

# ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 11: Policing etc**

#### **Independent Police Complaints Commission**

#### ***Section 146: Retention of personal samples that are or may be disclosable***

423. *Subsection (1)* amends section 63U of PACE which provides for certain exclusions from the PACE retention regime for DNA profiles and fingerprints (collectively referred to as “section 63D material”). Section 63U(5) provides that material need not be destroyed in accordance with sections 63D to 63Q, 63S and 63T (which govern the retention of DNA profiles and fingerprints) where it falls to be disclosed under the CPIA or its associated Code of Practice. *Subsection (1)(a)* inserts a reference to section 63R of PACE (which governs the retention of DNA samples) into section 63U(5) thereby making the retention rules in section 63R subject to the CPIA in the same way as sections 63D to 63Q, 63S and 63T. *Subsection (1)(b)* inserts new subsections (5A) and (5B) into section 63U of PACE. These provide firstly that any sample retained under the CPIA must not be used other than for the purposes of any proceedings for the offence in connection with which it was taken and, secondly, that once the CPIA no longer applies, the sample must be destroyed.
424. *Subsection (2)* makes equivalent amendments to paragraph 20I of Schedule 8 to the Terrorism Act 2000. Paragraphs 20A to 20I of Schedule 8 to the 2000 Act provide for the retention of DNA samples and profiles and of fingerprints taken from persons detained under section 41 of or Schedule 7 to the 2000 Act (that is, persons arrested as suspected terrorists or persons detained under the ports and border control provisions in Schedule 7). The retention regime in Schedule 8 to the 2000 Act is broadly equivalent to that set out in sections 63D to 63T of PACE; in particular paragraph 20I of Schedule 8 replicates section 63U(5) of PACE as described above.