

SCHEDULES

SCHEDULE 3

Section 9.

AMENDMENTS: FINGERPRINTS, DNA PROFILES, ETC.

The Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

- 1.—(1) Article 53 (interpretation of Part 6) is amended as follows.
- (2) In paragraph (1) at the appropriate places in alphabetical order insert—
 - ““Article 63B material” means fingerprints or DNA profiles to which Article 63B applies;
 - “DNA profile” means any information derived from a DNA sample;
 - “DNA sample means any material which—
 - (a) has been taken by the police from a person—
 - (i) under a power conferred by Article 62 or 63; or
 - (ii) with the consent of that person, in connection with the investigation of an offence by the police;
 - (b) consists of or includes human cells; and
 - (c) was taken for the purpose of deriving a DNA profile from it.”.
- (3) After paragraph (3) insert—
 - “(3A) In paragraph (3) the reference to the destruction of a sample does not include a reference to the destruction of a sample under Article 63P (requirement to destroy samples).
 - (3B) Any reference in Articles 63D, 63E, 63N or 63R to a person being charged with an offence includes a reference to a person being informed that the person will be reported for an offence.”.
2. In Article 53A(2) (list of “qualifying offences” for the purposes of Part 6) in sub-paragraph (h) (offences under the Theft Act (Northern Ireland) 1969) for “section 9” substitute “section 8, 9”.
3. After Article 53A insert—

“Persons convicted of an offence

- 53B.**—(1) For the purposes of this Part, any reference to a person who is convicted of an offence includes a reference to—

- (a) a person who has been given a caution in respect of the offence—
 - (i) which was committed when that person was aged 18 or over, and
 - (ii) which, at the time of the caution, the person has admitted,
- (b) a person who has been found not guilty of the offence by reason of insanity, or
- (c) a person who has been found to be unfit to be tried and to have done the act charged in respect of the offence.

(2) This Part, so far as it relates to persons convicted of an offence, has effect despite anything in the Rehabilitation of Offenders (Northern Ireland) Order 1978.

(3) 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 Articles 63D, 63E and 63L whether the person has been convicted of only one offence.

(4) See also Article 53(4) (which deals with findings equivalent to those mentioned in paragraph (1)(b) or (c) by courts which exercise jurisdiction under the laws of countries or territories outside Northern Ireland).”.

4. In Article 63 (non-intimate samples), in paragraph (3A)(c)(i) (as amended by section 8 of the Crime and Security Act 2010) for “64ZA” substitute “63P”.

5. In Article 89 (orders and regulations) after paragraph (2) insert—

“(2A) An order under Article 63D(5)(c) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

The Counter-Terrorism Act 2008 (c. 28)

6. In section 18(8)(c) for “63A and 64” substitute “and 63A to 63R”.

The Protection of Freedoms Act 2012 (c. 9)

7.—(1) In Part 6 of Schedule 1 paragraph 7 is amended as follows.

(2) In sub-paragraph (1) for “Article 64” (in both places) substitute “Article 63B”.

(3) In sub-paragraph (2) for paragraphs (a) and (b) substitute “the material may be retained”.