

# **CRIME AND SECURITY ACT 2010**

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## **EXPLANATORY NOTES**

### **BACKGROUND AND OVERVIEW**

#### ***Police powers of stop and search***

3. The Act contains provisions to reduce the reporting requirements on the police when they stop and search individuals.

#### ***Fingerprints and samples etc***

4. The Act contains provisions to give additional powers to the police to take fingerprints and DNA samples from people who have been arrested, charged or convicted in the UK, and from those convicted overseas of serious sexual and violent offences.
5. In response to the European Court of Human Rights judgment in the case of *S and Marper v United Kingdom* [2008] ECHR 1581, the Act also sets out a statutory framework for the retention and destruction of biometric material, including DNA samples, DNA profiles and fingerprints, that has been taken from an individual as part of the investigation of a recordable offence. These powers were consulted upon in the *Keeping the Right People on the DNA Database* paper published in May 2009.

#### ***Domestic violence***

6. The Act contains provisions to implement a recommendation from the *Together We Can End Violence Against Women and Girls* consultation published in March 2009. The provisions provide the police with the power to issue an alleged perpetrator of an offence relating to domestic violence with a Domestic Violence Protection Notice, requiring the perpetrator to vacate the premises of the victim and not to contact the victim. The Notice must be heard by a magistrates' court within 48 hours, whereupon a Domestic Violence Protection Order can be made, lasting for up to 28 days.

#### ***Gang-related violence***

7. The Act amends the powers in Part 4 of the Policing and Crime Act 2009 under which the police or a local authority may apply to a court for an injunction against an individual for the purposes of preventing gang-related violence. In particular, the Act provides that when a person aged 14 to 17 breaches such an injunction, the court may make a supervision order or a detention order.

#### ***Anti-social behaviour orders***

8. The Act contains provision requiring a family circumstances assessment to be carried out when an application for an anti-social behaviour order (ASBO) is made; and provision about the circumstances in which the court must make a parenting order on breach of an ASBO.

***Private security***

9. The Act amends the Private Security Industry Act 2001 to enable the Security Industry Authority to introduce a licensing regime for private security businesses, in particular vehicle immobilisation businesses. Such businesses will be prevented from operating without a relevant licence, with penalties of up to five years' imprisonment or a fine, or both. The Act contains a provision to extend the Approved Contractor Scheme in the 2001 Act to enable in-house private security services to apply for approved status.
10. The Act also amends the Private Security Industry Act 2001 to provide an independent avenue of appeal for motorists in respect of release fees imposed by businesses carrying out wheel clamping and related activities.

***Prison security***

11. The Act implements a recommendation from the strategy document *Extending Our Reach: A strategy for a new approach to tackling serious organised crime*, which was published in July 2009. It amends the Prison Act 1952 to create a new criminal offence of possessing an unauthorised mobile phone, or component part, in prison. This offence also includes unauthorised possession of devices (other than mobile telephones) which are capable of accessing the internet or are otherwise capable of sending or receiving data.

***Air weapons***

12. The Act amends the Firearms Act 1968 to create a new offence of failing to take reasonable precautions to prevent a person under the age of 18 from having unauthorised access to an air weapon.

***Compensation of victims of overseas terrorism***

13. The Act provides for a compensation scheme for persons injured (including those fatally injured) as the result of a designated terrorist act which took place outside the United Kingdom and occurred on or after 18 January 2010.

***Sale and supply of alcohol***

14. The Act amends the Licensing Act 2003 to enable licensing authorities to make an order restricting the sale and supply of alcohol between the hours of 3am and 6am in either the whole or a part of their area; such an order may be expressed to apply on every day, or only on certain days of the week. The effect of an order is that any premises licence, club premises certificate or temporary event notice does not (unless specific exemptions apply), authorise the sale or supply of alcohol between those times in the early morning.

***Searches of controlled persons***

15. The Act amends the Prevention of Terrorism Act 2005 to insert new powers allowing a constable, for specified purposes, to conduct a search of a person subject to a control order and to seize and retain articles found.