



# Protection of Freedoms Act 2012

## 2012 CHAPTER 9

### PART 1

#### REGULATION OF BIOMETRIC DATA

### CHAPTER 1

#### DESTRUCTION, RETENTION AND USE OF FINGERPRINTS ETC.

##### *Modification of rule for particular circumstances*

#### 7 Persons under 18 convicted of first minor offence

After section 63J of the Police and Criminal Evidence Act 1984 (for which see section 6) insert—

**“63K Retention of section 63D material: exception for persons under 18 convicted of first minor offence**

- (1) This section applies to section 63D material which—
- (a) relates to a person who—
    - (i) is convicted of a recordable offence other than a qualifying offence,
    - (ii) has not previously been convicted of a recordable offence, and
    - (iii) is aged under 18 at the time of the offence, and
  - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.
- (2) Where the person is given a relevant custodial sentence of less than 5 years in respect of the offence, the material may be retained until the end of the period consisting of the term of the sentence plus 5 years.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Where the person is given a relevant custodial sentence of 5 years or more in respect of the offence, the material may be retained indefinitely.
- (4) Where the person is given a sentence other than a relevant custodial sentence in respect of the offence, the material may be retained until—
  - (a) in the case of fingerprints, the end of the period of 5 years beginning with the date on which the fingerprints were taken, and
  - (b) in the case of a DNA profile, the end of the period of 5 years beginning with—
    - (i) the date on which the DNA sample from which the profile was derived was taken, or
    - (ii) if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken.
- (5) 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.
- (6) In this section, “relevant custodial sentence” means any of the following—
  - (a) a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000;
  - (b) a sentence of a period of detention and training (excluding any period of supervision) which a person is liable to serve under an order under section 211 of the Armed Forces Act 2006 or a secure training order.”