

Status: Point in time view as at 02/04/2020.

Changes to legislation: Terrorism Act 2000, Paragraph 20B is up to date with all changes known to be in force on or before 27 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)

SCHEDULES

SCHEDULE 8

DETENTION

Modifications etc. (not altering text)

- C1** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 11\(1\)\(b\)](#), Sch. 2; (as amended (31.3.2021) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2021 \(S.I. 2021/311\)](#), arts. 1(2), [2\(7\)\(b\)\(i\)](#))
- C1** Sch. 8 applied (with modifications) (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), [s. 25\(1\)\(3\)\(4\)](#); S.I. 2006/1936, [art. 2](#)

PART I

TREATMENT OF PERSONS DETAINED UNDER SECTION 41 OR SCHEDULE 7

^{F1}Destruction and retention of fingerprints and samples etc: United Kingdom

Textual Amendments

- F1** Sch. 8 paras. 20A-20J and cross-heading inserted (31.10.2013 for all paras. except para. 20F(1) (which is in force 31.1.2014), and except, for specified purposes, para. 20G) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 1 para. 1\(4\)](#) (with s. 97); S.I. 2013/1814, arts. 2(i), [3\(b\)](#)

20B (1) This paragraph applies to paragraph 20A material relating to a person who is detained under section 41.

(2) In the case of a person who has previously been convicted of a recordable offence (other than a single exempt conviction), or an offence in Scotland which is punishable by imprisonment, or is so convicted before the end of the period within which the material may be retained by virtue of this paragraph, the material may be retained indefinitely.

[In sub-paragraph (2) —

- ^{F2}(2A) (a) the reference to a recordable offence includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute—
- (i) a recordable offence under the law of England and Wales if done there, or
 - (ii) a recordable offence under the law of Northern Ireland if done there,

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- (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted);
- (b) the reference to an offence in Scotland which is punishable by imprisonment includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute an offence under the law of Scotland which is punishable by imprisonment if done there (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).]
- (3) In the case of a person who has no previous convictions, or only one exempt conviction, the material may be retained until the end of the retention period specified in sub-paragraph (4).
- (4) The retention period is—
- (a) in the case of fingerprints or relevant physical data, the period of 3 years beginning with the date on which the fingerprints or relevant physical data were taken or provided, and
- (b) in the case of a DNA profile, the period of 3 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).
- (5) The responsible chief officer of police or a specified chief officer of police may apply to a relevant court for an order extending the retention period.
- (6) An application for an order under sub-paragraph (5) must be made within the period of 3 months ending on the last day of the retention period.
- (7) An order under sub-paragraph (5) may extend the retention period by a period which—
- (a) begins with the date on which the material would otherwise be required to be destroyed under this paragraph, and
- (b) ends with the end of the period of 2 years beginning with that date.
- (8) The following persons may appeal to the relevant appeal court against an order under sub-paragraph (5), or a refusal to make such an order—
- (a) the responsible chief officer of police;
- (b) a specified chief officer of police;
- (c) the person from whom the material was taken.
- (9) In Scotland—
- (a) an application for an order under sub-paragraph (5) is to be made by summary application;
- (b) an appeal against an order under sub-paragraph (5), or a refusal to make such an order, must be made within 21 days of the relevant court's decision, and the relevant appeal court's decision on any such appeal is final.
- (10) In this paragraph—
- “relevant court” means—
- (a) in England and Wales, a District Judge (Magistrates' Courts),
- (b) in Scotland, the sheriff—

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- (i) in whose sheriffdom the person to whom the material relates resides,
 - (ii) in whose sheriffdom that person is believed by the applicant to be, or
 - (iii) to whose sheriffdom that person is believed by the applicant to be intending to come; and
- (c) in Northern Ireland, a district judge (magistrates' court) in Northern Ireland;
- “the relevant appeal court” means—
- (a) in England and Wales, the Crown Court,
 - (b) in Scotland, the sheriff principal, and
 - (c) in Northern Ireland, the County Court in Northern Ireland;
- “a specified chief officer of police” means—
- (a) in England and Wales and Northern Ireland—
 - (i) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
 - (ii) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer's police area, and
 - (b) [^{F3}the chief constable of the Police Service of Scotland, where—
 - (i) the person who provided the material, or from whom it was taken, resides in Scotland, or
 - (ii) the chief constable believes that the person is in, or is intending to come to, Scotland.]]

Textual Amendments

- F2** Sch. 8 para. 20B(2A) 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. 71\(2\)](#), [183\(1\)\(5\)\(e\)](#); S.I. 2017/399, reg. 2, Sch. para. 20
- F3** Words in Sch. 8 para. 20B(10) substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 125\(2\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/949, art. 3, Sch. para. 23(l)

Modifications etc. (not altering text)

- C1** Sch. 8 para. 20B(3) modified (2.4.2020) by [The Coronavirus \(Retention of Fingerprints and DNA Profiles in the Interests of National Security\) Regulations 2020 \(S.I. 2020/391\)](#), regs. 1, [3\(2\)\(a\)\(i\)](#) (with reg. 5)

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