 65(2A) of the Police and Criminal Evidence Act 1984 for the purposes of sub-paragraph (1) of this paragraph, the reference to the destruction of a sample under section 63R of that Act is a reference to the destruction of a sample under paragraph 25 of this Schedule.
- (3) In the application of paragraphs 10 to 13 in relation to a person detained in Northern Ireland, the expressions listed in sub-paragraph (1) have the meaning given by Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (4) In paragraph 10 “recordable offence”—
- (a) in relation to a person detained in England or Wales, has the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
  - (b) in relation to a person detained in Northern Ireland, has the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

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### PART 3

#### RIGHTS OF PERSONS DETAINED UNDER SECTION 27: SCOTLAND

- 15 (1) A person detained under [section 27](#) at a place in Scotland is entitled to have intimation of the person's detention and of the place where the person is being detained sent without delay to a solicitor and to another person named by the detained person.
- (2) The person named must be—
- (a) a friend of the detained person,
  - (b) a relative of the detained person, or
  - (c) a person who is known to the detained person or who is likely to take an interest in the detained person's welfare.
- (3) Where a detained person is transferred from one place to another, the person is entitled to exercise the right under [sub-paragraph \(1\)](#) in respect of the place to which the person is transferred.
- (4) A police officer of at least the rank of superintendent may authorise a delay in making intimation where, in the officer's view, the delay is necessary on one of the grounds mentioned in [paragraph 16\(3\)](#) or where [paragraph 16\(4\)](#) applies.
- (5) Where a detained person requests that the intimation be made, a record must be made of the time at which the request was made and complied with.
- (6) A person who is detained as mentioned in [sub-paragraph \(1\)](#) is entitled to consult a solicitor at any time, without delay.
- (7) A police officer of at least the rank of superintendent may authorise a delay in holding the consultation where, in the officer's view, the delay is necessary on one of the grounds mentioned in [paragraph 16\(3\)](#) or where [paragraph 16\(4\)](#) applies.
- (8) The consultation is to be private.
- (9) A detained person must be permitted to exercise the rights under [this paragraph](#) before the end of the period mentioned in [section 27\(3\)](#).
- (10) A detained person must be informed of the rights under [sub-paragraphs \(1\)](#) and [\(6\)](#) on first being detained.
- 16 (1) Where a person exercises the right under [paragraph 15\(6\)](#) to consult a solicitor, a police officer of at least the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in [sub-paragraph \(3\)](#), direct that—
- (a) the person may not consult the solicitor who attends for the purpose of the consultation, or who would so attend but for the giving of the direction, but
  - (b) the person may consult a different solicitor of the person's choosing.
- (2) A direction under [this paragraph](#) may be given before or after a detained person's consultation with a solicitor has started (and, if given after it has started, the right to further consult that solicitor ceases on the giving of the direction).
- (3) The grounds mentioned in [paragraph 15\(4\)](#) and [\(7\)](#) and in [sub-paragraph \(1\)](#) are—
- (a) that it is in the interests of the investigation or prevention of crime;
  - (b) that it is in the interests of the apprehension, prosecution or conviction of offenders;



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- (c) that it will further the recovery of property obtained as a result of an indictable offence;
    - (d) that it will further the operation of Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (confiscation of the proceeds of an offence).
  - (4) This sub-paragraph applies where an officer mentioned in [paragraph 15\(4\)](#) or [\(7\)](#) has reasonable grounds for believing that—
    - (a) the detained person has benefited from their criminal conduct, and
    - (b) the recovery of the value of the property constituting the benefit will be hindered by—
      - (i) informing the named person of the detained person’s detention (in the case of an authorisation under [paragraph 15\(4\)](#)), or
      - (ii) the exercise of the entitlement under [paragraph 15\(6\)](#) (in the case of an authorisation under [paragraph 15\(7\)](#)).
  - (5) For the purposes of [sub-paragraph \(4\)](#), whether the detained person has benefited from their criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.
  - (6) Where delay is authorised in the exercising of any of the rights mentioned in [paragraph 15\(1\)](#) and [\(6\)](#)—
    - (a) if the authorisation is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable,
    - (b) the detained person must be told the reason for the delay as soon as is reasonably practicable, and
    - (c) the reason must be recorded as soon as is reasonably practicable.
- 17 (1) [Paragraphs 15](#) and [16](#) have effect, in relation to a person detained under [section 27](#), in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.
- (2) But, where a person who is detained under [section 27](#) at a place in Scotland appears to a constable to be a child—
  - (a) the other person named by the person detained in pursuance of [paragraph 15\(1\)](#) must be that person’s parent,
  - (b) intimation is to be made under [paragraph 15\(1\)](#) whether the detained person requests that it be made or not, and
  - (c) section 40 of the [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#) (right of under 18s to have access to other person) applies as if the detained person were a person in police custody for the purposes of that section.
- (3) For the purposes of [sub-paragraph \(2\)](#)—
  - “child” means a person under 16 years of age;
  - “parent” includes guardian and any person who has the care of the child mentioned in [sub-paragraph \(2\)](#).
- 18 (1) Subject to the modifications specified in sub-paragraphs (2) and (3), section 18 of the Criminal Procedure (Scotland) Act 1995 (procedure for taking certain prints and samples) applies to a person detained under [section 27](#) at a police station in Scotland as it applies to a person arrested.
- (2) For subsection (2) of section 18 substitute—

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- “(2) Subject to subsection (2A), a constable may take from a detained person or require a detained person to provide relevant physical data only if—
- (a) the constable reasonably suspects that the person has been involved in foreign power threat activity, and
  - (b) the constable reasonably believes that the relevant physical data will tend to confirm or disprove the person’s involvement.
- (2A) A constable may also take fingerprints from a detained person or require the person to provide them if—
- (a) the constable is satisfied that the person’s fingerprints will help determine their identity, and
  - (b) the person has refused to identify themselves or the constable has reasonable grounds for suspecting that the person is not who they claim to be.
- (2B) In this section references to determining a person’s identity include references to showing that a detained person is not a particular person.”
- (3) Subsections (3) to (5) of section 18 do not apply.

#### PART 4

##### DEALING WITH FINGERPRINTS AND SAMPLES ETC: UNITED KINGDOM

###### *Retention of fingerprints and samples etc: general*

- 19 (1) **This paragraph** applies to—
- (a) fingerprints taken under [paragraph 10](#),
  - (b) a DNA profile derived from a DNA sample taken under [paragraph 10](#) or [12](#),
  - (c) relevant physical data taken or provided by virtue of [paragraph 18](#), and
  - (d) a DNA profile derived from a DNA sample taken or provided by virtue of [paragraph 18](#).
- (2) Fingerprints, relevant physical data and DNA profiles to which **this paragraph** applies (“[paragraph 19](#) material”) must be destroyed if it appears to the responsible chief officer of police that—
- (a) the material, or, in the case of a DNA profile, the sample from which the DNA profile was derived, was taken or required to be provided unlawfully, or
  - (b) the material was taken or provided, or, in the case of a DNA profile, was derived from a sample taken, from a person in connection with that person’s arrest under [section 27](#) and the arrest was unlawful or based on mistaken identity.
- (3) In any other case, [paragraph 19](#) material must be destroyed unless it is retained under any power conferred by [paragraphs 20](#) or [22](#).
- (4) Where the retention of [paragraph 19](#) material ceases to be allowed under [paragraph 20](#) or [22](#), the material may continue to be retained under any other such power which applies to it.



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- (5) Nothing in [this paragraph](#) prevents a relevant search, in relation to [paragraph 19](#) material, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.
- (6) For the purposes of [sub-paragraph \(5\)](#), a “relevant search” is a search carried out for the purpose of checking the material against—
- (a) other fingerprints or samples taken under [paragraph 10](#) or [12](#), or a DNA profile derived from such samples,
  - (b) other fingerprints and samples taken under [paragraph 1](#) of [Schedule 12](#), or a DNA profile derived from such samples,
  - (c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984,
  - (d) any of the fingerprints, samples and information mentioned in Article 63A(1)(a) and (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)),
  - (e) any of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995,
  - (f) any of the fingerprints, data or samples obtained under or by virtue of paragraphs 10 or 12 of Schedule 8 to the Terrorism Act 2000, or information derived from such samples,
  - (g) any of the relevant physical data, samples or information held by virtue of section 56 of the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#),
  - (h) material to which section 18 of the Counter-Terrorism Act 2008 applies,
  - (i) any of the fingerprints, data or samples obtained under paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or information derived from such samples, and
  - (j) any of the fingerprints, data or samples obtained under or by virtue of paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or information derived from such samples.
- 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);

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- (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—
  - (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—

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- (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,
  - (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.
- 21 (1) For the purposes of [paragraph 20](#), a person is to be treated as having been convicted of an offence if—
- (a) in relation to a recordable offence in England and Wales or Northern Ireland—
    - (i) the person has been given a caution or youth caution in respect of the offence which, at the time of the caution, the person has admitted,
    - (ii) the person has been found not guilty of the offence by reason of insanity, or
    - (iii) the person has been found to be under a disability and to have done the act charged in respect of the offence,
  - (b) the person, in relation to an offence in Scotland punishable by imprisonment, has accepted or has been deemed to accept—
    - (i) a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995,
    - (ii) a compensation offer under section 302A of that Act,
    - (iii) a combined offer under section 302B of that Act, or
    - (iv) a work offer under section 303ZA of that Act,

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- (c) the person, in relation to an offence in Scotland punishable by imprisonment, has been acquitted on account of the person’s insanity at the time of the offence or (as the case may be) by virtue of section 51A of the Criminal Procedure (Scotland) Act 1995,
  - (d) a finding in respect of the person has been made under section 55(2) of the Criminal Procedure (Scotland) Act 1995 in relation to an offence in Scotland punishable by imprisonment,
  - (e) the person, having been given a fixed penalty notice under section 129(1) of the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#) in connection with an offence in Scotland punishable by imprisonment, has paid—
    - (i) the fixed penalty, or
    - (ii) (as the case may be) the sum which the person is liable to pay by virtue of section 131(5) of that Act, or
  - (f) the person, in relation to an offence in Scotland punishable by imprisonment, has been discharged absolutely by order under section 246(3) of the Criminal Procedure (Scotland) Act 1995.
- (2) Paragraph 20 and this paragraph, so far as they relate to persons convicted of an offence, have effect despite anything in the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 ([S.I. 1978/1908 \(N.I. 27\)](#)).
- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 or 101A of the Protection of Freedoms Act 2012.
- (4) For the purposes of [paragraph 20](#)—
- (a) a person has no previous convictions if the person has not previously been convicted—
    - (i) in England and Wales or Northern Ireland of a recordable offence, or
    - (ii) in Scotland of an offence which is punishable by imprisonment, and
  - (b) if the person has previously been convicted of a recordable offence in England and Wales or Northern Ireland, the conviction is exempt if it is in respect of a recordable offence, other than a qualifying offence, committed when the person was under 18 years of age.
- (5) In sub-paragraph (4) “qualifying offence”—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984, and
  - (b) in relation to a conviction in respect of a recordable offence committed in Northern Ireland, has the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)).
- (6) For the purposes of sub-paragraph (4)—
- (a) a person is to be treated as having previously been convicted in England and Wales of a recordable offence if—
    - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
    - (ii) the act constituting the offence would constitute a recordable offence under the law of England and Wales if done there (whether or not it constituted such an offence when the person was convicted);

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- (b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—
    - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
    - (ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);
  - (c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—
    - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
    - (ii) the act constituting the offence would constitute an offence punishable by imprisonment under the law of Scotland if done there (whether or not it constituted such an offence when the person was convicted);
  - (d) the reference in sub-paragraph (4)(b) to a qualifying offence includes a reference to an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute a qualifying offence under the law of England and Wales if done there or (as the case may be) under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted).
- (7) For the purposes of [paragraph 20](#) and this paragraph—
- (a) “offence”, in relation to any country or territory outside the United Kingdom, includes an act punishable under the law of that country or territory, however it is described;
  - (b) a person has in particular been convicted of an offence under the law of a country or territory outside the United Kingdom if—
    - (i) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity, or
    - (ii) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence.
- (8) If a person is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purposes of calculating under [paragraph 20](#) whether the person has been convicted of only one offence.

*Retention of material covered by a national security determination*

- 22 (1) [Paragraph 19](#) material may be retained for as long as a national security determination made by a chief officer of police has effect in relation to the material.
- (2) A national security determination is made if a chief officer of police determines that it is necessary for any [paragraph 19](#) material to be retained for the purposes of national security.
- (3) A national security determination—
- (a) must be made in writing,

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- (b) has effect for a maximum of 5 years beginning with the date on which the determination is made, and
  - (c) may be renewed.
- (4) In [this paragraph](#) “chief officer of police” means—
- (a) a chief officer of police of a police force in England and Wales,
  - (b) the chief constable of the Police Service of Scotland,
  - (c) the Chief Constable of the Police Service of Northern Ireland,
  - (d) the Chief Constable of the Ministry of Defence Police,
  - (e) the Chief Constable of the British Transport Police Force, or
  - (f) the Director General of the National Crime Agency.

*Fingerprints and relevant physical data: further provision*

- 23 (1) [This paragraph](#) applies where [paragraph 19](#) material is or includes a person’s fingerprints (“the original fingerprints”).
- (2) A constable may make a determination under [this paragraph](#) in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if conditions 1 and 2 are met.
- (3) Condition 1 is met if the further fingerprints—
- (a) are [paragraph 19](#) material,
  - (b) are taken or provided under or by virtue of—
    - (i) [paragraph 1](#) or [4](#) of [Schedule 12](#),
    - (ii) Part 5 of the Police and Criminal Evidence Act 1984,
    - (iii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)),
    - (iv) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
    - (v) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
    - (vi) paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
    - (vii) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or
  - (c) are material to which section 18 of the Counter-Terrorism Act 2008 applies.
- (4) Condition 2 is met if—
- (a) in a case where the further fingerprints are material to which section 18 of the Counter-Terrorism Act 2008 applies, the original fingerprints and the further fingerprints are held under the law of the same part of the United Kingdom;
  - (b) in any other case, the original fingerprints and the further fingerprints were taken from or provided by the person in the same part of the United Kingdom.
- (5) Where a determination under [this paragraph](#) is made in respect of the further fingerprints—
- (a) the further fingerprints may be retained for as long as the original fingerprints are retained under any power conferred by [paragraph 20](#) or [22](#), and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by [paragraph \(a\)](#).



- (6) [Sub-paragraph \(5\)\(a\)](#) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
  - (7) Any determination under [this paragraph](#) must be recorded in writing.
- 24
- (1) If fingerprints or relevant physical data are required by [paragraph 19](#) to be destroyed, any copies of the fingerprints or relevant physical data held by a police force must also be destroyed.
  - (2) If a DNA profile is required by that paragraph to be destroyed, no copy may be retained by a police force except in a form which does not include information which identifies the person to whom the DNA profile relates.

*Samples: further provision*

- 25
- (1) [This paragraph](#) applies to—
    - (a) samples taken under [paragraph 10](#) or [12](#), or
    - (b) samples taken or provided by virtue of [paragraph 18](#).
  - (2) Samples to which [this paragraph](#) applies must be destroyed if it appears to the responsible chief officer of police that—
    - (a) the sample was taken or required to be provided unlawfully, or
    - (b) the sample was taken from, or provided by, a person in connection with that person’s arrest under [section 27](#) and the arrest was unlawful or based on mistaken identity.
  - (3) Subject to this, the rule in [sub-paragraph \(4\)](#) or (as the case may be) [\(5\)](#) applies.
  - (4) A DNA sample to which [this paragraph](#) applies must be destroyed—
    - (a) as soon as a DNA profile has been derived from the sample, or
    - (b) if sooner, before the end of the period of 6 months beginning with the date on which the sample was taken.
  - (5) Any other sample to which [this paragraph](#) applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
  - (6) The responsible chief officer of police may apply to a relevant court for an order to retain a sample to which [this paragraph](#) applies beyond the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#) if—
    - (a) the sample was taken from a detained person in connection with the investigation of a qualifying offence, and
    - (b) the responsible chief officer of police considers that the condition in [sub-paragraph \(7\)](#) is met.
  - (7) The condition is that, having regard to the nature and complexity of other material that is evidence in relation to the offence, the sample is likely to be needed in any proceedings for the offence for the purposes of—
    - (a) disclosure to, or use by, a defendant, or
    - (b) responding to any challenge by a defendant in respect of the admissibility of material that is evidence on which the prosecution proposes to rely.

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- (8) An application under [sub-paragraph \(6\)](#) must be made before the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#).
- (9) If, on an application made by the responsible chief officer of police under [sub-paragraph \(6\)](#), the relevant court is satisfied that the condition in [sub-paragraph \(7\)](#) is met, it may make an order under this sub-paragraph which—
- (a) allows the sample to be retained for a period of 12 months beginning with the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#), and
  - (b) may be renewed (on one or more occasions) for a further period of not more than 12 months from the end of the period when the order would otherwise cease to have effect.
- (10) An application for an order under [sub-paragraph \(9\)](#) (other than an application for renewal)—
- (a) may be made without notice of the application having been given to the person from whom the sample was taken, and
  - (b) may be heard and determined in private in the absence of that person.
- (11) In Scotland, an application for an order under [sub-paragraph \(9\)](#) (including an application for renewal) is to be made by summary application.
- (12) A sample retained by virtue of an order under [sub-paragraph \(9\)](#) must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (13) A sample must be destroyed if retention of the sample by virtue of an order under [sub-paragraph \(9\)](#) ceases to be allowed.
- (14) Nothing in [this paragraph](#) prevents a relevant search, in relation to samples to which [this paragraph](#) applies, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.
- (15) In [this paragraph](#)—
- “ancillary offence”, in relation to an offence, means any of the following—
    - (a) being art and part in the commission of the offence;
    - (b) inciting a person to commit the offence;
    - (c) attempting or conspiring to commit the offence;
  - “qualifying offence”—
    - (a) in relation to the investigation of an offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984,
    - (b) in relation to the investigation of an offence committed in Scotland, means a relevant offence, an offence listed in section 33(3)(a), or an ancillary offence in relation to such an offence, and
    - (c) in relation to the investigation of an offence committed in Northern Ireland, has the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#));



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“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 sample relates resides,
  - (ii) in whose sheriffdom that person is believed by the responsible chief officer of police to be, or
  - (iii) to whose sheriffdom that person is believed by the responsible chief officer of police to be intending to come, and
- (c) in Northern Ireland, a district judge (magistrates’ court) in Northern Ireland;

“relevant offence” has the same meaning as in section 19A of the Criminal Procedure (Scotland) Act 1995;

“relevant search” has the meaning given by [paragraph 19\(6\)](#).

#### *Restrictions on use of retained material*

- 26 (1) Any material to which [paragraph 19](#) or [25](#) applies must not be used other than—
- (a) in the interests of national security,
  - (b) for the purposes of investigating foreign power threat activity,
  - (c) for the purposes of a terrorist investigation (within the meaning of the Terrorism Act 2000),
  - (d) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
  - (e) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Subject to [sub-paragraph \(1\)](#), a relevant search (within the meaning given by [paragraph 19\(6\)](#)) may be carried out in relation to material to which [paragraph 19](#) or [25](#) applies if the responsible chief officer of police considers the search to be desirable.
- (3) Material which is required by [paragraph 19](#) or [25](#) to be destroyed must not at any time after it is required to be destroyed be used—
- (a) in evidence against the person to whom the material relates, or
  - (b) for the purposes of the investigation of any offence.
- (4) In [this paragraph](#)—
- (a) the reference to using material includes a reference to allowing any check to be made against it and to disclosing it to any person,
  - (b) the reference to crime includes a reference to any conduct which—
    - (i) constitutes one or more criminal offences (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, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences, and
  - (c) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime

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or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.

- (5) [Sub-paragraphs \(1\), \(2\) and \(4\)](#) do not form part of the law of Scotland (but see instead section 19C of the Criminal Procedure (Scotland) Act 1995 (use of samples etc) (as amended by [Schedule 18](#)).

*Material disclosable in connection with a criminal investigation*

- 27 (1) [Paragraphs 19 to 26](#) do not apply to material relating to a detained person which is, or may become, disclosable under—
- (a) the Criminal Procedure and Investigations Act 1996, or
  - (b) a code of practice prepared under section 23 of that Act and in operation by virtue of an order under section 25 of that Act.
- (2) A sample that—
- (a) falls within [sub-paragraph \(1\)](#), and
  - (b) but for that sub-paragraph would be required to be destroyed under [paragraph 25](#),
- must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (3) A sample that once fell within [sub-paragraph \(1\)](#) but no longer does, and so becomes a sample to which [paragraph 25](#) applies, must be destroyed immediately if the time specified for its destruction under that paragraph has already passed.

*Interpretation*

- 28 (1) In [paragraphs 19 to 27](#)—
- “DNA profile” means any information derived from a DNA sample;
- “DNA sample” means any material that has come from a human body and consists of or includes human cells;
- “fingerprints” has the meaning given by section 65(1) of the Police and Criminal Evidence Act 1984 or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I.12\)](#));
- “paragraph 19 material” has the meaning given by [paragraph 19\(2\)](#);
- “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 (police forces in England and Wales outside London);
  - (c) the City of London police force;
  - (d) the Police Service of Scotland;
  - (e) the Scottish Police Authority;
  - (f) the Police Service of Northern Ireland;
  - (g) the Police Service of Northern Ireland Reserve;
  - (h) the Ministry of Defence Police;
  - (i) the National Crime Agency;
  - (j) the British Transport Police Force;
- “recordable offence”—

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- (a) in relation to a conviction in England and Wales, has the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
- (b) in relation to a conviction in Northern Ireland, has the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

“relevant physical data” has the meaning given by section 18(7A) of the Criminal Procedure (Scotland) Act 1995;

“responsible chief officer of police” means—

- (a) in relation to fingerprints or samples taken by a constable of the Ministry of Defence Police, or a DNA profile derived from a sample so taken, the Chief Constable of the Ministry of Defence Police;
- (b) in relation to fingerprints or samples taken by a constable of the British Transport Police Force, or a DNA profile derived from a sample so taken, the Chief Constable of the British Transport Police Force;
- (c) in relation to fingerprints or samples taken by a constable who is a National Crime Agency officer, or a DNA profile derived from a sample so taken, the Director General of the National Crime Agency;
- (d) otherwise—
  - (i) in relation to fingerprints or samples taken in England or Wales, or a DNA profile derived from a sample so taken, the chief officer of police for the relevant police area;
  - (ii) in relation to relevant physical data or samples taken or provided in Scotland, or a DNA profile derived from a sample so taken, the chief constable of the Police Service of Scotland;
  - (iii) in relation to fingerprints or samples taken in Northern Ireland, or a DNA profile derived from a sample so taken, the Chief Constable of the Police Service of Northern Ireland.

- (2) In the definition of “responsible chief officer of police” in sub-paragraph (1), in paragraph (d)(i), “relevant police area” means the police area—
  - (a) in which the material concerned was taken, or
  - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

## PART 5

### REVIEW OF DETENTION UNDER SECTION 27

#### *Requirement*

- 29 (1) A person’s detention must be periodically reviewed by a review officer.
- (2) The first review must be carried out as soon as is reasonably practicable after the time of the person’s arrest.
- (3) Subsequent reviews must be carried out at intervals of not more than 12 hours.
- This is subject to [paragraph 30](#).
- (4) A person’s detention may not be reviewed after a warrant has been issued under Part 6 of [this Schedule](#) extending the detention period.

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### *Postponement*

- 30 (1) A review may be postponed if, at the latest time at which it may be carried out in accordance with [paragraph 29](#)—
- (a) the detained person is being questioned by a constable and the review officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,
  - (b) no review officer is readily available, or
  - (c) it is not practicable for any other reason to carry out the review.
- (2) Where a review is postponed it must be carried out as soon as is reasonably practicable.
- (3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review is to be treated as if it were carried out at the latest time at which it could have been carried out in accordance with [paragraph 29](#).

### *Grounds for continued detention*

- 31 (1) A review officer may authorise a person’s continued detention only if satisfied that it is necessary—
- (a) to obtain relevant evidence, whether by questioning the person or otherwise,
  - (b) to preserve relevant evidence,
  - (c) pending the result of an examination or analysis of any relevant evidence,
  - (d) pending the result of any examination or analysis which is being carried out, or which is to be carried out, with a view to obtaining relevant evidence,
  - (e) pending a decision whether to apply to the Secretary of State for a deportation notice to be served on the person,
  - (f) pending the making of an application to the Secretary of State for a deportation notice to be served on the person,
  - (g) pending consideration by the Secretary of State of whether to serve a deportation notice on the person, or
  - (h) pending a decision as to whether the person should be charged with an offence.
- (2) The review officer may not authorise continued detention by virtue of [sub-paragraph \(1\)\(a\)](#) to (d) unless satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (3) The review officer may not authorise continued detention by virtue of [sub-paragraph \(1\)\(e\)](#) to (h) unless satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.
- (4) In [this paragraph](#) “relevant evidence” means evidence which relates to the detained person’s involvement in foreign power threat activity.
- (5) In [sub-paragraph \(1\)](#) “deportation notice” means notice of a decision to make a deportation order under the Immigration Act 1971.

### *Review officer*

- 32 (1) The review officer must be an officer who has not been directly involved in the investigation in connection with which the person is detained.
- (2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer must be an officer of at least the rank of inspector.
- (3) In the case of any other review, the review officer must be an officer of at least the rank of superintendent.
- 33 (1) [This paragraph](#) applies where—
- (a) the review officer is of a rank lower than superintendent,
  - (b) an officer of higher rank than the review officer gives directions relating to the detained person, and
  - (c) those directions are at variance with the performance by the review officer of a duty imposed on the review officer under [this Schedule](#).
- (2) The review officer must refer the matter at once to an officer of at least the rank of superintendent.

### *Representations*

- 34 (1) Before determining whether to authorise a person's continued detention, a review officer must give either of the following persons an opportunity to make representations about the detention—
- (a) the detained person, or
  - (b) a solicitor representing the detained person who is available at the time of the review.
- (2) Representations may be oral or written.
- (3) A review officer may refuse to hear oral representations from the detained person if the officer considers that the person is unfit to make representations because of the person's condition or behaviour.

### *Rights*

- 35 (1) A review officer who authorises continued detention must inform the detained person—
- (a) of any rights under [paragraphs 6 and 7](#) which the person has not yet exercised, and
  - (b) of any delay to the exercise of any of the person's rights which has been authorised in accordance with [paragraph 9](#).
- (2) Where a review of a person's detention is being carried out at a time when the person's exercise of a right under [paragraph 6 or 7](#) is being delayed, the review officer must—
- (a) consider whether the reason or reasons for which the delay was authorised continue to apply, and
  - (b) if, in the review officer's opinion, the reason or reasons have ceased to apply, inform the officer who authorised the delay of that opinion (unless the delay was authorised by the review officer).

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- (3) In the application of [this paragraph](#) to Scotland, for the references to [paragraphs 6, 7 and 9](#) substitute references to [paragraph 15](#).
- (4) Article 8(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 ([S.I. 1998/1504 \(N.I. 9\)](#)) (requirement to bring an accused person before the court after arrest) does not apply in relation to a detained person.

### *Record*

- 36 (1) A review officer carrying out a review must make a written record of the outcome of the review and of any of the following which apply—
- (a) the grounds upon which continued detention is authorised,
  - (b) the reason for postponing the review,
  - (c) the fact that the detained person has been informed as required under [paragraph 35\(1\)](#),
  - (d) the officer’s conclusion on the matter considered under [paragraph 35\(2\)\(a\)](#),
  - (e) the fact that the officer has taken action under [paragraph 35\(2\)\(b\)](#), and
  - (f) the fact that the detained person is being detained by virtue of [section 27\(6\)](#) or [\(7\)](#).
- (2) The review officer must—
- (a) make the record in the presence of the detained person, and
  - (b) inform the detained person at that time whether the review officer is authorising continued detention, and if so, of the grounds for such authorisation.
- (3) [Sub-paragraph \(2\)](#) does not apply where, at the time when the record is made, the detained person is—
- (a) incapable of understanding what is said to them,
  - (b) violent or likely to become violent, or
  - (c) in urgent need of medical attention.

## PART 6

### EXTENSION OF DETENTION UNDER [SECTION 27](#)

#### *Warrants of further detention*

- 37 (1) Each of the following—
- (a) in England and Wales, a Crown Prosecutor,
  - (b) in Scotland, the Lord Advocate or a procurator fiscal,
  - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
  - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
- may apply to a judicial authority for the issue of a warrant of further detention in relation to a person.
- (2) A warrant of further detention is a warrant—
- (a) authorising the further detention under [section 27](#) of a person for the specified period, and

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- (b) stating the time at which it is issued.
- (3) Subject to [sub-paragraph \(4\)](#) and [paragraph 44](#), the specified period in relation to a person is the period of 7 days beginning with the time of the person's arrest under [section 27](#).
- (4) A judicial authority may issue a warrant of further detention in relation to a person which specifies a shorter period as the period for which the person's further detention is authorised if—
  - (a) the application for the warrant is an application for a warrant specifying a shorter period, or
  - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the specified period to be as long as the period of 7 days mentioned in [sub-paragraph \(3\)](#).
- (5) In [this Part](#) “judicial authority” means—
  - (a) in England and Wales, a District Judge (Magistrates' Courts) who is designated for the purpose of [this Part](#) by the Lord Chief Justice of England and Wales,
  - (b) in Scotland, a sheriff, and
  - (c) in Northern Ireland, a district judge (magistrates' courts) in Northern Ireland who is designated for the purpose of [this Part](#) by the Lord Chief Justice of Northern Ireland.
- (6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the functions under [sub-paragraph \(5\)\(a\)](#).
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise the functions under [sub-paragraph \(5\)\(c\)](#)—
  - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).

#### *Time limit*

- 38
- (1) An application for a warrant must be made—
    - (a) during the period mentioned in [section 27\(3\)](#), or
    - (b) within 6 hours of the end of that period.
  - (2) The judicial authority hearing an application made by virtue of [sub-paragraph \(1\)\(b\)](#) must dismiss the application if it considers that it would have been reasonably practicable to make it during the period mentioned in [section 27\(3\)](#).
  - (3) For the purposes of [this Schedule](#), an application for a warrant is made when written or oral notice of an intention to make the application is given to a judicial authority.

#### *Notice*

- 39
- An application for a warrant of further detention may not be heard unless the person to whom it relates has been given a notice stating—
- (a) that the application has been made,
  - (b) the time at which the application was made,



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- (c) the time at which it is to be heard, and
- (d) the grounds upon which further detention is sought.

#### *Grounds for extension*

- 40 (1) A judicial authority may issue a warrant of further detention only if satisfied that—
- (a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary as mentioned in [sub-paragraph \(2\)](#), and
  - (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (2) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary—
- (a) to obtain relevant evidence whether by questioning the person or otherwise,
  - (b) to preserve relevant evidence,
  - (c) pending the result of an examination or analysis of any relevant evidence, or
  - (d) pending the examination or analysis of anything which is being carried out, or is to be carried out, with a view to obtaining relevant evidence.
- (3) In [this paragraph](#) “relevant evidence” means, in relation to the person to whom the application relates, evidence which relates to the person’s involvement in foreign power threat activity.

#### *Representation*

- 41 (1) The person to whom an application relates—
- (a) must be given an opportunity to make oral or written representations to the judicial authority about the application, and
  - (b) subject to [sub-paragraph \(3\)](#), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—
- (a) the person is not legally represented,
  - (b) the person is entitled to be legally represented, and
  - (c) the person wishes to be so represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing—
- (a) the person to whom the application relates;
  - (b) anyone representing that person.
- (4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—
- (a) that the hearing of the application must be conducted, and
  - (b) that all representations by or on behalf of a person for the purposes of the hearing must be made,
- by such means (whether a live television link or other means) falling within [sub-paragraph \(5\)](#) as may be specified in the direction and not in the presence (apart from



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by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.

- (5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of that person (without being present at the hearing and to the extent that they are not excluded from it under [sub-paragraph \(3\)](#))—
  - (a) to see and hear the judicial authority and the making of representations to it by other persons, and
  - (b) to be seen and heard by the judicial authority.
- (6) If the person to whom the application relates wishes to make representations about whether a direction should be given under [sub-paragraph \(4\)](#), the person must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.
- (7) [Sub-paragraph \(2\)](#) applies to the hearing of representations about whether a direction should be given under [sub-paragraph \(4\)](#) in the case of any application as it applies to a hearing of the application.
- (8) A judicial authority may not give a direction under [sub-paragraph \(4\)](#) unless—
  - (a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within [sub-paragraph \(5\)](#), and
  - (b) that notification has not been withdrawn.
- (9) If in a case where it has power to do so a judicial authority decides not to give a direction under [sub-paragraph \(4\)](#), it shall state its reasons for not giving it.

### *Information*

- 42
- (1) A person who has made an application for a warrant may apply to the judicial authority for an order that specified information upon which the person intends to rely be withheld from—
    - (a) the person to whom the application relates, and
    - (b) anyone representing the person.
  - (2) Subject to [sub-paragraph \(3\)](#), a judicial authority may make an order under [sub-paragraph \(1\)](#) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed—
    - (a) evidence of an offence under any of the provisions mentioned in [section 33\(3\)\(a\)](#) would be interfered with or harmed,
    - (b) evidence of an offence under [section 18](#) would be interfered with or harmed,
    - (c) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
    - (d) the apprehension, prosecution or conviction of a person who is suspected of being involved in foreign power threat activity would be made more difficult as a result of the person being alerted,
    - (e) the prevention of foreign power threat activity would be made more difficult as a result of a person being alerted,
    - (f) the gathering of information about the commission, preparation or instigation of foreign power threat activity would be interfered with, or

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- (g) a person would be interfered with or physically injured.
- (3) A judicial authority may also make an order under [sub-paragraph \(1\)](#) in relation to specified information if satisfied that there are reasonable grounds for believing that—
  - (a) the detained person has benefited from their criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.
- (4) For the purposes of [sub-paragraph \(3\)](#) the question whether a person has benefited from their criminal conduct is to be decided in accordance with Part 2, 3 or 4 of the Proceeds of Crime Act 2002.
- (5) The judicial authority may direct that the following be excluded from the hearing of the application under [this paragraph](#)—
  - (a) the person to whom the application for a warrant relates, and
  - (b) anyone representing that person.

#### *Adjournments*

- 43 (1) A judicial authority may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in [section 27\(3\)](#).
- (2) [This paragraph](#) does not apply to an adjournment under [paragraph 41\(2\)](#).

#### *Extensions of warrants*

- 44 (1) Each of the following—
  - (a) in England and Wales, a Crown Prosecutor,
  - (b) in Scotland, the Lord Advocate or a procurator fiscal,
  - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
  - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
 may apply for the extension or further extension of the period specified in a warrant of further detention.
- (2) The person to whom an application under [sub-paragraph \(1\)](#) may be made is a judicial authority.
- (3) Where the period specified is extended, the warrant must be endorsed with a note stating the new specified period.
- (4) Subject to [sub-paragraph \(6\)](#), the period by which the specified period is extended or further extended is the period which—
  - (a) begins with the time specified in [sub-paragraph \(5\)](#), and
  - (b) ends with whichever is the earlier of—
    - (i) the end of the period of 7 days beginning with that time, and
    - (ii) the end of the period of 14 days beginning with the time of the arrest of the person to which the warrant relates.
- (5) The time referred to in [sub-paragraph \(4\)\(a\)](#) is—

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- (a) in the case of a warrant specifying a period which has not previously been extended under [this paragraph](#), the end of the period specified in the warrant, and
  - (b) in any other case, the end of the period for which the period specified in the warrant was last extended under [this paragraph](#).
- (6) A judicial authority may extend or further extend the period specified in a warrant by a shorter period than is required by [sub-paragraph \(4\)](#) if—
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required, or
  - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.
- (7) [Paragraphs 38\(3\)](#) and [39](#) to [42](#) apply to an application under [this paragraph](#) as they apply to an application for a warrant of further detention.
- (8) A judicial authority may adjourn the hearing of an application under [sub-paragraph \(1\)](#) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.
- (9) [Sub-paragraph \(8\)](#) does not apply to an adjournment under [paragraph 41\(2\)](#).

#### *Detention - conditions*

- 45 (1) [This paragraph](#) applies where—
- (a) a person is detained by virtue of a warrant issued under [this Part](#) of [this Schedule](#), and
  - (b) the detention is not authorised by virtue of [section 27\(6\)](#) or [\(7\)](#) or otherwise apart from the warrant.
- (2) If, at any time, it appears to the police officer or other person in charge of the detained person’s case (“the officer in charge”) that any of the matters mentioned in [paragraph 40\(1\)\(a\)](#) and [\(b\)](#) on which the judicial authority last authorised the person’s further detention no longer apply, the officer in charge must—
- (a) if the officer in charge has custody of the detained person, release the person immediately, and
  - (b) if the officer in charge does not, immediately inform the person who does have custody of the detained person that those matters no longer apply in the detained person’s case.
- (3) A person with custody of the detained person who is informed in accordance with [this paragraph](#) that those matters no longer apply must release the detained person immediately.

### **PART 7**

#### EMERGENCY POWER WHEN PARLIAMENT DISSOLVED ETC. FOR TEMPORARY EXTENSION OF MAXIMUM PERIOD FOR DETENTION UNDER [SECTION 27](#)

- 46 (1) The Secretary of State may make temporary extension regulations if—
- (a) either—
    - (i) Parliament is dissolved, or

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- (ii) Parliament has met after a dissolution but the first King’s Speech of the Parliament has not yet taken place, and
  - (b) the Secretary of State considers that it is necessary by reason of urgency to make such regulations.
- (2) Temporary extension regulations are regulations which provide, in relation to the period of three months beginning with the coming into force of the regulations, for paragraphs 44 and 45 to be read as if—
- (a) in paragraph 44(4)(b)(ii), for “14 days” there were substituted “28 days”, and
  - (b) the other modifications in sub-paragraphs (3) and (4) were made.
- (3) The other modifications of paragraph 44 are—
- (a) the insertion, at the end of sub-paragraph (1), of—
    - “This is subject to sub-paragraphs (1A) to (1I).”;
  - (b) the insertion, after sub-paragraph (1), of—
    - “(1A) Sub-paragraph (1B) applies in relation to any proposed application under sub-paragraph (1) for the further extension of the period specified in a warrant of further detention where the grant (otherwise than in accordance with sub-paragraph (6)(b)) of the application would extend the specified period such that it ends at a time that is more than 14 days after the time of the arrest of the person to whom the warrant relates.
    - (1B) No person may make such an application—
      - (a) in England and Wales, without the consent of the Director of Public Prosecutions,
      - (b) in Scotland, without the consent of the Lord Advocate, and
      - (c) in Northern Ireland, without the consent of the Director of Public Prosecutions for Northern Ireland,
 unless the person making the application is the person whose consent is required.
    - (1C) The Director of Public Prosecutions must exercise personally any function under sub-paragraph (1B) of giving consent.
    - (1D) The only exception is if—
      - (a) the Director is unavailable, and
      - (b) there is another person who is designated in writing by the Director acting personally as the person who is authorised to exercise any such function when the Director is unavailable.
    - (1E) In that case—
      - (a) the other person may exercise the function but must do so personally, and
      - (b) the Director acting personally—
        - (i) must review the exercise of the function as soon as practicable, and
        - (ii) may revoke any consent given.

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- (1F) Where the consent is so revoked after an application has been made or extension granted, the application is to be dismissed or (as the case may be) the extension is to be revoked.
- (1G) Sub-paragraphs (1C) to (1F) apply instead of any other provisions which would otherwise have enabled any function of the Director of Public Prosecutions under [sub-paragraph \(1B\)](#) of giving consent to be exercised by a person other than the Director.
- (1H) The Director of Public Prosecutions for Northern Ireland must exercise personally any function under [sub-paragraph \(1B\)](#) of giving consent unless the function is exercised personally by the Deputy Director of Public Prosecutions for Northern Ireland by virtue of section 30(4) or (7) of the Justice (Northern Ireland) Act 2002 (powers of Deputy Director to exercise functions of Director).
- (1I) Sub-paragraph (1H) applies instead of section 36 of the Act of 2002 (delegation of the functions of the Director of Public Prosecutions for Northern Ireland to persons other than the Deputy Director) in relation to the functions of the Director of Public Prosecutions for Northern Ireland and the Deputy Director of Public Prosecutions for Northern Ireland under, or (as the case may be) by virtue of, [sub-paragraph \(1B\)](#) above of giving consent.”
- (c) the substitution, for “a judicial authority” in [sub-paragraph \(2\)](#), of—
  - (a) in the case of an application falling within [sub-paragraph \(2A\)](#), a judicial authority, and
  - (b) in any other case, a senior judge”
- (d) the insertion, after [sub-paragraph \(2\)](#), of—
  - “(2A) An application for the extension or further extension of a period falls within this sub-paragraph if—
    - (a) the grant of the application otherwise than in accordance with [sub-paragraph \(6\)\(b\)](#) would extend that period such that it ends at a time that is no more than 14 days after the time of the arrest of the person to whom the warrant relates, and
    - (b) no application has previously been made to a senior judge in respect of that period.”
- (e) the insertion, after “judicial authority” in both places in [sub-paragraph \(6\)](#) where it appears, of “or senior judge”
- (f) the insertion, after “detention” in [sub-paragraph \(7\)](#), of “but, in relation to an application made by virtue of [sub-paragraph \(2\)\(b\)](#) to a senior judge, as if—
  - (a) references to a judicial authority were references to a senior judge, and
  - (b) references to the judicial authority in question were references to the senior judge in question”
- (g) the insertion, after “judicial authority” in [sub-paragraph \(8\)](#), of “or senior judge”, and
- (h) the insertion, after [sub-paragraph \(9\)](#), of—

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“(10) In this paragraph and [paragraph 45](#) “senior judge” means a judge of the High Court or of the High Court of Justiciary.”

- (4) The modification of [paragraph 45](#) is the insertion, in [sub-paragraph \(2\)](#), after “judicial authority”, of “or senior judge”.
- (5) Temporary extension regulations apply, except so far as the regulations provide otherwise, to any person who is being detained under [section 27](#) when the regulations come into force (as well as any person who is subsequently detained under that section).
- (6) The Secretary of State may by regulations revoke temporary extension regulations if the Secretary of State considers it appropriate to do so (whether or not the conditions mentioned in [paragraphs \(a\) and \(b\) of sub-paragraph \(1\)](#) are met).
- (7) [Sub-paragraph \(8\)](#) applies if—
  - (a) any of the following events occurs—
    - (i) the revocation without replacement of temporary extension regulations,
    - (ii) the expiry of the period of three months mentioned in [sub-paragraph \(2\)](#) in relation to such regulations,
    - (iii) the ceasing to have effect of such regulations by virtue of [section 96\(8\) and \(9\)](#), and
  - (b) at that time—
    - (i) a person is being detained by virtue of a further extension under [paragraph 44](#),
    - (ii) the person’s further detention was authorised by virtue of the temporary extension regulations concerned (before the revocation or expiry of those regulations or before those regulations ceased to have effect) for a period ending more than 14 days after the time of the person’s arrest under [section 27](#),
    - (iii) that 14 days has expired, and
    - (iv) the person’s detention is not otherwise authorised by law.
- (8) The person with custody of the detained person must release the detained person immediately.
- (9) Subject to [sub-paragraphs \(7\) and \(8\)](#), the fact that—
  - (a) temporary extension regulations are revoked,
  - (b) the period of three months mentioned in [sub-paragraph \(2\)](#) has expired in relation to such regulations, or
  - (c) such regulations cease to have effect by virtue of [section 96\(8\) and \(9\)](#),is without prejudice to anything previously done by virtue of the regulations or to the making of new regulations.

## SCHEDULE 7

Section 39

### PREVENTION AND INVESTIGATION MEASURES

#### PART 1

#### MEASURES

##### *Residence measure*

- 1 (1) The Secretary of State may impose restrictions on the individual in relation to the residence in which the individual resides.
- (2) The Secretary of State may, in particular, impose any of the following—
  - (a) a requirement to reside at a specified residence;
  - (b) a requirement to give notice to the Secretary of State of the identity of any other individuals who reside (or will reside) at the specified residence;
  - (c) a requirement, applicable between such hours as are specified, to remain at, or within, the specified residence.
- (3) The specified residence must be—
  - (a) premises that are the individual’s own residence, or
  - (b) other premises situated in an agreed locality or in some other locality in the United Kingdom that the Secretary of State considers to be appropriate.
- (4) If there are premises that are the individual’s own residence at the time when the notice imposing restrictions under [this paragraph](#) is served on the individual, premises more than 200 miles from those premises may be specified under [sub-paragraph \(3\)\(b\)](#) only if they are in an agreed locality.
- (5) An “agreed locality” is a locality in the United Kingdom which is agreed by the Secretary of State and the individual.
- (6) The specified residence (if it is not the individual’s own residence) may be a residence provided by or on behalf of the Secretary of State.
- (7) If the specified residence is provided to the individual by or on behalf of the Secretary of State, the Secretary of State may require the individual to comply with any specified terms of occupancy of that residence (which may be specified by reference to a lease or other document).
- (8) A requirement of the kind mentioned in [sub-paragraph \(2\)\(c\)](#) must include provision to enable the individual to apply for the permission of the Secretary of State to be away from the specified residence, for the whole or part of any applicable period, on one or more occasions.
- (9) The Secretary of State may grant such permission subject to either or both of the following conditions—
  - (a) the condition that the individual remains at other agreed premises between such hours as the Secretary of State may require;
  - (b) the condition that the individual complies with such other restrictions in relation to the individual's movements whilst away from the specified residence as are so required.



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- (10) “Agreed premises” are premises in the United Kingdom which are agreed by the Secretary of State and the individual.
- (11) *Sub-paragraph (9)* is not to be read as limiting—
- (a) the generality of *sub-paragraph (7)* of *paragraph 17* (power to impose conditions when granting permission), or
  - (b) the power to impose further conditions under that sub-paragraph in connection with permission granted by virtue of *sub-paragraph (8)* of *this paragraph*.
- (12) In *sub-paragraph (8)* “applicable period” means a period for which the individual is required to remain at the specified residence by virtue of a requirement of the kind mentioned in *sub-paragraph (2)(c)*.

#### *Travel measure*

- 2 (1) The Secretary of State may impose restrictions on the individual leaving a specified area or travelling outside that area.
- (2) The specified area must be—
- (a) the United Kingdom, or
  - (b) any area within the United Kingdom that includes the place where the individual will be living.
- (3) The Secretary of State may, in particular, impose any of the following requirements—
- (a) a requirement not to leave the specified area without the permission of the Secretary of State;
  - (b) a requirement to give notice to the Secretary of State before leaving that area;
  - (c) a requirement not to possess or otherwise control, or seek to obtain, any travel document without the permission of the Secretary of State;
  - (d) a requirement to surrender any travel document that is in the possession or control of the individual.
- (4) “Travel document” means—
- (a) the individual's passport, or
  - (b) any ticket or other document that permits the individual to make a journey by any means—
    - (i) from the specified area to a place outside that area, or
    - (ii) between places outside the specified area.
- (5) “Passport” means any of the following—
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971);
  - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation;
  - (c) a document that can be used (in some or all circumstances) instead of a passport.

#### *Exclusion measure*

- 3 (1) The Secretary of State may impose restrictions on the individual entering—



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- (a) a specified area or place, or
- (b) a place or area of a specified description.

But the Secretary of State may not impose restrictions on the individual entering the United Kingdom.

- (2) The Secretary of State may, in particular, impose any of the following requirements in respect of a specified area or place or a specified description of an area or place—
  - (a) a requirement not to enter without the permission of the Secretary of State;
  - (b) a requirement to give notice to the Secretary of State before entering;
  - (c) a requirement not to enter unless other specified conditions are met.

#### *Movement directions measure*

- 4 (1) The Secretary of State may impose a requirement for the individual to comply with directions given by a constable in respect of the individual’s movements (which may, in particular, include a restriction on movements).
- (2) A constable may give such directions only for the purpose of securing compliance—
  - (a) with other specified measures, or
  - (b) with a condition imposed under this Act requiring the individual to be escorted by a constable.
- (3) Directions may not remain in effect for a period that is any longer than the constable giving the directions considers necessary for the purpose mentioned in sub-paragraph (2); but that period may not in any event be a period of more than 24 hours.

#### *Financial services measure*

- 5 (1) The Secretary of State may impose restrictions on the individual’s use of, or access to, such descriptions of financial services as are specified.
- (2) The Secretary of State may, in particular, impose any of the following requirements—
  - (a) a requirement not to hold any accounts, without the permission of the Secretary of State, other than the nominated account (see [sub-paragraph \(3\)](#));
  - (b) a requirement to close, or to cease to have an interest in, accounts;
  - (c) a requirement to comply with specified conditions in relation to the holding of any account (including the nominated account) or any other use of financial services;
  - (d) a requirement not to possess, or otherwise control, cash over a total specified value without the permission of the Secretary of State.
- (3) The Secretary of State must allow the individual to hold (at least) one account (the “nominated account”) if—
  - (a) the individual gives notice to the Secretary of State of the holding of the nominated account, and
  - (b) the account is held with a bank.
- (4) In [sub-paragraph \(3\)](#) “bank” means an institution which is incorporated in, or formed under the law of, any part of the United Kingdom and which has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of accepting deposits (within the meaning of section 22 of that Act, taken with Schedule 2 to that Act and any order under section 22 of that Act).

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- (5) The reference in [sub-paragraph \(2\)\(d\)](#) to possessing or otherwise controlling cash does not include any cash that is held in an account with a person providing financial services (in accordance with any requirements imposed under [this paragraph](#)).
- (6) In [sub-paragraph \(2\)\(d\)](#) “cash” means—
- (a) coins and notes in any currency,
  - (b) postal orders,
  - (c) cheques of any kind, including travellers’ cheques,
  - (d) bankers’ drafts,
  - (e) bearer bonds and bearer shares, and
  - (f) such other kinds of monetary instrument as may be specified.
- (7) A reference in [this paragraph](#) to the individual holding an account is a reference to an account held with a person providing financial services—
- (a) that is in the individual’s name or is held for the individual’s benefit (whether held solely in the individual’s name or jointly with one or more other persons); or
  - (b) in respect of which the individual has power of attorney or can otherwise exercise control.
- (8) In [this paragraph](#) “financial services” means any service of a financial nature, including (but not limited to) banking and other financial services consisting of—
- (a) accepting deposits and other repayable funds;
  - (b) lending (including consumer credit and mortgage credit);
  - (c) payment and money transmission services (including credit, charge and debit cards).

#### *Property measure*

- 6 (1) The Secretary of State may impose either or both of the following—
- (a) restrictions on the individual in relation to the transfer of property to, or by, the individual, or
  - (b) requirements on the individual in relation to the disclosure of property.
- (2) The Secretary of State may, in particular, impose any of the following requirements—
- (a) a requirement not to transfer money or other property to a person or place outside the United Kingdom without the permission of the Secretary of State;
  - (b) a requirement to give notice to the Secretary of State before transferring money or other property to a person or place outside the United Kingdom;
  - (c) a requirement to comply with any specified conditions in relation to the transfer of property to, or by, the individual;
  - (d) a requirement to disclose to the Secretary of State such details as may be specified of any property that falls within [sub-paragraph \(3\)](#).
- (3) Property falls within this sub-paragraph if it is property of a specified description—
- (a) in which the individual has an interest of any kind, or
  - (b) over which, or in relation to which, the individual may exercise any right (including a right of use or a right to grant access).
- (4) A reference in [this paragraph](#) to the transfer of property includes a reference to the arrangement of such a transfer.

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- (5) In this paragraph “property” includes rights over, or in relation to, property (including rights of use and rights to grant access); and a reference to the transfer of property includes a reference to the acquisition or disposal of such rights.

#### *Weapons and explosives measure*

- 7 (1) The Secretary of State may impose on the individual—
- (a) a prohibition on possessing offensive weapons, imitation firearms or explosives;
  - (b) a prohibition on making an application for a firearm certificate or a shot gun certificate.
- (2) In sub-paragraph (1)(a)—
- “offensive weapon” means an article made or adapted for use for causing injury to the person, or intended by the person in possession of it for such use (by that person or another);
  - “imitation firearm” has the same meaning as in the Firearms Act 1968 or (in relation to Northern Ireland) the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3));
  - “explosive” means anything that is—
    - (a) an explosive within the meaning of the Explosives Act 1875, or
    - (b) an explosive substance within the meaning of the Explosive Substances Act 1883.
- (3) For the purposes of sub-paragraph (1)(b)—
- (a) an application for a firearm certificate is an application under section 26A of the Firearms Act 1968 or Article 4 of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3));
  - (b) an application for a shot gun certificate is an application under section 26B of the Firearms Act 1968.

#### *Electronic communication device measure*

- 8 (1) The Secretary of State may impose either or both of the following—
- (a) restrictions on the individual’s possession or use of electronic communication devices;
  - (b) requirements on the individual in relation to the possession or use of electronic communication devices by other persons in the individual’s residence.
- (2) The Secretary of State may, in particular, impose—
- (a) a requirement not to possess or use any devices without the permission of the Secretary of State (subject to sub-paragraph (3));
  - (b) a requirement that a device may only be possessed or used subject to specified conditions.
- (3) The Secretary of State must allow the individual to possess and use (at least) one of each of the following descriptions of device (subject to any conditions on such use as may be specified under sub-paragraph (2)(b))—
- (a) a telephone operated by connection to a fixed line;

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- (b) a computer that provides access to the internet by connection to a fixed line (including any apparatus necessary for that purpose);
  - (c) a mobile telephone that does not provide access to the internet.
- (4) The conditions specified under [sub-paragraph \(2\)\(b\)](#) may, in particular, include conditions in relation to—
- (a) the type or make of a device (which may require the individual to use a device that is supplied or modified by the Secretary of State);
  - (b) the manner in which, or the times at which, a device is used;
  - (c) the monitoring of such use;
  - (d) the granting to a specified description of person of access to the individual's premises for the purpose of the inspection or modification of a device;
  - (e) the surrendering to a specified description of person of a device on a temporary basis for the purpose of its inspection or modification at another place;
  - (f) the disclosure to the Secretary of State of such details as may be specified of any electronic communication device possessed or used by the individual or any other person in the individual's residence.
- (5) An “electronic communication device” means any of the following—
- (a) a device that is capable of storing, transmitting or receiving images, sounds or information by electronic means;
  - (b) a component part of such a device;
  - (c) an article designed or adapted for use with such a device (including any disc, memory stick, film or other separate article on which images, sound or information may be recorded).
- (6) The devices within [sub-paragraph \(5\)\(a\)](#) include (but are not limited to)—
- (a) computers,
  - (b) telephones (whether mobile telephones or telephones operated by connection to a fixed line),
  - (c) equipment (not within [paragraph \(a\)](#) or [\(b\)](#)) designed or adapted, or capable of being adapted, for the purpose of connecting to the internet, and
  - (d) equipment designed or adapted, or capable of being adapted, for the purposes of sending or receiving facsimile transmissions.

#### *Association measure*

- 9 (1) The Secretary of State may impose restrictions on the individual's association or communication with other persons.
- (2) The Secretary of State may, in particular, impose any of the following requirements—
- (a) a requirement not to associate or communicate with specified persons, or specified descriptions of persons, without the permission of the Secretary of State;
  - (b) a requirement to give notice to the Secretary of State before associating or communicating with other persons (whether at all or in specified circumstances);
  - (c) a requirement to comply with any other specified conditions in connection with associating or communicating with other persons.

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- (3) An individual associates or communicates with another person if the individual associates or communicates with that person by any means (and for this purpose it is immaterial whether the association or communication is carried out by the individual in person or by or through another individual or means).

#### *Work or studies measure*

- 10 (1) The Secretary of State may impose restrictions on the individual in relation to the individual's work or studies.
- (2) The Secretary of State may, in particular, impose any of the following requirements—
- (a) a requirement not to carry out without the permission of the Secretary of State—
    - (i) specified work or work of a specified description, or
    - (ii) specified studies or studies of a specified description;
  - (b) a requirement to give notice to the Secretary of State before carrying out any work or studies;
  - (c) a requirement to comply with any other specified conditions in connection with any work or studies.
- (3) In [this paragraph](#)—
- “studies” includes any course of education or training;
  - “work” includes any business or occupation (whether paid or unpaid).

#### *Reporting measure*

- 11 (1) The Secretary of State may impose a requirement for the individual—
- (a) to report to such a police station, at such times and in such manner, as the Secretary of State may by notice require, and
  - (b) to comply with any directions given by a constable in relation to such reporting.
- (2) Such a notice may, in particular, provide that a requirement to report to a police station is not to apply if conditions specified in the notice are met.

#### *Polygraph measure*

- 12 (1) The Secretary of State may impose a requirement for the individual—
- (a) to participate in polygraph sessions conducted with a view to—
    - (i) monitoring the individual's compliance with other specified measures;
    - (ii) assessing whether any variation of the specified measures is necessary for purposes connected with preventing or restricting the individual's involvement in foreign power threat activity,
  - (b) to participate in those polygraph sessions at such times as may be specified in instructions given by the Secretary of State, and
  - (c) while participating in a polygraph session, to comply with instructions given to the individual by the polygraph operator.
- (2) The Secretary of State may by regulations make provision relating to the conduct of polygraph sessions, which may include in particular—

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- (a) provision requiring polygraph operators to be persons who satisfy such requirements as to qualifications, experience and other matters as are specified in the regulations;
  - (b) provision about the keeping of records of polygraph sessions;
  - (c) provision about the preparation of reports on the results of polygraph sessions.
- (3) The measurement and recording of the physiological reactions of an individual while being questioned in the course of a polygraph examination must be done by means of equipment of a type approved by the Secretary of State.
- (4) The following may not be used in evidence against the individual in any proceedings for an offence—
- (a) any statement made by the individual while participating in a polygraph session;
  - (b) any physiological reaction of the individual while being questioned in the course of a polygraph examination.
- (5) In [this paragraph](#)—
- “polygraph examination” means a procedure in which—
    - (a) the polygraph operator questions the individual,
    - (b) the questions and the individual’s answers are recorded, and
    - (c) physiological reactions of the individual while being questioned are measured and recorded;
  - “polygraph operator” means the person conducting a polygraph session;
  - “polygraph session” means a session during which the polygraph operator—
    - (a) conducts one or more polygraph examinations of the individual, and
    - (b) interviews the individual in preparation for, or otherwise in connection with, any such examination.

#### *Appointments measure*

- 13 (1) The Secretary of State may impose a requirement for the individual—
- (a) to attend appointments with specified persons or persons of specified descriptions, and
  - (b) to comply with any reasonable directions given by the Secretary of State that relate to matters about which the individual is required to attend an appointment.
- (2) A requirement under [sub-paragraph \(1\)\(a\)](#) is a requirement to attend appointments—
- (a) at specified times and places, or
  - (b) at times and places notified to the individual by persons referred to in that sub-paragraph.

#### *Photography measure*

- 14 The Secretary of State may impose a requirement for the individual to allow photographs to be taken of the individual at such locations and at such times as the Secretary of State may by notice require.

*Monitoring measure*

- 15 (1) The Secretary of State may impose requirements for the individual to co-operate with specified arrangements for enabling the individual's movements, communications or other activities to be monitored by electronic or other means.
- (2) The Secretary of State may, in particular, impose any of the following requirements for co-operation with the specified arrangements—
- (a) a requirement to submit to procedures required by the arrangements;
  - (b) a requirement to wear or otherwise use apparatus approved by or in accordance with the arrangements;
  - (c) a requirement to maintain such apparatus in a specified manner;
  - (d) a requirement to comply with directions given by persons carrying out functions for the purposes of the arrangements.
- (3) Directions under [sub-paragraph \(2\)\(d\)](#) may include directions requiring the individual to grant access to the individual's residence for the purpose of the inspection or modification of any apparatus used or maintained under the arrangements.

*Provision of residence information measure*

- 16 (1) The Secretary of State may impose a requirement for the individual to disclose to the Secretary of State—
- (a) the address of the individual's residence;
  - (b) if the individual resides at multiple occupancy premises, such details as may be specified concerning where, in the premises, the individual's residence is located;
  - (c) such details as may be specified in relation to any change (or anticipated change) in the matters referred to in paragraphs (a) and (b).
- (2) The Secretary of State may impose a requirement for the individual to comply with any other specified conditions in connection with the disclosure of information within [sub-paragraph \(1\)](#).
- (3) "Multiple occupancy premises" are premises at which two or more individuals who are not members of the same household reside.

**PART 2**

PERMISSION AND NOTICES

*Permission*

- 17 (1) Any application by an individual for permission must be made in writing.
- (2) The Secretary of State may by notice specify—
- (a) the information to be supplied on an application, and
  - (b) the time by which the application is to be made.
- (3) A notice under [sub-paragraph \(2\)](#) may make different provision for different measures.



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- (4) The Secretary of State may by notice request the provision, within such period of time as the notice may specify, of further information from the individual in connection with an application received under [sub-paragraph \(1\)](#).
- (5) The Secretary of State is not required to consider an application further unless any information requested under [sub-paragraph \(4\)](#) is provided in accordance with the notice mentioned in that sub-paragraph.
- (6) Permission on an application is granted by the Secretary of State giving notice to the individual.
- (7) Permission may be granted subject to such conditions as the Secretary of State may by notice specify.
- (8) In [this paragraph](#) “permission” means permission in connection with a requirement or restriction imposed under [Part 1](#) of [this Schedule](#).

#### *Notices*

- 18 (1) [This paragraph](#) applies for the purposes of any notice given by the individual to the Secretary of State in connection with measures imposed under [Part 1](#) of [this Schedule](#) (“a [Schedule 7](#) notice”).
- (2) The Secretary of State may by notice specify—
  - (a) the information to be supplied in a [Schedule 7](#) notice, and
  - (b) the time by which a [Schedule 7](#) notice is to be given.
- (3) A notice under [sub-paragraph \(2\)](#) may make different provision for different measures.
- (4) The Secretary of State may by notice request the provision, within such period of time as the notice may specify, of further information from the individual in connection with a [Schedule 7](#) notice received from the individual.
- (5) A requirement on the individual to give a [Schedule 7](#) notice is not complied with unless and until the individual has received notice from the Secretary of State—
  - (a) that the [Schedule 7](#) notice has been received, and
  - (b) that no (or no further) information is required under [sub-paragraph \(4\)](#) in relation to the [Schedule 7](#) notice.

#### *Power of Secretary of State to vary or revoke notices*

- 19 The Secretary of State may vary or revoke a notice given by the Secretary of State under [this Schedule](#).

## SCHEDULE 8

Section 43

### URGENT CASES: REFERENCE TO THE COURT ETC

#### *Application*

- 1 [This Schedule](#) applies if the Secretary of State—

- (a) makes the relevant decisions in relation to an individual, and
- (b) imposes measures on the individual.

#### *Statement of urgency*

- 2 The [Part 2](#) notice must include a statement that the Secretary of State reasonably considers that the urgency of the case requires measures to be imposed without obtaining the permission of the court under [section 42](#).

#### *Reference to court*

- 3 (1) Immediately after serving the [Part 2](#) notice, the Secretary of State must refer to the court the imposition of the measures on the individual.
- (2) The function of the court on the reference is to consider whether the relevant decisions of the Secretary of State were obviously flawed.
- (3) The court's consideration of the reference must begin within the period of 7 days beginning with the day on which the [Part 2](#) notice is served on the individual.
- (4) The court may consider the reference—
- (a) in the absence of the individual,
  - (b) without the individual having been notified of the reference, and
  - (c) without the individual having been given an opportunity (if the individual was aware of the reference) of making any representations to the court.
- (5) But that does not limit the matters about which rules of court may be made.

#### *Decision by court*

- 4 (1) In a case where the court determines that a decision of the Secretary of State that condition A, condition B or condition C is met is obviously flawed, the court must quash the [Part 2](#) notice.
- (2) In a case where the court determines that a decision of the Secretary of State that condition D is met is obviously flawed, the court must quash those of the measures which it determines that decision relates to.
- (3) If [sub-paragraph \(1\)](#) does not apply, the court must confirm the [Part 2](#) notice (subject to any quashing of measures under [sub-paragraph \(2\)](#)).
- (4) If the court determines that the Secretary of State's decision that the urgency condition is met is obviously flawed, the court must make a declaration of that determination (whether it quashes or confirms the [Part 2](#) notice under the preceding provisions of [this paragraph](#)).

#### *Procedures on reference*

- 5 (1) In determining a reference under [paragraph 3](#), the court must apply the principles applicable on an application for judicial review.
- (2) The court must ensure that the individual is notified of the court's decision on a reference under [paragraph 3](#).

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### Interpretation

- 6 (1) References in [this Schedule](#) to the urgency condition being met are references to condition E being met by virtue of [section 40\(5\)\(b\)](#) (urgency of the case requires measures to be imposed without obtaining the permission of the court).
- (2) In [this Schedule](#) “relevant decisions” means the decisions that the following conditions are met—
- (a) condition A;
  - (b) condition B;
  - (c) condition C;
  - (d) condition D;
  - (e) the urgency condition.

## SCHEDULE 9

Section 51

### APPEALS AGAINST CONVICTIONS

- 1 An individual who has been convicted of an offence under [section 56\(1\)](#) may appeal against the conviction if—
- (a) a [Part 2](#) notice, the extension of a [Part 2](#) notice, or the revival of a [Part 2](#) notice is quashed, or measures specified in a [Part 2](#) notice are quashed, and
  - (b) the individual could not have been convicted had the quashing occurred before the proceedings for the offence were brought.
- 2 An appeal under [this Schedule](#) is to be made—
- (a) in the case of a conviction on indictment in England and Wales or Northern Ireland, to the Court of Appeal,
  - (b) in the case of a conviction on indictment in Scotland, to the High Court of Justiciary,
  - (c) in the case of a summary conviction in England and Wales, to the Crown Court,
  - (d) in the case of a summary conviction in Scotland, to the Sheriff Appeal Court, or
  - (e) in the case of a summary conviction in Northern Ireland, to the county court.
- 3 (1) The right of appeal under [this Schedule](#) does not arise until there is no further possibility of an appeal against—
- (a) the decision to quash the notice, extension, revival or measures, or
  - (b) any decision on an appeal made against that decision.
- (2) In determining whether there is no further possibility of an appeal against a decision of the kind mentioned in [sub-paragraph \(1\)](#), any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.
- 4 (1) On an appeal under [this Schedule](#) to any court, that court must allow the appeal and quash the conviction.
- (2) An appeal under [this Schedule](#) to the Court of Appeal against a conviction on indictment in England and Wales or Northern Ireland—

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- (a) may be brought irrespective of whether the appellant has previously appealed against the conviction,
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of [paragraph 3](#), and
  - (c) is to be treated as an appeal under section 1 of the Criminal Appeal Act 1968 or, in Northern Ireland, under section 1 of the Criminal Appeal (Northern Ireland) Act 1980, but does not require leave in either case.
- (3) An appeal under [this Schedule](#) to the High Court of Justiciary against a conviction on indictment in Scotland—
- (a) may be brought irrespective of whether the appellant has previously appealed against the conviction,
  - (b) may not be brought after the end of the period of 28 days beginning with the day on which the right of appeal arises by virtue of [paragraph 3](#), and
  - (c) is to be treated as an appeal under section 106 of the Criminal Procedure (Scotland) Act 1995 for which leave has been granted.
- (4) An appeal under [this Schedule](#) to the Crown Court against a summary conviction in England and Wales—
- (a) may be brought irrespective of whether the appellant pleaded guilty,
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction or made an application in respect of the conviction under section 111 of the Magistrates' Courts Act 1980 (case stated),
  - (c) may not be brought after the end of the period of 21 days beginning with the day on which the right of appeal arises by virtue of [paragraph 3](#), and
  - (d) is to be treated as an appeal under section 108(1)(b) of the Magistrates' Courts Act 1980.
- (5) An appeal under [this Schedule](#) to the Sheriff Appeal Court against a summary conviction in Scotland—
- (a) may be brought irrespective of whether the appellant pleaded guilty,
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction,
  - (c) may not be brought after the end of the period of two weeks beginning with the day on which the right of appeal arises by virtue of [paragraph 3](#),
  - (d) is to be by note of appeal, which shall state the ground of appeal,
  - (e) is to be treated as an appeal for which leave has been granted under Part 10 of the Criminal Procedure (Scotland) Act 1995, and
  - (f) must be in accordance with such procedure as the High Court of Justiciary may, by Act of Adjournal, determine.
- (6) An appeal under [this Schedule](#) to the county court against a summary conviction in Northern Ireland—
- (a) may be brought irrespective of whether the appellant pleaded guilty,
  - (b) may be brought irrespective of whether the appellant has previously appealed against the conviction or made an application in respect of the conviction under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (case stated),
  - (c) may not be brought after the end of the period of 21 days beginning with the day on which the right of appeal arises by virtue of [paragraph 3](#), and

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- (d) is to be treated as an appeal under Article 140(1)(b) of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).

## SCHEDULE 10

Section 54

### PROCEEDINGS RELATING TO PREVENTION AND INVESTIGATION MEASURES

#### *Introductory*

1 In [this Schedule](#)—

“appeal proceedings” means proceedings in the Court of Appeal or the Inner House of the Court of Session on an appeal relating to relevant proceedings;

“the relevant court” means—

- (a) in relation to relevant proceedings, the court;
- (b) in relation to appeal proceedings, the Court of Appeal or the Inner House of the Court of Session;

“rules of court” means rules for regulating the practice and procedure to be followed in the court, the Court of Appeal or the Inner House of the Court of Session.

#### *Rules of court: general provision*

2 (1) A person making rules of court relating to relevant proceedings or appeal proceedings must have regard to the need to secure the following—

- (a) that the decisions that are the subject of the proceedings are properly reviewed, and
- (b) that disclosures of information are not made where they would be contrary to the public interest.

(2) Rules of court relating to relevant proceedings or appeal proceedings may make provision—

- (a) about the mode of proof and about evidence in the proceedings;
- (b) enabling or requiring the proceedings to be determined without a hearing;
- (c) about legal representation in the proceedings;
- (d) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of that party);
- (e) enabling the relevant court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of that party);
- (f) about the functions of a person appointed as a special advocate (see [paragraph 10](#));
- (g) enabling the court to give a party to the proceedings a summary of evidence taken in the party’s absence.

(3) In [this paragraph](#)—

- (a) references to a party to the proceedings do not include the Secretary of State;

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- (b) references to a party's legal representative do not include a person appointed as a special advocate.
- (4) Nothing in [this paragraph](#) is to be read as restricting the power to make rules of court or the matters to be taken into account when doing so.

*Rules of court: disclosure*

- 3 (1) Rules of court relating to relevant proceedings or appeal proceedings must secure that the Secretary of State is required to disclose—
  - (a) material on which the Secretary of State relies,
  - (b) material which adversely affects the Secretary of State's case, and
  - (c) material which supports the case of another party to the proceedings.
- (2) [This paragraph](#) is subject to [paragraph 4](#).
- 4 (1) Rules of court relating to relevant proceedings or appeal proceedings must secure—
  - (a) that the Secretary of State has the opportunity to make an application to the relevant court for permission not to disclose material otherwise than to the relevant court and any person appointed as a special advocate;
  - (b) that such an application is always considered in the absence of every party to the proceedings (and every party's legal representative);
  - (c) that the relevant court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest;
  - (d) that, if permission is given by the relevant court not to disclose material, it must consider requiring the Secretary of State to provide a summary of the material to every party to the proceedings (and every party's legal representative);
  - (e) that the relevant court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.
- (2) Rules of court relating to relevant proceedings or appeal proceedings must secure that provision to the effect mentioned in [sub-paragraph \(3\)](#) applies in cases where the Secretary of State—
  - (a) does not receive the permission of the relevant court to withhold material, but elects not to disclose it, or
  - (b) is required to provide a party to the proceedings with a summary of material that is withheld, but elects not to provide the summary.
- (3) The relevant court must be authorised—
  - (a) if it considers that the material or anything that is required to be summarised might adversely affect the Secretary of State's case or support the case of a party to the proceedings, to direct that the Secretary of State—
    - (i) is not to rely on such points in the Secretary of State's case, or
    - (ii) is to make such concessions or take such other steps as the court may specify, or
  - (b) in any other case, to ensure that the Secretary of State does not rely on the material or (as the case may be) on that which is required to be summarised.
- (4) In [this paragraph](#)—

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- (a) references to a party to the proceedings do not include the Secretary of State;
- (b) references to a party’s legal representative do not include a person appointed as a special advocate.

*Article 6 rights*

- 5 (1) Nothing in [paragraphs 2 to 4](#), or in rules of court made under any of those paragraphs, is to be read as requiring the relevant court to act in a manner inconsistent with Article 6 of the Human Rights Convention.
- (2) The “Human Rights Convention” means the Convention within the meaning of the Human Rights Act 1998 (see section 21(1) of that Act).

*Rules of court: anonymity*

- 6 (1) Rules of court relating to relevant proceedings or appeal proceedings may make provision for—
- (a) the making by the Secretary of State or the relevant individual of an application to the court for an order requiring anonymity for that individual, and
  - (b) the making by the court, on such an application, of an order requiring such anonymity,
- and the provision made by the rules may allow the application and the order to be made irrespective of whether any other relevant proceedings have been begun in the court.
- (2) Rules of court may provide for the Court of Appeal or the Inner House of the Court of Session to make an order in connection with any appeal proceedings requiring anonymity for the relevant individual.
- (3) In [sub-paragraphs \(1\) and \(2\)](#) the references, in relation to a court, to an order requiring anonymity for the relevant individual are references to an order by that court which imposes such prohibition or restriction as it thinks fit on the disclosure—
- (a) by such persons as the court specifies or describes, or
  - (b) by persons generally,
- of the identity of the relevant individual or of any information that would tend to identify the relevant individual.
- (4) In [this paragraph](#) “relevant individual” means an individual on whom the Secretary of State is proposing to impose, or has imposed, measures.

*Initial exercise of rule-making powers by Lord Chancellor*

- 7 (1) The first time that rules of court are made in exercise of the powers conferred by [this Schedule](#) in relation to proceedings in England and Wales or in Northern Ireland, the rules may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (2) Before making rules of court under [sub-paragraph \(1\)](#), the Lord Chancellor must consult—
- (a) in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales;



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- (b) in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (3) But the Lord Chancellor is not required to undertake any other consultation before making the rules.
- (4) A requirement to consult under [sub-paragraph \(2\)](#) may be satisfied by consultation that took place wholly or partly before this Schedule comes into force.
- (5) Rules of court made by the Lord Chancellor under [sub-paragraph \(1\)](#)—
  - (a) must be laid before Parliament, and
  - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.
- (6) In determining that period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (7) If rules cease to have effect in accordance with [sub-paragraph \(5\)](#)—
  - (a) that does not affect anything done in previous reliance on the rules, and
  - (b) [sub-paragraph \(1\)](#) applies again as if the rules had not been made.
- (8) The following provisions do not apply to rules of court made by the Lord Chancellor under [this paragraph](#)—
  - (a) section 3(6) of the Civil Procedure Act 1997 (Parliamentary procedure for civil procedure rules);
  - (b) section 56(1), (2) and (4) of the Judicature (Northern Ireland) Act 1978 (statutory rules procedure).
- (9) Until the coming into force of section 85 of the Courts Act 2003, the reference in [sub-paragraph \(8\)\(a\)](#) to section 3(6) of the Civil Procedure Act 1997 is to be read as a reference to section 3(2) of that Act.

#### *Use of advisers*

- 8
- (1) In any relevant proceedings or appeal proceedings the relevant court may if it thinks fit—
    - (a) call in aid one or more advisers appointed for the purposes of [this paragraph](#) by the Lord Chancellor, and
    - (b) hear and dispose of the proceedings with the assistance of the adviser or advisers.
  - (2) The Lord Chancellor may appoint advisers for the purposes of [this paragraph](#) only with the approval of—
    - (a) the Lord President of the Court of Session, in relation to an adviser who may be called in aid wholly or mainly in Scotland;
    - (b) the Lord Chief Justice of Northern Ireland, in relation to an adviser who may be called in aid wholly or mainly in Northern Ireland;
    - (c) the Lord Chief Justice of England and Wales, in any other case.
  - (3) Rules of court may regulate the use of advisers in proceedings who are called in aid under [sub-paragraph \(1\)](#).

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- (4) The Lord Chancellor may pay such remuneration, expenses and allowances to advisers appointed for the purposes of [this paragraph](#) as the Lord Chancellor may determine.
- 9 (1) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise the function under [paragraph 8\(2\)\(a\)](#).
- (2) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise the function under [paragraph 8\(2\)\(b\)](#)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the function under [paragraph 8\(2\)\(c\)](#).

#### *Appointment of special advocate*

- 10 (1) The appropriate law officer may appoint a person to represent the interests of a party in any relevant proceedings or appeal proceedings from which the party (and any legal representative of the party) is excluded.
- (2) A person appointed under [sub-paragraph \(1\)](#) is referred to in [this Schedule](#) as appointed as a “special advocate”.
- (3) The “appropriate law officer” is—
- (a) in relation to proceedings in England and Wales, the Attorney General;
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland;
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.
- (4) A person appointed as a special advocate is not responsible to the party to the proceedings whose interests the person is appointed to represent.
- (5) A person may be appointed as a special advocate only if—
- (a) in the case of an appointment by the Attorney General, the person has a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990;
  - (b) in the case of an appointment by the Advocate General for Scotland, the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980;
  - (c) in the case of an appointment by the Advocate General for Northern Ireland, the person is a member of the Bar of Northern Ireland.

## SCHEDULE 11

Section 57

### POWERS OF ENTRY, SEARCH, SEIZURE AND RETENTION

#### *Introductory*

- 1 **This Schedule** confers powers of entry, search, seizure and retention on constables in connection with the imposition of measures on individuals.
- 2 A power conferred on a constable by virtue of **this Schedule**—
  - (a) is additional to powers which the constable has at common law or by virtue of any other enactment, and
  - (b) is not to be taken as affecting those powers.
- 3 A constable may detain an individual for the purpose of carrying out a search of that individual under a power conferred by virtue of **this Schedule**.
- 4 A constable may use reasonable force, if necessary, for the purpose of exercising a power conferred on the constable by virtue of **this Schedule**.

#### *Entry and search for purposes of serving a Part 2 notice*

- 5 (1) For the purpose of serving a relevant notice on an individual, a constable may—
  - (a) enter any premises where the constable has reasonable grounds for believing the individual to be, and
  - (b) search those premises for that individual.
- (2) A “relevant notice” means—
  - (a) a **Part 2** notice;
  - (b) a notice under **section 41(2)** extending a **Part 2** notice;
  - (c) a notice under **section 48(1)** varying a **Part 2** notice as mentioned in **paragraph (c)** of that subsection; or
  - (d) a notice under **section 49(6)** reviving a **Part 2** notice.

#### *Search of individual or premises at time of serving a Part 2 notice*

- 6 (1) **This paragraph** applies if a **Part 2** notice is being, or has just been, served on an individual.
- (2) A constable may (without a warrant)—
  - (a) search the individual for the purpose mentioned in **sub-paragraph (3)**;
  - (b) enter and search, for that purpose, any premises mentioned in **sub-paragraph (4)**.
- (3) The purpose is that of ascertaining whether there is anything on the individual, or (as the case may be) in the premises, that contravenes measures specified in the **Part 2** notice.
- (4) The premises referred to in **sub-paragraph (2)(b)** are—
  - (a) the individual’s place of residence;
  - (b) other premises to which the individual has power to grant access.
- (5) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by **this paragraph**—

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- (a) for the purpose of ascertaining whether measures specified in the [Part 2](#) notice are being or are about to be contravened by the individual;
- (b) for the purpose of securing compliance by the individual with measures specified in the [Part 2](#) notice;
- (c) if the constable has reasonable grounds for suspecting that—
  - (i) the thing is or contains evidence in relation to an offence, and
  - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

#### *Search of premises on suspicion of absconding*

- 7
- (1) [This paragraph](#) applies if a constable reasonably suspects that an individual in respect of whom a [Part 2](#) notice is in force has absconded.
  - (2) The constable may (without a warrant) enter and search any premises mentioned in [sub-paragraph \(3\)](#)—
    - (a) for the purposes of determining whether the individual has absconded;
    - (b) if it appears that the individual has absconded, for anything that may assist in the pursuit and arrest of the individual.
  - (3) The premises referred to in [sub-paragraph \(2\)](#) are—
    - (a) the individual's place of residence;
    - (b) other premises to which the individual has power to grant access;
    - (c) any premises to which the individual had power to grant access and with which there is reason to believe that the individual is or was recently connected.
  - (4) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by [this paragraph](#)—
    - (a) if the constable reasonably believes that the thing will assist in the pursuit or arrest of the individual;
    - (b) if the constable has reasonable grounds for suspecting that—
      - (i) the thing is or contains evidence in relation to an offence, and
      - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

#### *Search for compliance purposes*

- 8
- (1) A constable may apply for the issue of a warrant under [this paragraph](#) for the purpose of determining whether an individual in respect of whom a [Part 2](#) notice is in force is complying with measures specified in the notice.
  - (2) A warrant under [this paragraph](#) may authorise a constable to do either or both of the following—
    - (a) to search the individual;
    - (b) to enter and search the individual's place of residence or any other premises that are specified in the warrant.
  - (3) An application for a warrant under [this paragraph](#) must be made to the appropriate judicial authority.

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- (4) The appropriate judicial authority may, on such an application, grant the warrant only if satisfied that the warrant is necessary for the purpose mentioned in [sub-paragraph \(1\)](#).
  - (5) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by a warrant issued under [this paragraph](#)—
    - (a) for the purpose of ascertaining whether any measure specified in the [Part 2](#) notice has been, is being, or is about to be, contravened by the individual;
    - (b) for the purpose of securing compliance by the individual with measures specified in the [Part 2](#) notice;
    - (c) if the constable has reasonable grounds for suspecting that—
      - (i) the thing is or contains evidence in relation to an offence, and
      - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
  - (6) In [this paragraph](#) “appropriate judicial authority”, in relation to a warrant, means—
    - (a) a justice of the peace, if the application for the warrant is made in England or Wales;
    - (b) a sheriff, if the application is made in Scotland;
    - (c) a lay magistrate, if the application is made in Northern Ireland.
- 9
- (1) [This paragraph](#) applies in relation to a warrant issued in England, Wales or Northern Ireland under [paragraph 8](#) so far as it authorises a constable to search an individual.
  - (2) In relation to warrants issued under that paragraph so far as authorising the entry and search of premises, see—
    - (a) sections 15 and 16 of the Police and Criminal Evidence Act 1984, in relation to warrants issued in England and Wales;
    - (b) Articles 17 and 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)), in relation to warrants issued in Northern Ireland.
  - (3) The constable applying for the warrant must—
    - (a) state the ground on which the application is made, and
    - (b) identify, so far as practicable, the articles to be sought.
  - (4) The application for the warrant is to be made without notice and—
    - (a) if made in England or Wales, supported by an information in writing;
    - (b) if made in Northern Ireland, supported by a complaint in writing and substantiated on oath.
  - (5) The constable must answer on oath any questions that the appropriate judicial authority (within the meaning of [paragraph 8](#)) hearing the application may ask of the constable.
  - (6) If the warrant is issued it authorises a search of the individual on one occasion only.
  - (7) The warrant must—
    - (a) specify the name of the constable applying for it, the date on which it is issued and the fact that it is issued under [paragraph 8](#), and
    - (b) identify, so far as practicable, the articles to be sought.
  - (8) Two copies must be made of the warrant and clearly certified as copies.

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- (9) The warrant may be executed by any constable.
- (10) The search under the warrant must be carried out within 28 days of its issue.
- (11) The search must be carried out at a reasonable hour unless it appears to the constable executing the warrant that the purposes of the search may be frustrated if carried out then.
- (12) The constable seeking to execute the warrant must, before carrying out the search—
  - (a) identify himself or herself to the individual,
  - (b) if not in uniform, produce documentary evidence that he or she is a constable to the individual,
  - (c) produce the warrant to the individual, and
  - (d) supply the individual with a copy of the warrant (which, in Northern Ireland, must be a certified copy).
- (13) The constable executing the warrant must make an endorsement on it stating—
  - (a) whether anything sought was found in the course of the search, and
  - (b) whether anything was seized.
- (14) When the warrant has been executed it must be returned to the designated officer.
- (15) The designated officer must retain a warrant returned under [sub-paragraph \(14\)](#) for a period of 12 months from the time of its return and, if requested during that period, allow the individual to inspect it.
- (16) The “designated officer” is—
  - (a) in relation to a warrant issued in England and Wales, the designated officer for the local justice area in which the justice of the peace who issued the warrant was acting when it was issued;
  - (b) in relation to a warrant issued in Northern Ireland, the clerk of petty sessions.

#### *Search of individual for public safety purposes*

- 10 (1) A constable may (without a warrant) search an individual in respect of whom a [Part 2](#) notice is in force for the purpose of ascertaining whether the individual is in possession of anything that could be used to threaten or harm any person.
- (2) The power of a constable to search the individual under [this paragraph](#) may be exercised—
  - (a) following entry onto premises by virtue of this Part, or
  - (b) at any other time when the constable is in the presence of the individual.
- (3) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by [this paragraph](#)—
  - (a) if the constable has reasonable grounds for suspecting that the thing may be used to threaten or harm any person;
  - (b) if the constable has reasonable grounds for suspecting that—
    - (i) the thing is or contains evidence in relation to an offence, and
    - (ii) it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed.

*Power to retain items*

- 11 (1) Anything that is seized under a power conferred by virtue of [this Schedule](#) may be—
- (a) subjected to tests;
  - (b) retained for as long as is necessary in all the circumstances.
- (2) In particular (and regardless of the ground on which the thing was seized)—
- (a) if a constable has reasonable grounds for believing that the thing is or contains evidence in relation to an offence, it may be retained—
    - (i) for use as evidence at a trial for an offence, or
    - (ii) for forensic examination or for investigation in connection with an offence, and
  - (b) if a constable has reasonable grounds for believing that the thing has been obtained in consequence of the commission of an offence, it may be retained in order to establish its lawful owner.
- (3) Nothing may be retained for either of the purposes mentioned in [sub-paragraph \(2\)\(a\)](#) if a photograph or copy would be sufficient for that purpose.
- (4) Nothing in [this paragraph](#) or in [paragraph 12](#) affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.
- 12 (1) [This paragraph](#) applies if—
- (a) a device is surrendered by virtue of a condition of the kind mentioned in [paragraph 8\(4\)\(e\)](#) of [Schedule 7](#) (surrendering of electronic communication devices for inspection or modification purposes), and
  - (b) a constable has reasonable grounds for believing that the device is or contains evidence in relation to an offence.
- (2) The device may be seized and retained for as long as is necessary in all the circumstances.
- (3) In particular—
- (a) the thing may be retained—
    - (i) for use as evidence at a trial for an offence, or
    - (ii) for forensic examination or for investigation in connection with an offence, and
  - (b) if a constable has reasonable grounds for believing that the device has been obtained in consequence of the commission of an offence, it may be retained in order to establish its lawful owner.
- (4) Nothing may be retained for either of the purposes mentioned in [sub-paragraph \(3\)\(a\)](#) if a photograph or copy would be sufficient for that purpose.

SCHEDULE 12

Section 58

FINGERPRINTS AND SAMPLES

*Taking of fingerprints and samples: England, Wales and Northern Ireland*

- 1 (1) [This paragraph](#) applies at any time when a [Part 2](#) notice is in force in respect of an individual in England, Wales or Northern Ireland.



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- (2) A constable may take fingerprints or a non-intimate sample from the individual—
    - (a) with the consent of the individual given in writing, or
    - (b) without that consent.
  - (3) A constable may use reasonable force, if necessary, for the purpose of exercising the power under [sub-paragraph \(2\)\(b\)](#).
  - (4) Before any fingerprints or a non-intimate sample are taken the individual must be informed—
    - (a) of the reason for taking the fingerprints or sample,
    - (b) of the fact that the fingerprints or sample are taken under the power conferred by [this paragraph](#), and
    - (c) that the fingerprints or sample may be the subject of a relevant search.
  - (5) The matters mentioned in [sub-paragraph \(4\)](#) must be recorded as soon as practicable after the fingerprints or non-intimate sample are taken.
  - (6) The information mentioned in [sub-paragraph \(4\)](#) must be given by—
    - (a) the constable taking the fingerprints or non-intimate sample, or
    - (b) if the fingerprints or non-intimate sample are taken at a police station (see [paragraph 3](#)), any other officer.
  - (7) Where a sample of hair other than pubic hair is to be taken under [this paragraph](#), the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- 2
- (1) A constable may exercise the power under [paragraph 1](#) to take fingerprints or a non-intimate sample from an individual only if at the time when the power is to be exercised—
    - (a) in the case of fingerprints, the condition in [sub-paragraph \(2\)](#) is met;
    - (b) in the case of a sample, the condition in [sub-paragraph \(3\)](#) is met.
  - (2) The condition in the case of fingerprints is that—
    - (a) the individual has not had fingerprints taken under [paragraph 1](#) on a previous occasion after the time at which the present [Part 2](#) notice came into force, or
    - (b) fingerprints were so taken on a previous occasion after that time but—
      - (i) the fingerprints taken do not constitute a complete set of the individual's fingerprints, or
      - (ii) some or all of the fingerprints taken are not of sufficient quality to allow satisfactory analysis, comparison or matching.
  - (3) The condition in the case of a non-intimate sample is that—
    - (a) the individual has not had a sample of the same type and from the same part of the body taken under [paragraph 1](#) on a previous occasion after the time at which the present [Part 2](#) notice came into force, or
    - (b) a sample was so taken on a previous occasion after that time but it proved insufficient.
  - (4) In [this paragraph](#) “the present [Part 2](#) notice” means the [Part 2](#) notice in force at the time when it is proposed to exercise the power to take the fingerprints or sample.
- 3
- (1) A constable may—

- (a) require an individual to attend a police station for the purposes of taking fingerprints or a non-intimate sample from the individual under [paragraph 1](#), and
  - (b) arrest without warrant an individual who fails to comply with such a requirement.
- (2) A requirement under [sub-paragraph \(1\)\(a\)](#)—
  - (a) must give the individual a period of at least 7 days within which the individual must attend the police station (subject to [sub-paragraph \(4\)](#)), and
  - (b) may direct the individual to attend at a specified time of day or between specified times of day.
- (3) In specifying a period or time or times of day for the purposes of [sub-paragraph \(2\)](#), the constable must consider whether the fingerprints or non-intimate sample could reasonably be taken at a time when the individual is for any other reason required to attend the police station (including, in particular, under measures imposed on the individual by virtue of [paragraph 11](#) of [Schedule 7](#)).
- (4) In giving a requirement under [this paragraph](#) a constable may specify a period of shorter than 7 days if—
  - (a) there is an urgent need for the fingerprints or sample for the purposes of the investigation of an offence, and
  - (b) the shorter period is authorised by an officer of at least the rank of inspector.
- (5) Where an authorisation is given under [sub-paragraph \(4\)\(b\)](#)—
  - (a) the fact of the authorisation, and
  - (b) the reasons for giving it,must be recorded as soon as practicable after it has been given.
- (6) If the constable who gives a requirement to an individual under [this paragraph](#) and the individual agree, it may be varied so as to specify any period within which, or date or time at which, the individual must attend; but a variation does not have effect unless confirmed by the constable in writing.

*Taking of relevant physical data and samples: Scotland*

- 4 (1) [This paragraph](#) applies at any time when a [Part 2](#) notice is in force in respect of an individual in Scotland.
- (2) A constable may—
    - (a) take from the individual, or require the individual to provide, any relevant physical data;
    - (b) with the authority of an officer of a rank no lower than inspector, take from the individual any sample mentioned in paragraph (a), (b) or (c) of subsection (6) of section 18 of the Criminal Procedure (Scotland) Act 1995 (prints, samples etc in criminal investigations) by the means specified in that paragraph in relation to the sample;
    - (c) take, or direct a police custody and security officer to take, from the individual a sample mentioned in subsection (6A) of that section by the means specified in that subsection.
  - (3) A constable may—

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- (a) require the individual to attend a police station for the purposes mentioned in [sub-paragraph \(2\)](#), and
  - (b) arrest without warrant an individual who fails to comply with such a requirement.
- (4) A requirement under [sub-paragraph \(3\)\(a\)](#)—
- (a) must give the individual at least 7 days’ notice of the date on which the individual is required to attend the police station, and
  - (b) may direct the individual to attend at a specified time of day or between specified times of day.
- (5) In specifying a date or time or times of day for the purposes of [sub-paragraph \(4\)](#), the constable must consider whether the relevant physical data or sample could reasonably be taken at a time when the individual is for any other reason required to attend the police station (including, in particular, under measures imposed on the individual by virtue of [paragraph 11](#) of [Schedule 7](#)).
- (6) A constable may use reasonable force, if necessary, in—
- (a) taking any relevant physical data under [sub-paragraph \(2\)\(a\)](#),
  - (b) securing compliance with a requirement imposed by the constable under that sub-paragraph, or
  - (c) taking any sample under [sub-paragraph \(2\)\(b\)](#).
- (7) A constable may, with the authority of an officer of a rank no lower than inspector, use reasonable force, if necessary, in taking any sample under [sub-paragraph \(2\)\(c\)](#).
- (8) In [this paragraph](#) “police custody and security officer” has the same meaning as in Part 1 of the [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#) (see section 99 of that Act).

#### *Checking of fingerprints, samples etc*

- 5 Any fingerprints, data or samples obtained under [paragraph 1](#) or [4](#), or information derived from such samples, may be checked against—
- (a) other such fingerprints, data or samples or any information derived from such samples;
  - (b) any fingerprints or samples taken under [paragraph 10](#) or [12](#) of [Schedule 6](#) or any information derived from such samples;
  - (c) any fingerprints, samples or information mentioned in section 63A(1)(a) or (b) of the Police and Criminal Evidence Act 1984;
  - (d) any fingerprints, samples or information mentioned in Article 63A(1)(a) and (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
  - (e) any fingerprints or samples taken under [paragraph 10](#) or [12](#) of [Schedule 8](#) to the Terrorism Act 2000 or any information derived from such samples;
  - (f) any of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995;
  - (g) any of the relevant physical data, samples or information held by virtue of section 56 of the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#);
  - (h) material to which section 18 of the Counter-Terrorism Act 2008 applies;

- (i) any of the fingerprints, data or samples obtained under paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or information derived from such samples;
- (j) any fingerprints or samples taken under paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 or any information derived from such samples.

#### *Requirement to destroy material*

- 6 (1) **This paragraph** applies to—
- (a) fingerprints taken under **paragraph 1**,
  - (b) a DNA profile derived from a DNA sample taken under that paragraph,
  - (c) relevant physical data taken or provided under **paragraph 4**,
  - (d) a DNA profile derived from a DNA sample taken under that paragraph.
- (2) Fingerprints, relevant physical data and DNA profiles to which **this paragraph** applies (“**paragraph 6** material”) must be destroyed if it appears to the responsible chief officer of police that the taking or providing of the material or, in the case of a DNA profile, the taking of the sample from which the DNA profile was derived, was unlawful.
- (3) In any other case, **paragraph 6** material must be destroyed unless it is retained under a power conferred by **paragraph 8**, **9**, or **11**.
- (4) **Paragraph 6** material that ceases to be retained under a power mentioned in **sub-paragraph (3)** may continue to be retained under any other such power that applies to it.
- (5) Nothing in **this paragraph** prevents a relevant search from being carried out, in relation to **paragraph 6** material, within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.
- 7 (1) If fingerprints or relevant physical data are required by **paragraph 6** to be destroyed, any copies of the fingerprints or data held by a police force must also be destroyed.
- (2) If a DNA profile is required by that paragraph to be destroyed, no copy may be retained by a police force except in a form which does not include information which identifies the individual to whom the DNA profile relates.

#### *Retention of paragraph 6 material*

- 8 (1) **This paragraph** applies to **paragraph 6** material taken from, or provided by, an individual who has no previous convictions or (in the case of England and Wales or Northern Ireland) only one exempt conviction.
- (2) **The** material may be retained until the end of the period of 6 months beginning with the date on which the **Part 2** notice that was in force when the material was taken ceases to be in force (subject to **sub-paragraphs (3)** and **(4)**).
- (3) If, before the end of that period, the **Part 2** notice is quashed by the court under this Part, the material may be retained only until there is no possibility of an appeal against—
- (a) the decision to quash the notice, or

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- (b) any decision made on an appeal against that decision.
- (4) If, after a [Part 2](#) notice is quashed or otherwise ceases to be in force, measures are imposed on the individual (whether by the revival of a [Part 2](#) notice or the imposition of a new [Part 2](#) notice)—
- (a) within the period for which material in relation to the individual is retained by virtue of [sub-paragraph \(2\)](#), or
  - (b) within, or immediately after the end of, the period for which such material is retained by virtue of [sub-paragraph \(3\)](#),
- [sub-paragraphs \(2\) and \(3\)](#) apply again for the purposes of the retention of that material (taking references to the [Part 2](#) notice as references to the revived or new [Part 2](#) notice).
- (5) In determining whether there is no further possibility of an appeal against a decision of the kind mentioned in [sub-paragraph \(3\)](#), any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.
- 9 (1) [This paragraph](#) applies to [paragraph 6](#) material taken from, or provided by, an individual—
- (a) who has been convicted of a recordable offence (other than a single exempt conviction) or of an offence in Scotland which is punishable by imprisonment, or
  - (b) who is so convicted before the end of the period within which the material may be retained by virtue of [paragraph 8](#).
- (2) The material may be retained indefinitely.
- 10 (1) For the purposes of [paragraphs 8 and 9](#) an individual is to be treated as having been convicted of an offence if—
- (a) in relation to a recordable offence in England and Wales or Northern Ireland—
    - (i) the individual has been given a caution or youth caution in respect of the offence which, at the time of the caution, the individual has admitted,
    - (ii) the individual has been found not guilty of the offence by reason of insanity, or
    - (iii) the individual has been found to be under a disability and to have done the act charged in respect of the offence,
  - (b) the individual, in relation to an offence in Scotland punishable by imprisonment, has accepted or has been deemed to accept—
    - (i) a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995,
    - (ii) a compensation offer under section 302A of that Act,
    - (iii) a combined offer under section 302B of that Act, or
    - (iv) a work offer under section 303ZA of that Act,
  - (c) the individual, in relation to an offence in Scotland punishable by imprisonment, has been acquitted on account of the individual's insanity at the time of the offence or (as the case may be) by virtue of section 51A of the Criminal Procedure (Scotland) Act 1995,

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- (d) a finding in respect of the individual has been made under section 55(2) of the Criminal Procedure (Scotland) Act 1995 in relation to an offence in Scotland punishable by imprisonment,
  - (e) the individual, having been given a fixed penalty notice under section 129(1) of the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#) in connection with an offence in Scotland punishable by imprisonment, has paid—
    - (i) the fixed penalty, or
    - (ii) (as the case may be) the sum which the individual is liable to pay by virtue of section 131(5) of that Act, or
  - (f) the individual, in relation to an offence in Scotland punishable by imprisonment, has been discharged absolutely by order under section 246(3) of the Criminal Procedure (Scotland) Act 1995.
- (2) Paragraphs 8, 9 and [this paragraph](#), so far as they relate to individuals convicted of an offence, have effect despite anything in the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 ([S.I. 1978/1908 \(N.I. 27\)](#)).
- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 or 101A of the Protection of Freedoms Act 2012.
- (4) For the purposes of paragraphs 8 and 9—
- (a) an individual has no previous convictions if the individual has not previously been convicted—
    - (i) in England and Wales or Northern Ireland of a recordable offence, or
    - (ii) in Scotland of an offence which is punishable by imprisonment, and
  - (b) if the individual has previously been convicted of a recordable offence in England and Wales or Northern Ireland, the conviction is exempt if it is in respect of a recordable offence, other than a qualifying offence, committed when the individual was aged under 18.
- (5) In sub-paragraph (4) “qualifying offence”—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984, and
  - (b) in relation to a conviction in respect of a recordable offence committed in Northern Ireland, has the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)).
- (6) For the purposes of [sub-paragraph \(4\)](#)—
- (a) a person is to be treated as having previously been convicted in England and Wales of a recordable offence if—
    - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
    - (ii) the act constituting the offence would constitute a recordable offence under the law of England and Wales if done there (whether or not it constituted such an offence when the person was convicted);
  - (b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—
    - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and



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- (ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);
    - (c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—
      - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
      - (ii) the act constituting the offence would constitute an offence punishable by imprisonment under the law of Scotland if done there (whether or not it constituted such an offence when the person was convicted);
    - (d) the reference in [sub-paragraph \(4\)\(b\)](#) to a qualifying offence includes a reference to an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute a qualifying offence under the law of England and Wales if done there or (as the case may be) under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted).
  - (7) For the purposes of paragraph 8, 9 or [this paragraph](#)—
    - (a) “offence”, in relation to any country or territory outside the United Kingdom, includes an act punishable under the law of that country or territory, however it is described;
    - (b) a person has in particular been convicted of an offence under the law of a country or territory outside the United Kingdom if—
      - (i) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity, or
      - (ii) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence.
  - (8) If an individual is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purposes of calculating under paragraph 8 or 9 whether the individual has been convicted of one offence.
- 11
- (1) [Paragraph 6](#) material may be retained for as long as a national security determination made by a chief officer of police has effect in relation to it.
  - (2) A national security determination is made if a chief officer of police determines that it is necessary for any [paragraph 6](#) material to be retained for the purposes of national security.
  - (3) A national security determination—
    - (a) must be in writing,
    - (b) has effect for a maximum of 5 years beginning with the date on which the determination is made, and
    - (c) may be renewed.
  - (4) In [this paragraph](#) “chief officer of police” means—
    - (a) a chief officer of police of a police force in England and Wales,
    - (b) the chief constable of the Police Service of Scotland,



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- (c) the Chief Constable of the Police Service of Northern Ireland,
  - (d) the Chief Constable of the Ministry of Defence Police,
  - (e) the Chief Constable of the British Transport Police Force, or
  - (f) the Director General of the National Crime Agency.
- 12 (1) **This paragraph** applies where **paragraph 6** material is or includes a person’s fingerprints (“the original fingerprints”).
- (2) A constable may make a determination under **this paragraph** in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if conditions 1 and 2 are met.
- (3) Condition 1 is met if the further fingerprints—
- (a) are **paragraph 6** material,
  - (b) are taken or provided under or by virtue of—
    - (i) Part 5 of the Police and Criminal Evidence Act 1984,
    - (ii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
    - (iii) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
    - (iv) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
    - (v) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or
    - (vi) paragraph 10 of **Schedule 6**, or
  - (c) are material to which section 18 of the Counter-Terrorism Act 2008 applies.
- (4) Condition 2 is met if—
- (a) in a case where the further fingerprints are material to which section 18 of the Counter-Terrorism Act 2008 applies, the original fingerprints and the further fingerprints are held under the law of the same part of the United Kingdom;
  - (b) in any other case, the original fingerprints and the further fingerprints were taken from or provided by the person in the same part of the United Kingdom.
- (5) Where a determination under **this paragraph** is made in respect of the further fingerprints—
- (a) the further fingerprints may be retained for as long as the original fingerprints are retained under any power conferred by **paragraph 8**, **9** or **11**, and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by **paragraph (a)**.
- (6) **Sub-paragraph (5)(a)** does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (7) A written record must be made of a determination under **this paragraph**.
- (8) In **this paragraph** references to a part of the United Kingdom are references to—
- (a) England and Wales,
  - (b) Scotland, or
  - (c) Northern Ireland.

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### *Requirement to destroy samples*

- 13 (1) **This paragraph** applies to—
- (a) non-intimate samples taken under **paragraph 1**, or
  - (b) samples taken under **paragraph 4(2)(b)** or **(c)**.
- (2) Samples to which **this paragraph** applies must be destroyed if it appears to the responsible chief officer of police that the taking of the sample was unlawful.
- (3) Subject to this, the rule in **sub-paragraph (4)** or (as the case may be) **(5)** applies.
- (4) A DNA sample to which **this paragraph** applies must be destroyed—
- (a) as soon as a DNA profile has been derived from the sample, or
  - (b) if sooner, before the end of the period of 6 months beginning with the date on which the sample was taken.
- (5) Any other sample to which **this paragraph** applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
- (6) Nothing in **this paragraph** prevents a relevant search, in relation to samples to which **this paragraph** applies, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.

### *Use of retained material*

- 14 (1) Any material to which **paragraph 6** or **13** applies must not be used other than—
- (a) in the interests of national security,
  - (b) for the purposes of investigating foreign power threat activity,
  - (c) for the purposes of a terrorist investigation (within the meaning of the Terrorism Act 2000),
  - (d) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
  - (e) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Material which is required by **paragraph 6** or **13** to be destroyed must not at any time after it is required to be destroyed be used—
- (a) in evidence against the individual to whom the material relates, or
  - (b) for the purposes of the investigation of any offence.
- (3) In **this paragraph**—
- (a) the reference to using material includes a reference to allowing any check to be made against it and to disclosing it to any person,
  - (b) the reference to crime includes a reference to any conduct which—
    - (i) constitutes one or more criminal offences (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, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences, and
  - (c) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime

or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.

### Interpretation

#### 15 (1) In this Schedule—

“DNA profile” means any information derived from a DNA sample;

“DNA sample” means any material that has come from a human body and consists of or includes human cells;

“fingerprints” has the meaning given by section 65(1) of the Police and Criminal Evidence Act 1984 or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12));

“non-intimate sample” has the meaning given by section 65(1) of the Police and Criminal Evidence Act 1984 or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12));

“paragraph 6 material” has the meaning given by paragraph 6(2);

“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 (police forces in England and Wales outside London);
- (c) the City of London police force;
- (d) the Police Service of Scotland;
- (e) the Police Service of Northern Ireland;
- (f) the Police Service of Northern Ireland Reserve;
- (g) the Ministry of Defence Police;
- (h) the National Crime Agency;
- (i) the British Transport Police Force;

“recordable offence” has—

- (a) in relation to a conviction in England and Wales, the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
- (b) in relation to a conviction in Northern Ireland, the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

“relevant physical data” has the meaning given by section 18(7A) of the Criminal Procedure (Scotland) Act 1995;

“relevant search” means a search carried out for the purpose of checking any fingerprints, samples, data or information against any of the fingerprints, samples, data or information mentioned in paragraph 5(a) to (k);

“responsible chief officer of police” means—

- (a) in relation to fingerprints or samples taken by a constable of the Ministry of Defence Police, or a DNA profile derived from a sample so taken, the Chief Constable of the Ministry of Defence Police;
- (b) in relation to fingerprints or samples taken by a constable of the British Transport Police Force, or a DNA profile derived from a sample so taken, the Chief Constable of the British Transport Police Force;

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- (c) in relation to fingerprints or samples taken by a constable who is a National Crime Agency officer, or a DNA profile derived from a sample so taken, the Director General of the National Crime Agency;
  - (d) otherwise—
    - (i) in relation to fingerprints or samples taken in England or Wales, or a DNA profile derived from a sample so taken, the chief officer of police for the relevant police area;
    - (ii) in relation to relevant physical data or samples taken or provided in Scotland, or a DNA profile derived from a sample so taken, the chief constable of the Police Service of Scotland;
    - (iii) in relation to fingerprints or samples taken in Northern Ireland, or a DNA profile derived from a sample so taken, the Chief Constable of the Police Service of Northern Ireland;
- “sufficient” and “insufficient”, in relation to a sample, have the same meaning as in Part 5 of the Police and Criminal Evidence Act 1984 (see section 65(1) and (2) of that Act) or, in Northern Ireland, Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (see Article 53(1) and (3) of that Order).
- (2) In the definition of “responsible chief officer of police” in [sub-paragraph \(1\)](#), in paragraph (d)(i), “relevant police area” means the police area—
- (a) in which the material concerned was taken, or
  - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

## SCHEDULE 13

Section 66

### CONTROL OF A PERSON BY A FOREIGN POWER

#### PART 1

##### CONDITIONS FOR CONTROL

- 1 (1) A person is controlled by a foreign power if one or more of the following conditions are met.
- (2) Condition 1 is that the foreign power has the right to direct or control, or actually directs or controls, the person’s activities (in whole or in part).
  - (3) Condition 2 is that the foreign power holds, directly or indirectly, more than 25% of the shares in the person.
  - (4) Condition 3 is that the foreign power holds, directly or indirectly, more than 25% of the voting rights in the person.
  - (5) Condition 4 is that the foreign power holds the right, directly or indirectly, to appoint or remove an officer of the person.
  - (6) Condition 5 is that—
    - (a) the trustees of a trust, or the members of a partnership, unincorporated association or other entity, that is not a legal person under the law by which

- it is governed meet one or more of conditions 1 to 4 (in their capacity as such) in relation to the person, and
- (b) the foreign power has the right to direct or control, or actually directs or controls, the activities of that trust or entity (in whole or in part).
- 2 In this Schedule “officer”—
- (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
- (b) in relation to a partnership, means a partner or person purporting to act as a partner;
- (c) in relation to an unincorporated association other than a partnership, means a person who is concerned in the management or control of the association or purports to act in the capacity of a person so concerned.

## PART 2

### INTERPRETATION OF PART 1

#### *Interpretation*

- 3 This Part makes provision about the interpretation of Part 1 of this Schedule.

#### *Joint interests*

- 4 If a foreign power holds a share or right jointly with another person (whether or not a foreign power), each of those persons is to be taken to hold that share or right.

#### *Joint arrangements*

- 5 (1) If shares or rights held by a foreign power and shares or rights held by another person (whether or not a foreign power) are the subject of a joint arrangement between those persons, each of those persons is to be taken to hold the combined shares or rights of both persons.
- (2) A “joint arrangement” is an arrangement between the holders of shares (or rights) that they will exercise all or substantially all the rights conferred by their respective shares (or rights) jointly in a way that is pre-determined by the arrangement.
- (3) For the meaning of “arrangement”, see [paragraph 12](#).

#### *Calculating shareholdings*

- 6 (1) In relation to a person that has a share capital, a reference to holding more than 25% of the shares in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 25% of that share capital.
- (2) In relation to a person that does not have a share capital—
- (a) a reference to holding shares in that person is to holding a right to share in the capital or, as the case may be, profits of that person;

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- (b) a reference to holding more than 25% of the shares in that person is to holding a right or rights to share in more than 25% of the capital or, as the case may be, profits of that person.

#### *Voting rights*

- 7 (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.
- (2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—
  - (a) a reference to exercising voting rights in the person is to be read as a reference to exercising rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;
  - (b) a reference to exercising more than 25% of the voting rights in the person is to be read as a reference to exercising the rights under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.
- 8 In applying this Schedule, the voting rights in a person are to be reduced by any rights held by that person.

#### *Shares or rights held “indirectly”*

- 9 (1) A foreign power holds a share “indirectly” if the foreign power has a majority stake in a person and that person—
  - (a) holds the share in question, or
  - (b) is part of a chain of persons—
    - (i) each of which (other than the last) has a majority stake in the person immediately below it in the chain, and
    - (ii) the last of which holds the share.
- (2) A foreign power holds a right “indirectly” if the foreign power has a majority stake in a person and that person—
  - (a) holds that right, or
  - (b) is part of a chain of persons—
    - (i) each of which (other than the last) has a majority stake in the person immediately below it in the chain, and
    - (ii) the last of which holds that right.
- (3) For the purposes of sub-paragraphs (1) and (2), a foreign power has a “majority stake” in a person if—
  - (a) the foreign power holds a majority of the voting rights in the person,
  - (b) the foreign power is a member of the person and has the right to appoint or remove an officer of the person,
  - (c) the foreign power is a member of the person and controls alone, or pursuant to an agreement with other shareholders or members, a majority of the voting rights in the person, or
  - (d) the foreign power has the right to exercise, or actually exercises, dominant influence or control over the person.

*Shares held by nominees*

- 10 A share held by a person as a nominee for another is to be treated as held by the other (and not by the nominee).

*Rights treated as held by person who controls their exercise*

- 11 (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—
- (a) by that person,
  - (b) in accordance with that person’s directions or instructions, or
  - (c) with that person’s consent or concurrence.
- 12 (1) For the purposes of this Schedule, “arrangement” includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- (2) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise).

*Rights exercisable only in certain circumstances etc*

- 13 (1) Rights that are exercisable only in certain circumstances are to be taken into account only—
- (a) where the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) But rights that are exercisable by an administrator or by creditors while a person is in relevant insolvency proceedings are not to be taken into account even while the person is in those proceedings.
- (3) “Relevant insolvency proceedings” means—
- (a) administration within the meaning of the Insolvency Act 1986,
  - (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  - (c) proceedings under the insolvency law of another country or territory during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

*Rights attached to shares held by way of security*

- 14 Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—



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- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests.

### PART 3

#### POWER TO AMEND THRESHOLDS ETC

- 15 (1) The Secretary of State may by regulations amend this Schedule for a permitted purpose.
- (2) The permitted purposes are—
- (a) to replace any or all references in this Schedule to a percentage figure with references to some other (larger or smaller) percentage figure;
  - (b) to change or supplement [Part 1](#) of this Schedule so as to include circumstances (for example, circumstances involving more complex structures) that give a foreign power a level of control over a person broadly similar to the level of control given by the conditions in [paragraph 1](#);
  - (c) in consequence of any provision made by virtue of [paragraph \(b\)](#), to change or supplement [Part 2](#) of this Schedule so that circumstances specified in that Part in which a person is to be regarded as holding an interest in another person correspond to any of the conditions in [paragraph 1](#), or would do so but for the extent of the interest.

## SCHEDULE 14

[Section 70](#)

### PUBLIC OFFICIALS

#### *Ministers*

- 1 A Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- 2 A Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a person appointed as a junior Minister under section 19 of the Northern Ireland Act 1998.
- 3 The First Minister for Scotland, a Minister appointed under section 47 of the Scotland Act 1998 or a junior Scottish Minister.
- 4 The First Minister for Wales, a Welsh Minister appointed under section 48 of the Government of Wales Act 2006, the Counsel General to the Welsh Government or a Deputy Welsh Minister appointed under section 50 of that Act.

#### *MPs etc*

- 5 A member of either House of Parliament.

- 6 A member of the Northern Ireland Assembly.
- 7 A member of the Scottish Parliament.
- 8 A member of Senedd Cymru.
- 9 An employee or other member of staff of a person within any of paragraphs 5 to 8.

#### *Local government*

- 10 The Mayor of London.
- 11 A mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

#### *Political parties*

- 12 An officer, trustee or agent of a UK registered political party (within the meaning of section 70).
- 13 A member of such a political party who exercises executive functions on behalf of the party.

#### *Election candidates*

- 14 A candidate at an election for a relevant elective office (within the meaning of section 37 of the Elections Act 2022).
- 15 A candidate at an election for a relevant Scottish elective office (within the meaning of that section).

#### *Civil servants*

- 16 (1) A member of—
  - (a) the Senior Civil Service;
  - (b) the Northern Ireland Senior Civil Service;
  - (c) the Senior Management Structure of His Majesty’s Diplomatic Service.
- (2) A person who serves the government in a position in the civil service of the State and whose appointment to that position meets the requirements applicable to that position set out in section 15(1) of the Constitutional Reform and Governance Act 2010 (special advisers).
- (3) A special adviser within the meaning of section 1 of the [Civil Service \(Special Advisers\) Act \(Northern Ireland\) 2013 \(c. 8 \(N.I.\)\)](#) (special advisers).

#### *Military personnel*

- 17 (1) An officer subject to service law who is of or above the rank of commodore, brigadier or air commodore.
- (2) In sub-paragraph (1), “subject to service law” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).

*Police*

- 18 The chief constable or deputy chief constable of a police force maintained under section 2 of the Police Act 1996.
- 19 A police and crime commissioner.
- 20 A person of one of the following ranks of the metropolitan police force—
- (a) Commissioner of Police of the Metropolis;
  - (b) Deputy Commissioner of Police of the Metropolis;
  - (c) Assistant Commissioner of Police of the Metropolis;
  - (d) Deputy Assistant Commissioner of Police of the Metropolis.
- 21 The Commissioner of Police for the City of London or an Assistant Commissioner of Police for the City of London.
- 22 The chief constable or deputy chief constable of the Police Service of Northern Ireland.
- 23 The chief constable or a deputy chief constable of the Police Service of Scotland.
- 24 The chief constable or a deputy chief constable of the Ministry of Defence Police.
- 25 The chief constable or deputy chief constable of the British Transport Police Force.
- 26 The chief constable or deputy chief constable of the Civil Nuclear Constabulary.

*Persons exercising public functions*

- 27 (1) A person exercising public functions who is specified by the Secretary of State in regulations.
- (2) “Public functions” means functions of a public nature—
- (a) exercisable in the United Kingdom, or
  - (b) exercisable in a country or territory outside the United Kingdom by a person acting for or on behalf of, or holding office under, the Crown.

## SCHEDULE 15

Section 73

## EXEMPTIONS

*UK arrangements*

- 1 (1) Sections 65(4) and 69(3) (requirements to register foreign activity arrangements and foreign influence arrangements) do not apply to foreign activity arrangements or foreign influence arrangements that are UK arrangements.
- (2) The following provisions do not apply to activities carried out in accordance with a UK arrangement—
- (a) section 68(1) to (3) (specified persons etc must not carry out unregistered activities);
  - (b) section 72(1) (foreign powers etc must not carry out unregistered political influence activities).
- (3) A “UK arrangement” is an arrangement or agreement to which—

- (a) the United Kingdom is a party, or
- (b) any person acting for or on behalf of, or holding office under, the Crown is (in that capacity) a party.

#### *Foreign powers*

- 2 The following provisions do not apply to a foreign power—
- (a) section 65(4) (requirement to register foreign activity arrangements);
  - (b) section 67(2) or (3) (offence of carrying out activities under unregistered foreign activity arrangement);
  - (c) section 69(3) (requirement to register foreign influence arrangements);
  - (d) section 71(2) or (3) (offence of carrying out activities under unregistered foreign influence arrangement);
  - (e) section 78(1) and (2) (offences of carrying out activities tainted by false information).

#### *Diplomatic missions etc*

- 3 (1) Section 65(4) (requirement to register foreign activity arrangements) does not apply to the extent that the foreign activity arrangement relates to the provision of goods or services which are reasonably necessary to support the efficient functioning of—
- (a) a diplomatic mission,
  - (b) a consular post, or
  - (c) the permanent mission to a UK-based international organisation of a country which is a member of the organisation,
- (for example, the provision of catering or maintenance services).
- (2) Sections 65(4) and 69(3) (requirements to register foreign activity arrangements and foreign influence arrangements) do not apply where P (within the meaning of those sections)—
- (a) is a member of the family of a principal person forming part of the principal person’s household, and
  - (b) makes the arrangement pursuant to an activity carried out by the principal person in that capacity.
- (3) “Principal person” means a person who is a member of staff of—
- (a) a diplomatic mission,
  - (b) a consular post, or
  - (c) the permanent mission to a UK-based international organisation of a country which is a member of the organisation.
- (4) The members of the family of a principal person forming part of the principal person’s household include a person who is living with the principal person as their partner in an enduring family relationship.
- (5) “Member of staff”—
- (a) in the case of a diplomatic mission, means a member of the mission within the meaning given by Article 1 of the Vienna Convention on Diplomatic Relations (set out in Schedule 1 to the Diplomatic Privileges Act 1964);

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- (b) in the case of a consular post, means a member of the consular post within the meaning given by Article 1 of the Vienna Convention on Consular Relations (set out in Schedule 1 to the Consular Relations Act 1968).

- (6) In this paragraph—

“consular post” has the meaning given by Article 1 of the Vienna Convention on Consular Relations (set out in Schedule 1 to the Consular Relations Act 1968);

“diplomatic mission” is to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961;

“UK-based international organisation” means an international organisation which has its headquarters in the United Kingdom and on which privileges and immunities have been conferred under section 1 of the International Organisations Act 1968.

### *Recognised news publishers*

- 4 (1) The following provisions do not apply to a recognised news publisher—
  - (a) section 69(3) (requirement to register foreign influence arrangements);
  - (b) section 71(2) or (3) (offence of carrying out activities under unregistered foreign influence arrangement);
  - (c) section 78(2) (offence of carrying out political influence activities tainted by false information).
- (2) The following provisions do not apply to a person who is not a recognised news publisher, where the foreign influence arrangement in question is a news-related foreign influence arrangement—
  - (a) section 69(3) (requirement to register foreign influence arrangements);
  - (b) section 71(2) or (3) (offence of carrying out activities under unregistered foreign influence arrangement);
  - (c) section 78(2) (offence of carrying out political influence activities tainted by false information).
- (3) A “news-related foreign influence arrangement” is a foreign influence arrangement made between a person and a foreign power who is a recognised news publisher where the purpose, or one of the purposes, of the arrangement is the publication of news-related material.
- (4) In this paragraph “news-related material”, “publish”, and “recognised news publisher” have the meaning given by [paragraph 5](#).
- 5 (1) In [paragraph 4](#), “recognised news publisher” means any of the following entities—
  - (a) the British Broadcasting Corporation,
  - (b) Sianel Pedwar Cymru,
  - (c) the holder of a licence under the Broadcasting Act 1990 or 1996 who publishes news-related material in connection with the broadcasting activities authorised under the licence, and
  - (d) any other entity which—
    - (i) meets all of the conditions in sub-paragraph (2),
    - (ii) is not an excluded entity (see sub-paragraph (3)), and
    - (iii) is not a sanctioned entity (see sub-paragraph (4)).

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- (2) The conditions referred to in sub-paragraph (1)(d)(i) are that the entity—
- (a) has as its principal purpose the publication of news-related material, and such material—
    - (i) is created by different persons, and
    - (ii) is subject to editorial control,
  - (b) publishes such material in the course of a business (whether or not carried on with a view to profit),
  - (c) is subject to a standards code,
  - (d) has policies and procedures for handling and resolving complaints,
  - (e) has a registered office or other business address,
  - (f) is the person with legal responsibility for material published by it in the United Kingdom, and
  - (g) publishes—
    - (i) the entity’s name, the address mentioned in paragraph (e) and the entity’s registered number (if any), and
    - (ii) the name and address of any person who controls the entity (including, where such a person is an entity, the address of that person’s registered or principal office and that person’s registered number (if any)).
- (3) An “excluded entity” is an entity—
- (a) which is a proscribed organisation under the Terrorism Act 2000 (see section 3 of that Act), or
  - (b) the purpose of which is to support a proscribed organisation under that Act.
- (4) A “sanctioned entity” is an entity which—
- (a) is designated by name under a power contained in regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that authorises the Secretary of State or the Treasury to designate persons for the purposes of the regulations or of any provisions of the regulations, or
  - (b) is a designated person under any provision included in such regulations by virtue of section 13 of that Act (persons named by or under UN Security Council Resolutions).
- (5) For the purposes of sub-paragraph (2)—
- (a) news-related material is “subject to editorial control” if there is a person (whether or not the publisher of the material) who has editorial or equivalent responsibility for the material, including responsibility for how it is presented and the decision to publish it;
  - (b) “control” has the same meaning as it has in the Broadcasting Act 1990 by virtue of section 202 of that Act.
- (6) In this paragraph—
- “news-related material” means material consisting of—
    - (a) news or information about current affairs,
    - (b) opinion about matters relating to the news or current affairs, or
    - (c) gossip about celebrities, other public figures or other persons in the news;
  - “publish” means publish by any means (including by broadcasting), and references to a publisher and publication are to be construed accordingly;

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“standards code” means—

- (a) a code of standards that regulates the conduct of publishers, that is published by an independent regulator, or
- (b) a code of standards that regulates the conduct of the entity in question, that is published by the entity itself.

#### *Legal activities*

- 6 (1) Sections 65(4) and 69(3) (requirements to register foreign activity arrangements and foreign influence arrangements) do not apply in relation to a foreign activity arrangement or a foreign influence arrangement to the extent that the arrangement relates to the carrying on of a legal activity by a lawyer.
- (2) The following provisions do not apply to the carrying on of a legal activity by a lawyer—
- (a) section 68(1) to (3) (specified persons etc must not carry out unregistered activities);
  - (b) section 72(1) (foreign powers etc must not carry out unregistered political influence activities).
- (3) “Lawyer” means—
- (a) a person who for the purposes of the Legal Services Act 2007 is an authorised person in relation to an activity that constitutes a reserved legal activity (within the meaning of that Act),
  - (b) a solicitor or barrister in Northern Ireland,
  - (c) a solicitor or advocate in Scotland, or
  - (d) a person who is a member, and entitled to practise as such, of a legal profession regulated in a jurisdiction outside the United Kingdom.
- (4) “Legal activity” means—
- (a) in England and Wales, a legal activity within the meaning of section 12 of the Legal Services Act 2007,
  - (b) in Northern Ireland, a legal activity within the meaning of that section, but reading the reference to an activity which is a reserved legal activity as a reference to an activity corresponding to a reserved legal activity,
  - (c) in Scotland, the provision of legal services within the meaning of section 3 of the [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), or
  - (d) acting as an arbitrator or mediator.

#### *Employees etc*

- 7 (1) Where an exemption is conferred on a person (“P”) by this Schedule, the following are also exempt (subject to sub-paragraph (2))—
- (a) a person who holds office in or under, or is an employee or other member of staff of, P (acting in that capacity), or
  - (b) a person the Secretary of State reasonably considers to be exercising functions on behalf of P as if the person were within paragraph (a).
- (2) Where P is a foreign power, the exemption does not apply to persons within sub-paragraph (1)(a) if or to the extent that the person makes a misrepresentation about their activities or the capacity in which they act (whether generally or to a particular person).



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- (3) A misrepresentation is a representation that a reasonable person would consider to be false or misleading in a material way.
- (4) A misrepresentation may be made by making a statement or by any other kind of conduct (including an omission), and may be express or implied.
- (5) A misrepresentation may in particular include—
  - (a) a misrepresentation as to the person’s identity or purpose;
  - (b) presenting information in a way which amounts to a misrepresentation, even if some or all of the information is true.

#### *Power to provide for further exemptions*

- 8 The Secretary of State may by regulations make provision for further cases to which any provision of this Part does not apply.

## SCHEDULE 16

Section 88

### DAMAGES AT RISK OF BEING USED FOR THE PURPOSES OF TERRORISM

#### *Freezing orders*

- 1 (1) [This Schedule](#) applies in relation to civil proceedings where the claimant claims damages in those proceedings.
- (2) The court seised of those proceedings may, on the application of a Minister of the Crown, make a freezing order under [this paragraph](#).
- (3) A freezing order, in relation to an order made by the court awarding damages in favour of the claimant, is an order that all or part of the damages awarded—
  - (a) are to be paid into court, and
  - (b) are to remain in court until the end of the initial freezing period.
- (4) A court may not make a freezing order unless satisfied that, if damages are paid to the claimant, there is a real risk that those damages will be used for the purposes of terrorism.
- (5) An application for a freezing order may be made at any time until there is no further possibility of an appeal on which the order awarding damages in favour of the claimant may be varied or quashed.
- (6) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of [sub-paragraph \(5\)](#).
- (7) Where the court makes an order awarding damages in favour of the claimant, the court may suspend the effect of that order until it decides the application for a freezing order.
- (8) In [this paragraph](#)—

“civil proceedings” means any proceedings other than proceedings in a criminal cause or matter or family proceedings;

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“family proceedings”—

- (a) in relation to England and Wales, has the meaning given by section 75(3) of the Courts Act 2003;
- (b) in relation to Northern Ireland, has the meaning given by Article 12(5) of the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6));
- (c) in relation to Scotland, has the meaning given by section 135 of the Courts Reform (Scotland) Act 2014 (asp 18) and includes proceedings under the Children (Scotland) Act 1995 and the Children’s Hearings (Scotland) Act 2011 (asp 1);

“the initial freezing period” is the period of 2 years beginning with the day on which the freezing order is made.

#### *Extension of freezing order*

- 2
- (1) [This paragraph](#) applies where a court has made a freezing order under [paragraph 1](#).
  - (2) The court may, on the application of a Minister of the Crown, make an extension order under [this paragraph](#).
  - (3) An extension order is an order that all or part of the damages paid into court pursuant to a freezing order are to remain in court until the end of the period of 4 years beginning with the day on which the freezing order was made (“the extended freezing period”).
  - (4) A court may not make an extension order unless satisfied that, if the damages to which the extension order relates are paid to the claimant at the end of the initial freezing period (or, if later, when the court decides the application), there is a real risk that those damages will be used for the purposes of terrorism.
  - (5) An application for an extension order must be made before the end of the initial freezing period.
  - (6) [Sub-paragraph \(7\)](#) applies where—
    - (a) an application is made under [this paragraph](#), and
    - (b) the court has not decided the application before the end of the initial freezing period.
  - (7) The damages to which the application relates are to remain in court until the court decides the application.

#### *Forfeiture*

- 3
- (1) [This paragraph](#) applies where a court has made an extension order under [paragraph 2](#).
  - (2) The court may, on the application of a Minister of the Crown, order that all or part of the damages in court by virtue of the extension order are to be forfeited (a “forfeiture order”).
  - (3) The court may not make a forfeiture order unless satisfied that, if the damages to which the forfeiture order relates are paid to the claimant at the end of the extended freezing period (or, if later, when the court decides the application), there is a real risk that those damages will be used for the purposes of terrorism.

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- (4) Damages forfeited pursuant to a forfeiture order, and any accrued interest on those damages, are to be paid into the Consolidated Fund when there is no further possibility of an appeal on which the forfeiture order may be varied or quashed.
- (5) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of [sub-paragraph \(4\)](#).
- (6) An application for a forfeiture order must be made before the end of the extended freezing period.
- (7) [Sub-paragraph \(8\)](#) applies where—
  - (a) an application is made under [this paragraph](#), and
  - (b) the court has not decided the application before the end of the extended freezing period.
- (8) The damages to which the application relates are to remain in court until the court decides the application.

#### *Interpretation*

- 4 In [this Schedule](#)—
  - “the claimant” means the claimant in proceedings mentioned in [paragraph 1\(1\)](#);
  - “the extended freezing period” has the meaning given by [paragraph 2\(3\)](#);
  - “extension order” has the meaning given by [paragraph 2\(3\)](#);
  - “freezing order” has the meaning given by [paragraph 1\(3\)](#);
  - “the initial freezing period” has the meaning given by [paragraph 1\(8\)](#);
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes the Commissioners for His Majesty’s Revenue and Customs;
  - “terrorism” has the same meaning as in the Terrorism Act 2000.
- 5 (1) In the application of [this Schedule](#) to Northern Ireland, a reference to a claimant is to be read as a reference to a plaintiff.
- (2) In the application of [this Schedule](#) to Scotland, a reference to a claimant is to be read as a reference to a pursuer or, as the case may be, a plaintiff.

## SCHEDULE 17

[Section 92](#)

### AMENDMENTS OF TERRORISM ACT 2000

- 1 (1) Section 41 to the Terrorism Act 2000 (arrest without warrant) is amended as follows.
- (2) In subsection (3)(b)—
  - (a) for the words from “Schedule 7” to “2019,” substitute “a provision listed in subsection [\(3A\)](#)”;
  - (b) for “examination under that Schedule” substitute “detention under that provision”.
- (3) After subsection (3) insert—

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“(3A) Those provisions are—

- (a) section 24 of the Police and Criminal Evidence Act 1984;
- (b) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
- (c) Schedule 7;
- (d) section 1 of the [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#);
- (e) Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019;
- (f) section 27 of the National Security Act 2023.”

(4) After subsection (8) insert—

“(8ZA) Subsection (8A) applies where—

- (a) a person is detained under this section in hospital, or
- (b) a person detained under this section is removed to hospital because the person needs medical treatment.”

(5) In subsection (8A)—

- (a) for the words before paragraph (a) substitute “Where this subsection applies”;
- (b) in paragraph (a) after “hospital or” insert “(where this subsection applies by virtue of subsection (8ZA)(b))”;
- (c) in paragraph (b) after “hospital or” insert “(where this subsection applies by virtue of subsection (8ZA)(b))”.

2 (1) Schedule 5 to the Terrorism Act 2000 (terrorist investigations) is amended as follows.

(2) In paragraph 3 (power to search premises within cordoned area)—

- (a) in sub-paragraph (1) for the words from “Subject” to “superintendent” substitute “A constable”;
- (b) in sub-paragraph (2) for the words from “who” to “paragraph” substitute “may exercise the power in sub-paragraph (1) only”.

(3) In paragraph 15 (search and seizure in urgent cases: England, Wales and Northern Ireland)—

- (a) at the end of sub-paragraph (1) insert “(subject to sub-paragraph (1A))”;
- (b) after sub-paragraph (1) insert—

“(1A) An order under this paragraph giving the authority which may be given by a search warrant under paragraph 11 does not authorise a constable to retain confidential journalistic material.

(1B) “Confidential journalistic material” means material which is excluded material by virtue of section 11(1)(c) of the Police and Criminal Evidence Act 1984.”

(4) After paragraph 15 insert—

“15A (1) This paragraph applies where confidential journalistic material is seized by virtue of an order under paragraph 15 giving the authority which may be given by a search warrant under paragraph 11.

(2) A constable may apply to a Circuit judge for the issue of a warrant under this paragraph.

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- (3) An application under sub-paragraph (2) must be made as soon as reasonably practicable after the material is seized.
  - (4) The judge may grant an application under sub-paragraph (2) if satisfied that conditions 1 to 3 are met.
  - (5) Condition 1 is that the warrant is sought for the purposes of a terrorist investigation.
  - (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to a terrorist investigation.
  - (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the terrorist investigation if the material is retained.
  - (8) A warrant under this paragraph is a warrant authorising the retention of confidential journalistic material.
  - (9) A warrant under this paragraph may impose conditions on the retention and use of the material.
  - (10) If the judge does not grant an application for the issue of a warrant under this paragraph in relation to any of the material to which the application relates, the judge may direct that the material is—
    - (a) returned to the person from whom it was seized, or
    - (b) destroyed.
  - (11) “Confidential journalistic material” has the same meaning as in paragraph 15.”
- (5) In paragraph 18 (application to Northern Ireland) before paragraph (f) insert—  
“(ea) the reference in paragraph 15(1B) to section 11(1)(c) of the Police and Criminal Evidence Act 1984 is to be taken as a reference to Article 13(1)(c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).”
- (6) In paragraph 31 (search and seizure in urgent cases: Scotland)—
  - (a) at the end of sub-paragraph (1) insert “(subject to sub-paragraph (1A))”;
  - (b) after sub-paragraph (1) insert—
    - “(1A) An order under this paragraph does not authorise a constable to retain confidential journalistic material.
    - (1B) “Confidential journalistic material” has the same meaning as in the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act).”
- (7) After paragraph 31 insert—  
“31A (1) This paragraph applies where confidential journalistic material is seized by virtue of an order under paragraph 31.

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- (2) The procurator fiscal may apply to a sheriff for the issue of a warrant under this paragraph.
- (3) An application under sub-paragraph (2) must be made as soon as reasonably practicable.
- (4) The sheriff may grant an application under sub-paragraph (2) if satisfied that conditions 1 to 3 are met.
- (5) Condition 1 is that the warrant is sought for the purposes of a terrorist investigation.
- (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to a terrorist investigation.
- (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the terrorist investigation if the material is retained.
- (8) A warrant under this paragraph is a warrant authorising the retention of confidential journalistic material.
- (9) A warrant under this paragraph may impose conditions on the retention and use of the material.
- (10) If the sheriff does not grant an application for the issue of a warrant under this paragraph in relation to any of the material to which the application relates, the sheriff may direct that the material is—
  - (a) returned to the person from whom it was seized, or
  - (b) destroyed.
- (11) “Confidential journalistic material” has the same meaning as in paragraph 31.”

## SCHEDULE 18

Section 94

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Official Secrets Act 1911 (c. 28)*

- 1 The Official Secrets Act 1911 is repealed.

#### *Official Secrets Act 1920 (c. 75)*

- 2 The Official Secrets Act 1920 is repealed.

#### *Official Secrets Act 1939 (c. 121)*

- 3 The Official Secrets Act 1939 is repealed.

*Police and Criminal Evidence Act 1984 (c. 60)*

- 4 (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 56 (right to have someone informed when arrested), in subsection (10), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (3) In section 58 (right to consult a solicitor), in subsection (12), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (4) In section 61 (fingerprinting), in subsection (9)(b), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (5) In section 63F (retention of fingerprints and DNA profiles for persons arrested for or charged with a qualifying offence)—
- (a) in subsections (5)(a) and (5A)(a), after “terrorism-related qualifying offence” insert “or a national security-related qualifying offence”;
- (b) in subsection (11), in the appropriate place insert—
- ““national security-related qualifying offence” means—
- (a) an offence under [section 18](#) of the National Security Act 2023 or for the time being listed in [section 33\(3\)\(a\)](#) of that Act, or
- (b) an ancillary offence, as defined in section 65A(5), relating to an offence for the time being listed in [section 33\(3\)\(a\)](#) of that Act,”.
- (6) In section 63U (exclusions for certain regimes), after subsection (4A) insert—
- “(4B) Sections 63D to 63T do not apply to material to which—
- (a) Part 4 of [Schedule 6](#) to the National Security Act 2023 applies, or
- (b) paragraph 6 of [Schedule 12](#) to that Act applies.”
- (7) In section 65A(2) (meaning of “qualifying offence”), after paragraph (u) insert—
- “(v) an offence under [section 18](#) of the National Security Act 2023 or for the time being listed in [section 33\(3\)\(a\)](#) of that Act.”

*Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

- 5 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)) is amended as follows.
- (2) In Article 53A (meaning of “qualifying offence”), after paragraph (2)(v) insert—
- “(w) an offence under [section 18](#) of the National Security Act 2023 or for the time being listed in [section 33\(3\)\(a\)](#) of that Act.”
- (3) In Article 57 (right to have someone informed when arrested), in paragraph (10), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (4) In Article 59 (right to consult a solicitor), in paragraph (12), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (5) In Article 61 (fingerprinting), in paragraph (9)(b), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (6) In Article 62 (intimate samples), after paragraph (12) insert—



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“(12A) Nothing in this Article applies to a person arrested or detained under [section 27](#) of the National Security Act 2023; and paragraph (1A) does not apply where the non-intimate samples mentioned in that paragraph were taken under paragraph [10](#) of [Schedule 6](#) to that Act.”

(7) In Article 63 (other samples), in paragraph (11), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023”.

(8) In Article 63R (as inserted by Schedule 2 to the [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7 \(N.I.\)\)](#), after paragraph (4A) (as inserted by Schedule 4 to the Counter-Terrorism and Border Security Act 2019) insert—

“(4B) Articles 63B to 63Q do not apply to material to which—

- (a) Part [4](#) of [Schedule 6](#) to the National Security Act 2023 applies, or
- (b) paragraph [6](#) of [Schedule 12](#) to that Act applies.”

(9) In Article 64 (destruction of fingerprints and samples), in paragraph (8)(b), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023”.

#### *Official Secrets Act 1989 (c. 6)*

- 6 (1) The Official Secrets Act 1989 is amended as follows.
- (2) In section 5(6) (offence of disclosing information obtained by espionage) for “section 1 of the Official Secrets Act 1911” substitute “any of sections [1](#) to [4](#) of the National Security Act 2023”.
- (3) In section 11 (arrest, search and trial)—
- (a) for subsections (3) and (3A) substitute—
 

“(3) [Schedule 2](#) to the National Security Act 2023 (powers of entry, search and seizure) applies in relation to a relevant offence as it applies in relation to a relevant act (within the meaning given by paragraphs [1](#) and [18](#) of that Schedule).”;
  - (b) for subsection (4) substitute—
 

“(4) If it is necessary in the interests of national security, a court may exclude the public from any part of proceedings for a relevant offence, except the passing of sentence.”;
  - (c) after subsection (4) insert—
 

“(4A) In this section a “relevant offence” means an offence under any provision of this Act other than section [8](#)(1), (4) or (5).”

#### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 7 (1) Section 19C of the Criminal Procedure (Scotland) Act 1995 (use of samples etc) is amended as follows.
- (2) In subsection (1)(a) and (b), after “2019” insert “or paragraph [18](#) of [Schedule 6](#) to the National Security Act 2023”.
- (3) In subsection (2)—
- (a) in paragraph (c) omit “or”;
  - (b) after that paragraph insert—

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“(ca) for the purposes of investigating foreign power threat activity, or”.

(4) In subsection (6)—

(a) in paragraph (c) omit “and”;

(b) after that paragraph insert—

“(ca) “foreign power threat activity” has the meaning given by [section 33](#) of the National Security Act 2023, and”.

#### *Protection of Freedoms Act 2012 (c. 9)*

8 (1) Section 20 of the Protection of Freedoms Act 2012 (appointment and functions of Commissioner) is amended as follows.

(2) In subsection (2)(a), after sub-paragraph (iva) insert—

“(ivb) paragraph [22](#) of [Schedule 6](#) to the National Security Act 2023,

(ivc) paragraph [11](#) of [Schedule 12](#) to that Act.”.

(3) In subsection (6), after paragraph (e) insert—

“(f) the retention and use in accordance with Part [4](#) of [Schedule 6](#) to the National Security Act 2023 of—

(i) any material to which paragraph [19](#) or [25](#) of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and

(ii) any copies of any material to which paragraph [19](#) of that Schedule applies (fingerprints, relevant physical data and DNA profiles),

(g) the retention and use in accordance with paragraphs [5](#) to [15](#) of [Schedule 12](#) to the National Security Act 2023 of—

(i) any material to which paragraph [6](#) or [13](#) of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and

(ii) any copies of any material to which paragraph [6](#) of that Schedule applies (fingerprints, relevant physical data and DNA profiles).”

#### *Modern Slavery Act 2015 (c. 30)*

9 In Schedule 4 to the Modern Slavery Act 2015 (offences to which defence in section 45 does not apply), after paragraph 36B insert—

##### *“National Security Act 2023*

36C An offence under any of the following provisions of the National Security Act 2023—

[section 1](#) (obtaining or disclosing protected information);

[section 2](#) (obtaining or disclosing trade secrets);

[section 3](#) (assisting a foreign intelligence service);

[section 4](#) (entering a prohibited place for a purpose prejudicial to the UK);

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section 12 (sabotage);  
 section 13 (foreign interference: general);  
 section 17 (obtaining material benefits from a foreign intelligence service);  
 section 18 (preparatory conduct).”

*Investigatory Powers Act 2016 (c. 25)*

10 (1) Schedule 3 to the Investigatory Powers Act 2016 (exceptions to the exclusion of certain matters from legal proceedings) is amended as follows.

(2) After paragraph 8 insert—

*“Proceedings under Part 2 of the National Security Act 2023*

8A (1) Section 56(1) does not apply in relation to—

- (a) any proceedings which are relevant proceedings within the meaning of Part 2 of the National Security Act 2023 (see section 62(1) of that Act), or
- (b) any proceedings arising out of any proceedings within paragraph (a).

(2) But sub-paragraph (1) does not permit the disclosure of anything to—

- (a) any person, other than the Secretary of State, who is or was a party to the proceedings, or
- (b) any person who—
  - (i) represents such a person for the purposes of the proceedings, and
  - (ii) does so otherwise than by virtue of an appointment as a special advocate under Schedule 10 to the National Security Act 2023.”

(3) In paragraph 20(2) (proceedings for certain offences)—

(a) after paragraph (h) insert—

“(ha) an offence under section 1 or 3 of the National Security Act 2023 relating to any information, document or other article which, or an offence under section 12 of that Act relating to any asset which—

- (i) incorporates, or relates to, the content of any intercepted communication or any secondary data obtained from a communication, or
- (ii) tends to suggest that any interception-related conduct has or may have occurred or may be going to occur;

(hb) an offence under section 18 of the National Security Act 2023 in relation to an offence falling within paragraph (ha);”;

(b) in paragraph (i), for “(h)” substitute “(ha)”.

*Counter-Terrorism and Border Security Act 2019 (c. 3)*

- 11 In paragraph 62 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (review of Schedule 3 by Investigatory Powers Commissioner) omit—
- (a) sub-paragraphs (1) to (5);
  - (b) sub-paragraphs (7) and (8).