



# Counter-Terrorism Act 2008

## 2008 CHAPTER 28

### PART 1

#### POWERS TO GATHER AND SHARE INFORMATION

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

#### **[<sup>F1</sup>18 Destruction of national security material not subject to existing statutory restrictions**

- (1) This section applies to fingerprints, DNA samples and DNA profiles that—
  - (a) are held for the purposes of national security by a law enforcement authority under the law of England and Wales or Northern Ireland, and
  - (b) are not held subject to existing statutory restrictions.
- (2) Material to which this section applies (“section 18 material”) must be destroyed if it appears to the responsible officer that the condition in subsection (3) is not met.
- (3) The condition is that the material has been—
  - (a) obtained by the law enforcement authority pursuant to an authorisation under Part 3 of the Police Act 1997 (authorisation of action in respect of property),
  - (b) obtained by the law enforcement authority in the course of surveillance, or use of a covert human intelligence source, authorised under Part 2 of the Regulation of Investigatory Powers Act 2000,
  - (c) supplied to the law enforcement authority by another law enforcement authority, or
  - (d) otherwise lawfully obtained or acquired by the law enforcement authority for any of the purposes mentioned in section 18D(1).
- (4) In any other case, section 18 material must be destroyed unless it is retained by the law enforcement authority under any power conferred by section 18A or 18B, but this is subject to subsection (5).
- (5) A DNA sample to which this section applies must be destroyed—

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, Section 18. (See end of Document for details)*

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- (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 it was taken.
- (6) Section 18 material which ceases to be retained under a power mentioned in subsection (4) may continue to be retained under any other such power which applies to it.
- (7) Nothing in this section prevents section 18 material from being checked against other fingerprints, DNA samples or DNA profiles held by a law enforcement authority within such time as may reasonably be required for the check, if the responsible officer considers the check to be desirable.
- (8) For the purposes of subsection (1), the following are “existing statutory restrictions”—
- (a) paragraph 18(2) of Schedule 2 to the Immigration Act 1971;
  - (b) sections 22, 63A and 63D to 63U of the Police and Criminal Evidence Act 1984 and any corresponding provision in an order under section 113 of that Act;
  - (c) Articles 24, 63A and 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
  - (d) section 2(2) of the Security Service Act 1989;
  - (e) section 2(2) of the Intelligence Services Act 1994;
  - (f) paragraphs 20(3) and 20A to 20J of Schedule 8 to the Terrorism Act 2000;
  - (g) section 56 of the Criminal Justice and Police Act 2001;
  - (h) paragraph 8 of Schedule 4 to the International Criminal Court Act 2001;
  - (i) sections 73, 83, 87, 88 and 89 of the Armed Forces Act 2006 and any provision relating to the retention of material in an order made under section 74, 93 or 323 of that Act;
  - (j) paragraphs 5 to 14 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011;
  - [<sup>F2</sup>(k) paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.]]
  - [<sup>F3</sup>(l) Part 4 of Schedule 6 to the National Security Act 2023;
  - (m) paragraphs 5 to 15 of Schedule 12 to that Act.]

#### Textual Amendments

- F1** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 1 para. 4](#) (with s. 97); [S.I. 2013/1814](#), art. 2(k)
- F2** S. 18(8)(k) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(2)(d), [Sch. 4 para. 26](#); [S.I. 2020/792](#), reg. 2(i)
- F3** S. 18(8)(l)(m) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), [Sch. para. 28](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Counter-Terrorism Act 2008, Section 18.