



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 4

#### POLICE POWERS

#### CHAPTER 2

##### RETENTION OF BIOMETRIC MATERIAL

#### **71 Retention of fingerprints and DNA profiles: Terrorism Act 2000**

- (1) Schedule 8 to the Terrorism Act 2000 (detention) is amended as follows.
- (2) In paragraph 20B (retention of paragraph 20A material: persons detained under section 41), after sub-paragraph (2) insert—

“(2A) In sub-paragraph (2) —

- (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,

(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,

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*Changes to legislation: Policing and Crime Act 2017, Section 71 is up to date with all changes known to be in force on or before 21 April 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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this applies whether or not the act constituted such an offence when the person was convicted).”

(3) In paragraph 20C (retention of paragraph 20A material: persons detained under Schedule 7), after sub-paragraph (2) insert—

“(2A) In sub-paragraph (2) —

(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,

(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).”

(4) In paragraph 20D (interpretation), after sub-paragraph (5) insert—

“(5A) For the purposes of sub-paragraph (4)—

(a) a person is to be treated as having previously been convicted in England and Wales of a recordable offence if—

(i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and

(ii) the act constituting the offence would constitute a recordable offence under the law of England and Wales if done there (whether or not it constituted such an offence when the person was convicted);

(b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—

(i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and

(ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);

(c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—

(i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and

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- (ii) the act constituting the offence would constitute an offence punishable by imprisonment under the law of Scotland if done there (whether or not it constituted such an offence when the person was convicted);
  - (d) the reference in sub-paragraph (4)(b) to a qualifying offence includes a reference to an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute a qualifying offence under the law of England and Wales if done there or (as the case may be) under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted).
- (5B) For the purposes of paragraphs 20B and 20C and this paragraph—
- (a) offence, in relation to any country or territory outside the United Kingdom, includes an act punishable under the law of that country or territory, however it is described;
  - (b) a person has in particular been convicted of an offence under the law of a country or territory outside the United Kingdom if—
    - (i) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity, or
    - (ii) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence.”

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**Commencement Information**

**II** S. 71 in force for specified purposes at Royal Assent, see s. 183

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)