

Status: This version of this part contains provisions that are prospective.

Changes to legislation: Protection of Freedoms Act 2012, Paragraph 7 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 1

AMENDMENTS OF REGIMES OTHER THAN PACE

PROSPECTIVE

PART 6

MATERIAL SUBJECT TO THE POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989

- 7 (1) This paragraph applies to the following material—
- (a) a DNA profile to which Article 64 of the 1989 Order (destruction of fingerprints and samples) applies, or
 - (b) fingerprints to which Article 64 of the 1989 Order applies, other than fingerprints taken under Article 61(6A) of that Order.
- (2) If the Chief Constable of the Police Service of Northern Ireland determines that it is necessary for any material to which this paragraph applies to be retained for the purposes of national security—
- (a) the material is not required to be destroyed in accordance with Article 64 of the 1989 Order, and
 - (b) Article 64(3AB) of that Order does not apply to the material, for as long as the determination has effect.
- (3) A determination under sub-paragraph (2) (“a national security determination”)—
- (a) must be made in writing,
 - (b) has effect for a maximum of 2 years beginning with the date on which the material would (but for this paragraph) first become liable for destruction under the 1989 Order, and
 - (c) may be renewed.
- (4) Material retained under this paragraph must not be used other than—
- (a) in the interests of national security,
 - (b) for the purposes of a terrorist investigation,
 - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (d) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (5) This paragraph has effect despite any provision to the contrary in the 1989 Order.
- (6) In this paragraph—

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- (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 Northern Ireland or of any country or territory outside Northern Ireland), or
 - (ii) is, or corresponds to, any conduct which, if it all took place in Northern Ireland, 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 Northern Ireland of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside Northern Ireland.

(7) In this paragraph—

“the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

“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;

“offence”, in relation to any country or territory outside Northern Ireland, includes an act punishable under the law of that country or territory, however it is described;

“terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.

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Changes and effects yet to be applied to :

- Sch. 1 para. 7(1) words substituted by [2013 c. 7 \(N.I.\) Sch. 3 para. 7\(2\)](#)
- Sch. 1 para. 7(3)(b) words substituted by [2019 c. 3 Sch. 2 para. 19](#)
- Sch. 1 para. 7(2) words substituted for Sch. 1 para. 7(2)(a)(b) by [2013 c. 7 \(N.I.\) Sch. 3 para. 7\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2012/2234 art. 13 by [S.I. 2014/831 art. 2\(2\)](#)
- specified provision(s) transitional provisions and savings for commencing S.I. 2013/1814 by [S.I. 2013/1813 art. 2-9](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 7A inserted by [2019 c. 3 Sch. 2 para. 20](#)