

SCHEDULES

SCHEDULE 3

BORDER SECURITY

PART 2

DETENTION

Destruction and retention of fingerprints and samples etc: United Kingdom

- 43 (1) This paragraph applies to—
- (a) fingerprints taken under paragraph 34,
 - (b) a DNA profile derived from a DNA sample taken under paragraph 34,
 - (c) relevant physical data taken or provided by virtue of paragraph 42, and
 - (d) a DNA profile derived from a DNA sample taken by virtue of paragraph 42.
- (2) Fingerprints, relevant physical data and DNA profiles to which this paragraph applies (“paragraph 43 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 43 material must be destroyed unless it is retained under a power conferred by paragraph 44, 46 or 47.
- (4) Paragraph 43 material which ceases to be retained under a power mentioned in sub-paragraph (3) may continue to be retained under any other power which applies to it.
- (5) Nothing in this paragraph prevents a relevant search, in relation to paragraph 43 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 34 or a DNA profile derived from such a sample,
 - (b) any of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995,
 - (c) fingerprints or samples taken under paragraph 10 or 12 of Schedule 8 to the Terrorism Act 2000 or a DNA profile derived from a sample taken under one of those paragraphs,
 - (d) any of the relevant physical data, samples or information held by virtue of section 56 of the Criminal Justice (Scotland) Act 2003,
 - (e) material to which section 18 of the Counter-Terrorism Act 2008 applies,

Status: This is the original version (as it was originally enacted).

- (f) 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,
- (g) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), and
- (h) 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)) (checking of fingerprints and samples).