

**2013 No. 2343**

**CRIMINAL LAW, ENGLAND & WALES**

**The Protection of Freedoms Act 2012 (Consequential  
Amendments) No. 3 Order 2013**

<i>Made</i>	- - - -	<i>12th September 2013</i>
<i>Laid before Parliament</i>		<i>18th September 2013</i>
<i>Coming into force</i>	- -	<i>31st October 2013</i>

The Secretary of State, in exercise of the powers conferred by section 115(3) and (4) of the Protection of Freedoms Act 2012(a), makes the following Order:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Consequential Amendments) No.3 Order 2013 and shall come into force on 31st October 2013.

(2) The amendments made by article 2 of this Order have the same extent as the Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013(b).

**Amendment to the Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013**

2.—(1) The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 is amended as follows.

(2) In the heading to article 31 for “section 64 of the Act (destruction of fingerprints and samples)” substitute “sections 63R, 63T and 63U of the Act (destruction and use of samples)”.

(3) In article 31—

- (a) for “section 64(c)” substitute “sections 63R, 63T and 63U(d)”;  
(b) For “it” substitute “they”.

(4) In Schedule 2 Part 1 for “Section 64(1A), (1B), (3), (3AA), (3AB), (3AC), (3AD) and (7) (destruction of fingerprints and samples) (subject to the modification in article 31)” substitute—

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(a) 2012 c.9.  
(b) S.I. 2013/1542.  
(c) Section 64 of the Act was amended by the Criminal Justice Act 1988 (c.33), section 148; the Criminal Justice and Public Order Act 1994 (c.33), section 57(2); the Police Act 1996 (c.16), section 103, Schedule 7, Part 2, paragraph 37, and Schedule 9, Part 1; the Criminal Justice and Police Act 2001 (c.16), sections 82 and 137 and Schedule 7, Part 2(1); and the Serious Organised Crime and Police Act 2005 (c.15), sections 117 and 118. Section 64 is repealed from 31 October 2013 by the Protection of Freedoms Act 2012 (c.9), Schedule 10, Part 1 (S.I. 2013/2104).  
(d) Sections 63R, 63T and 63U of the Act were inserted by the Protection of Freedoms Act 2012 (c.9), sections 14, 16 and 17 respectively.

“Section 63R(1), (2) and (5) (destruction of samples) (subject to the modification in article 31)

Section 63T (use of retained material) (subject to the modification in article 31)

Section 63U (exclusion for certain regimes) (subject to the modification in article 31)”.  
(5) In Schedule 2 Part 3 after the entry for “Superintendent” insert—

“Chief officer of police

Director”

Home Office  
12th September 2013

*Mark Harper*  
Minister of State

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes consequential amendments to the Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542) (“the principal Order”), which applies specified provisions of the Police and Criminal Evidence Act 1984 (c.60) (“PACE”) to criminal investigations conducted by immigration officers and designated customs officials and to persons detained by designated customs officials. In particular it removes the reference to section 64 of PACE from Schedule 2 of Part 1 in the principal Order and replaces it with references to sections 63R, 63T and 63U of PACE. This is to give effect to the fact that the Protection of Freedoms Act 2012 (c.9) repealed section 64 of PACE, which was concerned with the destruction of fingerprints and samples taken for the purpose of a criminal investigation, and replaced it with a number of statutory provisions governing the destruction, retention and use of fingerprints and samples. Only the provisions which apply to the destruction, retention and use of samples (not fingerprints) are to be applied under the principal Order and they are only to apply to criminal investigations conducted by designated customs officials (not immigration officers) and to persons detained by designated customs officials.

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