



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART V

#### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

#### **[<sup>F1</sup>63KA Retention of section 63D material under section 63IA: exception for persons under 18 convicted of first minor offence outside England and Wales**

- (1) This section applies where—
  - (a) section 63D material is taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence,
  - (b) at any time before the material is required to be destroyed by virtue of this Part of this Act, the person is convicted of an offence under the law of a country or territory outside England and Wales,
  - (c) the act constituting the offence mentioned in paragraph (b) would constitute a recordable offence if done in England and Wales but would not constitute a qualifying offence,
  - (d) the person is aged under 18 at the time of the offence mentioned in paragraph (b), and
  - (e) the person has not previously been convicted of a recordable offence.
- (2) In subsection (1)(e), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).
- (3) Where the person is sentenced to imprisonment or another form of detention for less than 5 years in respect of the offence mentioned in subsection (1)(b), the section 63D material may be retained until the end of the period consisting of the term of the sentence plus 5 years.
- (4) Where the person is sentenced to imprisonment or another form of detention for 5 years or more in respect of the offence mentioned in subsection (1)(b), the material may be retained indefinitely.

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**Changes to legislation:** Police and Criminal Evidence Act 1984, Section 63KA is up to date with all changes known to be in force on or before 25 May 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](#)

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- (5) Where the person is given a sentence other than a sentence of imprisonment or other form of detention in respect of the offence mentioned in subsection (1)(b), the material may be retained until the end of the period of 5 years beginning with the date on which the person was arrested for the offence (or, if the person was not arrested for the offence, the date on which the person was charged with it).
- (6) But if, before the end of the period within which material may be retained by virtue of this section, the person is again convicted of a recordable offence, the material may be retained indefinitely.
- (7) In subsection (6), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.]

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#### Textual Amendments

- F1** S. 63KA inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(10)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

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**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):

- s. 17(1)(cza) inserted by [2021 c. 17 s. 26\(9\)](#)
- s. 47A(3A) substituted by [2022 c. 35 Sch. 2 para. 7](#)
- s. 61(6BA) inserted by [2008 c. 28 s. 10\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 63(3D) inserted by [2008 c. 28 s. 10\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64(1AA) inserted by [2008 c. 28 s. 10\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64A(1B)(cb) inserted by [2022 c. 32 Sch. 11 para. 18\(a\)](#)
- Sch. 1A para. 21A added by 1995 c. 32, s. 8B(1) (as inserted) by [2006 c. 12 Sch. 3 para. 13](#)