



# Counter-Terrorism and Border Security Act 2019

## 2019 CHAPTER 3

An Act to make provision in relation to terrorism; to make provision enabling persons at ports and borders to be questioned for national security and other related purposes; and for connected purposes. [12th February 2019]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### COUNTER-TERRORISM

#### CHAPTER 1

##### TERRORIST OFFENCES

### 1 Expressions of support for a proscribed organisation

In section 12 of the Terrorism Act 2000 (support), after subsection (1) insert—

“(1A) A person commits an offence if the person—

- (a) expresses an opinion or belief that is supportive of a proscribed organisation, and
- (b) in doing so is reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation.”

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*Status: Point in time view as at 01/06/2021. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

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## 2 Publication of images and seizure of articles

(1) Section 13 of the Terrorism Act 2000 (uniform) is amended as follows.

(2) In the heading, after “Uniform” insert “ and publication of images ”.

(3) After subsection (1) insert—

“(1A) A person commits an offence if the person publishes an image of—

- (a) an item of clothing, or
- (b) any other article,

in such a way or in such circumstances as to arouse reasonable suspicion that the person is a member or supporter of a proscribed organisation.

(1B) In subsection (1A) the reference to an image is a reference to a still or moving image (produced by any means).”

(4) After subsection (3) insert—

“(4) A constable may seize an item of clothing or any other article if the constable—

- (a) reasonably suspects that it is evidence in relation to an offence under subsection (1), and
- (b) is satisfied that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

(5) In connection with exercising the power in subsection (4), a constable may require a person to remove the item of clothing or other article if the person is wearing it.

(6) But the powers conferred by subsections (4) and (5) may not be exercised so as to seize, or require a person to remove, an item of clothing being worn next to the skin or immediately over a garment being worn as underwear.”

## 3 Obtaining or viewing material over the internet

(1) Section 58 of the Terrorism Act 2000 (collection of information) is amended as follows.

(2) In subsection (1)—

- (a) omit “or” at the end of paragraph (a);
- (b) after paragraph (b) insert “, or
- (c) the person views, or otherwise accesses, by means of the internet a document or record containing information of that kind.”

(3) After subsection (1) insert—

“(1A) The cases in which a person collects or makes a record for the purposes of subsection (1)(a) include (but are not limited to) those in which the person does so by means of the internet (whether by downloading the record or otherwise).”

(4) After subsection (3) insert—

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“(3A) The cases in which a person has a reasonable excuse for the purposes of subsection (3) include (but are not limited to) those in which—

- (a) at the time of the person's action or possession the person did not know, and had no reason to believe, that the document or record in question contained, or was likely to contain, information of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) the person's action or possession was for the purposes of—
  - (i) carrying out work as a journalist, or
  - (ii) academic research.”

#### **4 Entering or remaining in a designated area**

(1) The Terrorism Act 2000 is amended as follows.

(2) After section 58A insert—

*“Entering or remaining in designated areas overseas*

##### **58B Entering or remaining in a designated area**

- (1) Subject to subsections (3) and (4), a person commits an offence if—
  - (a) the person enters, or remains in, a designated area, and
  - (b) the person is a United Kingdom national, or a United Kingdom resident, at the time of entering the area or at any time during which the person remains there.
- (2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for entering, or remaining in, the designated area.
- (3) A person does not commit an offence under this section of entering, or remaining in, a designated area if—
  - (a) the person is already travelling to, or is already in, the area on the day on which it becomes a designated area, and
  - (b) the person leaves the area before the end of the period of one month beginning with that day.
- (4) A person does not commit an offence under this section of entering, or remaining in, a designated area if—
  - (a) the person enters, or remains in, a designated area involuntarily, or
  - (b) the person enters, or remains in, a designated area for or in connection with one or more of the purposes mentioned in subsection (5).
- (5) The purposes are—
  - (a) providing aid of a humanitarian nature;
  - (b) satisfying an obligation to appear before a court or other body exercising judicial power;
  - (c) carrying out work for the government of a country other than the United Kingdom (including service in or with the country's armed forces);

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- (d) carrying out work for the United Nations or an agency of the United Nations;
  - (e) carrying out work as a journalist;
  - (f) attending the funeral of a relative or visiting a relative who is terminally ill;
  - (g) providing care for a relative who is unable to care for themselves without such assistance.
- (6) But a person does not commit an offence of entering or remaining in a designated area by virtue of subsection (4)(b) only if—
- (a) the person enters or remains in the area exclusively for or in connection with one or more of the purposes mentioned in subsection (5), or
  - (b) in a case where the person enters or remains in the area for or in connection with any other purpose or purposes (in addition to one or more of the purposes mentioned in subsection (5)), the other purpose or purposes provide a reasonable excuse for doing so under subsection (2).
- (7) The Secretary of State may by regulations add a purpose to or remove a purpose from subsection (5).
- (8) For the purposes of subsection (5)—
- (a) the reference to the provision of aid of a humanitarian nature does not include the provision of aid in contravention of internationally recognised principles and standards applicable to the provision of humanitarian aid;
  - (b) references to the carrying out of work do not include the carrying out of any act which constitutes an offence in a part of the United Kingdom or would do so if the act occurred in a part of the United Kingdom;
  - (c) a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 6 months.
- (9) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or to a fine, or to both.
- (10) In this section—
- “designated area” means an area outside the United Kingdom that is for the time being designated for the purposes of this section in regulations under section 58C;
  - “relative” means spouse or civil partner, brother, sister, ancestor or lineal descendant;
  - “United Kingdom national” means an individual who is—
    - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
    - (b) a person who under the British Nationality Act 1981 is a British subject, or
    - (c) a British protected person within the meaning of that Act;

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“United Kingdom resident” means an individual who is resident in the United Kingdom.

- (11) The reference in subsection (3) to the day on which an area becomes a designated area is a reference to the day on which regulations under section 58C come into force designating the area for the purposes of this section.
- (12) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

### **58C Section 58B: designated areas**

- (1) The Secretary of State may by regulations designate an area outside the United Kingdom as a designated area for the purposes of section 58B if the following condition is met.
  - (2) The condition is that the Secretary of State is satisfied that it is necessary, for the purpose of protecting members of the public from a risk of terrorism, to restrict United Kingdom nationals and United Kingdom residents from entering, or remaining in, the area.
  - (3) The reference in subsection (2) to the public includes a reference to the public of a country other than the United Kingdom.
  - (4) Where an area is designated by regulations under this section, the Secretary of State must—
    - (a) keep under review whether the condition in subsection (2) continues to be met in relation to the area, and
    - (b) if the Secretary of State determines that the condition is no longer met, revoke the regulations (or revoke them so far as they have effect in relation to that area if the regulations designate more than one area).
  - (5) Regulations under this section cease to have effect at the end of the period of 3 years beginning with the day on which they are made (unless they cease to have effect at an earlier time as a result of their revocation or by virtue of section 123(6ZA)(b)).
  - (6) Subsection (5) does not prevent the making of new regulations to the same or similar effect.
  - (7) In this section “designated area”, “United Kingdom national” and “United Kingdom resident” have the same meaning as in section 58B.”
- (3) In section 123 (orders and regulations)—
- (a) in subsection (4), after paragraph (b) insert—
    - “(ba) section 58B(7);”;
  - (b) in subsection (5), for “or (b)” substitute “, (b) or (ba) ”;
  - (c) after subsection (6) insert—
    - “(6ZA) Regulations under section 58C—
      - (a) must be laid before Parliament after being made, and
      - (b) cease to have effect at the end of the period of 40 days beginning with the day on which they are made unless before

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the end of that period the regulations are approved by a resolution of each House of Parliament.

(6ZB) Regulations laid before Parliament under subsection (6ZA) designating an area outside the United Kingdom must be accompanied by a statement setting out the grounds on which the Secretary of State has determined that the condition for making the regulations referred to in section 58C(2) is met in relation to that area.

(6ZC) For the purposes of subsection (6ZA) the period of 40 days is to be computed in accordance with section 7(1) of the Statutory Instruments Act 1946.

(6ZD) Subsection (6ZA)(b)—

- (a) is without prejudice to anything previously done or to the power of the Secretary of State to make new regulations under section 58C;
- (b) does not apply to regulations that only revoke previous regulations under that section.

(6ZE) Regulations under section 58C that only revoke previous regulations under that section are subject to annulment in pursuance of a resolution of either House of Parliament.”

## **5 Encouragement of terrorism and dissemination of terrorist publications**

(1) The Terrorism Act 2006 is amended as follows.

(2) Section 1 (encouragement of terrorism) is amended in accordance with subsections (3) and (4).

(3) In subsection (1)—

- (a) for the words from “some” to “published” substitute “ a reasonable person ”;
- (b) for “to them” substitute “ , to some or all of the members of the public to whom it is published, ”.

(4) In subsection (3)—

- (a) in the opening words, for “members of the public” substitute “ a reasonable person ”;
- (b) in paragraph (b), omit “those”.

(5) Section 2 (dissemination of terrorist publications) is amended in accordance with subsections (6) and (7).

(6) In subsection (3), in paragraph (a), for the words from “, by” to “them” substitute “ by a reasonable person as a direct or indirect encouragement or other inducement, to some or all of the persons to whom it is or may become available as a result of that conduct, ”.

(7) In subsection (4)—

- (a) in the opening words, after “by a” insert “ reasonable ”;
- (b) in paragraph (b), for “that person” substitute “ a person ”.

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## **6 Extra-territorial jurisdiction**

- (1) Section 17 of the Terrorism Act 2006 (commission of offences abroad) is amended as follows.
- (2) Subsection (2) is amended in accordance with subsections (3) to (5) below.
- (3) In paragraph (a)—
  - (a) after “section 1” insert “ or 2 ”, and
  - (b) omit the words from “so far as” to the end.
- (4) After paragraph (c) insert—
  - “(ca) an offence under section 12(1) or (1A) of that Act (inviting or expressing support for proscribed organisation);
  - (cb) an offence under section 13 of that Act (uniform etc associated with proscribed organisation);”.
- (5) After paragraph (d) insert—
  - “(da) an offence under section 4 of the Explosive Substances Act 1883 (making or possessing explosives under suspicious circumstances) so far as committed for the purposes of an act of terrorism;”.
- (6) In subsection (3), after “citizen” insert “ (subject to subsection (3A)) ”.
- (7) After subsection (3) insert—
  - “(3A) Subsection (1) applies in the case of an offence falling within subsection (2) (ca) or (cb) only if at the time of committing the offence the person is a United Kingdom national or a United Kingdom resident.
  - (3B) In subsection (3A)—
    - “United Kingdom national” means an individual who is—
      - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
      - (b) a person who under the British Nationality Act 1981 is a British subject, or
      - (c) a British protected person within the meaning of that Act;
    - “United Kingdom resident” means an individual who is resident in the United Kingdom.”

## **CHAPTER 2**

### **PUNISHMENT AND MANAGEMENT OF TERRORIST OFFENDERS**

#### *Sentencing*

## **7 Increase in maximum sentences**

- (1) The Terrorism Act 2000 is amended in accordance with subsections (2) to (4).
- (2) In section 38B (information about acts of terrorism), in subsection (5)(a), for “five years” substitute “ 10 years ”.

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- (3) In section 58 (collection of information), in subsection (4)(a), for “10 years” substitute “ 15 years ”.
- (4) In section 58A (eliciting, publishing or communicating information about members of armed forces etc), in subsection (3)(a), for “10 years” substitute “ 15 years ”.
- (5) The Terrorism Act 2006 is amended in accordance with subsections (6) and (7).
- (6) In section 1 (encouragement of terrorism), in subsection (7)(a), for “7 years” substitute “ 15 years ”.
- (7) In section 2 (dissemination of terrorist publications), in subsection (11)(a), for “7 years” substitute “ 15 years ”.

## **8 Sentences for offences with a terrorist connection**

- (1) The Counter-Terrorism Act 2008 is amended as follows.
- (2) In section 30 (sentences for offences with a terrorist connection: England and Wales)
  - (a) in the heading, after “Wales” insert “ and Northern Ireland ”;
  - (b) in subsection (1), after “Wales” insert “ , or in Northern Ireland, ”.
- (3) In section 42 (offences to which notification requirements apply: offences having a terrorist connection), in subsection (1), in paragraph (a), after “Wales” insert “ and Northern Ireland ”.
- (4) Schedule 2 (list of offences where terrorist connection to be considered) is amended in accordance with subsections (5) and (6).
- (5) In the list of common law offences, after the entry for “Abduction” insert—
  - “Assault by explosive device under the law of Scotland.
  - Assault to severe injury under the law of Scotland.
  - Assault and poisoning under the law of Scotland.
  - Poisoning under the law of Scotland.
  - False imprisonment under the law of Northern Ireland.”
- (6) In the list of statutory offences—
  - (a) [<sup>F1</sup>in the entry relating to the Offences against the Person Act 1861, after paragraph (a) insert—
    - “(aa) section 18 (wounding with intent),”;
  - (b) after the entry relating to the Explosive Substances Act 1883 insert—
    - “An offence under section 20 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (blackmail).
    - An offence under section 1 of the Protection of the Person and Property Act (Northern Ireland) 1969 (c. 29 (N.I.)) (intimidation).”;
  - (c) after the entry relating to the Chemical Weapons Act 1996 insert— “ An offence under Article 6 of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9)) (putting people in fear of violence). ”;



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- (d) after the entry relating to the Anti-terrorism, Crime and Security Act 2001 insert—

“An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))—

- (a) Article 3(1) (unauthorised possession etc of firearm),
- (b) Article 3(2) (unauthorised possession etc of ammunition),
- (c) Article 58(1) (possession of firearm with intent to endanger life etc),
- (d) Article 58(2) (possession of firearm with intent to cause person to believe that unlawful violence will be used etc),
- (e) Article 60 (carrying a firearm with criminal intent),
- (f) Article 61 (carrying or discharging a firearm in a public place),
- (g) Article 64 (possession of firearm or ammunition in suspicious circumstances).”

**Textual Amendments**

- F1** S. 8(6)(a) repealed (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 29](#) (with ss. 413(4), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**Modifications etc. (not altering text)**

- C1** S. 8(6)(a) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3); [S.I. 2012/1236](#), reg. 2

**9 Extended sentences etc for terrorism offences: England and Wales**

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 224 (meaning of “specified offence” etc)—
- (a) in subsection (1), for “or a specified sexual offence” substitute “, a specified sexual offence or a specified terrorism offence”;
  - (b) in subsection (3), after the definition of “specified sexual offence” insert—

““specified terrorism offence” means an offence specified in Part 3 of that Schedule.”

<sup>F2</sup>(3) .....

<sup>F2</sup>(4) .....

- (5) In Schedule 15 (specified offences for the purposes of certain sentencing provisions in Chapter 5 of Part 12, relating to dangerous offenders), after Part 2 insert—

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### “PART 3

#### SPECIFIED TERRORISM OFFENCES

- 154 An offence under section 11 of the Terrorism Act 2000 (membership of a proscribed organisation).
- 155 An offence under section 12 of that Act (inviting support for a proscribed organisation).
- 156 An offence under section 54 of that Act (weapons training).
- 157 An offence under section 56 of that Act (directing a terrorist organisation).
- 158 An offence under section 57 of that Act (possession of article for terrorist purposes).
- 159 An offence under section 58 of that Act (collection of information likely to be of use to a terrorist).
- 160 An offence under section 58A of that Act (publishing information about members of the armed forces etc).
- 161 An offence under section 58B of that Act (entering or remaining in a designated area).
- 162 An offence under section 59 of that Act (inciting terrorism overseas).
- 163 An offence under section 47 of the Anti-terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).
- 164 An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).
- 165 An offence under section 113 of that Act (use of noxious substance or thing to cause harm or intimidate).

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- 166 An offence under section 1 of the Terrorism Act 2006 (encouragement of terrorism).
- 167 An offence under section 2 of that Act (dissemination of terrorist publications).
- 168 An offence under section 5 of that Act (preparation of terrorist acts).
- 169 An offence under section 6 of that Act (training for terrorism).
- 170 An offence under section 8 of that Act (attendance at a place used for terrorist training).
- 171 An offence under section 9 of that Act (making or possession of radioactive device or material).
- 172 An offence under section 10 of that Act (misuse of radioactive device or material for terrorist purposes etc).
- 173 An offence under section 11 of that Act (terrorist threats relating to radioactive devices etc).
- 174 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.
- (2) An attempt to commit such an offence.
- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.”
- (6) In Schedule 18A (offences in relation to which a special custodial sentence for offenders of particular concern may be imposed under section 236A)—
- (a) after paragraph 6 insert—
- “6A An offence under section 11 of the Terrorism Act 2000 (membership of a proscribed organisation).

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- 6B An offence under section 12 of that Act (inviting support for a proscribed organisation).”;
- (b) after paragraph 9 insert—
- “9A An offence under section 58 of that Act (collection of information likely to be of use to a terrorist).
- 9B An offence under section 58A of that Act (publishing information about members of the armed forces etc).
- 9C An offence under section 58B of that Act (entering or remaining in a designated area).”;
- (c) after paragraph 13 insert—
- “13A An offence under section 1 of the Terrorism Act 2006 (encouragement of terrorism).
- 13B An offence under section 2 of that Act (dissemination of terrorist publications).”;
- (d) after paragraph 15 insert—
- “15A An offence under section 8 of that Act (attendance at a place used for terrorist training).”

#### **Textual Amendments**

**F2** S. 9(3)(4) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### **Modifications etc. (not altering text)**

**C2** S. 9 modified (1.12.2020 immediately before the consolidation date (see [2020 c. 9](#), ss. 3, 5(2)(3) and [2020 c. 17](#), ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1, 5(2)(3)**; [S.I. 2012/1236](#), reg. 2

## **10 Extended sentences for terrorism offences: Scotland**

- (1) Section 210A of the Criminal Procedure (Scotland) Act 1995 (extended sentences for sex and violent offenders) is amended as follows.
- (2) In the heading, for “sex and violent offenders” substitute “sex, violent and terrorist offenders”.
- (3) In subsection (1)—

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- (a) for “or violent” substitute “, violent or terrorism”;
  - (b) in paragraph (a)(ii), after “violent” insert “ or terrorism”.
- (4) In subsection (3)—
- (a) omit “and” at the end of paragraph (a);
  - (b) after paragraph (b) insert “, and
  - (c) a terrorism offence, ten years.”
- (5) In subsection (10)—
- (a) in the definition of “imprisonment”, omit “and” at the end of paragraph (ii);
  - (b) after that definition insert—
    - ““terrorism offence” means—
    - (a) an offence under any of the following provisions of the Terrorism Act 2000—
      - (i) section 11 (membership of a proscribed organisation),
      - (ii) section 12 (inviting support for a proscribed organisation),
      - (iii) section 54 (weapons training),
      - (iv) section 56 (directing a terrorist organisation),
      - (v) section 57 (possession of article for terrorist purposes),
      - (vi) section 58 (collection of information likely to be of use to a terrorist),
      - (vii) section 58A (publishing information about members of the armed forces etc),
      - (viii) section 58B (entering or remaining in a designated area), or
      - (ix) section 59 (inciting terrorism overseas),
    - (b) an offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—
      - (i) section 47 (use etc of nuclear weapons),
      - (ii) section 50 (assisting or inducing certain weapons-related acts overseas), or
      - (iii) section 113 (use of noxious substance or thing to cause harm or intimidate),
    - (c) an offence under any of the following provisions of the Terrorism Act 2006—
      - (i) section 1 (encouragement of terrorism),
      - (ii) section 2 (dissemination of terrorist publications),
      - (iii) section 5 (preparation of terrorist acts),
      - (iv) section 6 (training for terrorism),
      - (v) section 8 (attendance at a place used for terrorist training),
      - (vi) section 9 (making or possession of radioactive device or material),
      - (vii) section 10 (misuse of radioactive device or material for terrorist purposes etc), or
      - (viii) section 11 (terrorist threats relating to radioactive devices etc),

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- (d) an offence of aiding, abetting, counselling, procuring or inciting the commission of an offence specified in paragraphs (a) to (c),
- (e) an offence of attempting to commit such an offence,
- (f) an offence of conspiring to commit such an offence; and”.

## **11 Extended sentences for terrorism offences: Northern Ireland**

- (1) The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) is amended as follows.
- (2) In Article 12 (meaning of “specified offence” etc)—
  - (a) in paragraph (1), for “or a specified sexual offence” substitute “, a specified sexual offence or a specified terrorism offence”;
  - (b) in paragraph (3), after the definition of “specified sexual offence” insert—
 

““specified terrorism offence” means an offence specified in Part 3 of that Schedule.”
- (3) In Article 14 (extended custodial sentence for certain violent or sexual offences), in paragraph (8), in sub-paragraph (b) at the end insert “ or a specified terrorism offence”.
- (4) In Schedule 2 (specified offences for the purposes of certain sentencing provisions in Chapter 3, relating to dangerous offenders), after Part 2 insert—

### **“PART 3**

#### SPECIFIED TERRORISM OFFENCES

##### **The Terrorism Act 2000 (c. 11)**

- 1 An offence under—
  - section 11 (membership of a proscribed organisation),
  - section 12 (inviting support for a proscribed organisation),
  - section 54 (weapons training),
  - section 56 (directing a terrorist organisation),
  - section 57 (possession of article for terrorist purposes),
  - section 58 (collection of information likely to be of use to a terrorist),
  - section 58A (publishing information about members of the armed forces etc),
  - section 58B (entering or remaining in a designated area), or
  - section 59 (inciting terrorism overseas).

##### **The Anti-terrorism, Crime and Security Act 2001 (c. 24)**

- 2 An offence under—
  - section 47 (use etc of nuclear weapons),
  - section 50 (assisting or inducing certain weapons-related acts overseas), or
  - section 113 (use of noxious substance or thing to cause harm or intimidate).

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*Status: Point in time view as at 01/06/2021. This version of this Act contains provisions that are prospective.*

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### **The Terrorism Act 2006 (c. 11)**

- 3 An offence under—
- section 1 (encouragement of terrorism),
  - section 2 (dissemination of terrorist publications),
  - section 5 (preparation of terrorist acts),
  - section 6 (training for terrorism),
  - section 8 (attendance at a place used for terrorist training),
  - section 9 (making or possession of radioactive device or material),
  - section 10 (misuse of radioactive device or material for terrorist purposes etc), or
  - section 11 (terrorist threats relating to radioactive devices etc).

### **Other offences**

- 4 An offence of—
- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule,
  - (b) conspiring to commit an offence so specified, or
  - (c) attempting to commit an offence so specified.
- 5 An offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to an offence specified in this Part of this Schedule.”

### *Notification requirements*

## **12 Additional requirements**

- (1) The Counter-Terrorism Act 2008 is amended as follows.
- (2) In section 47 (information to be notified), in subsection (2)—
- (a) after paragraph (d) insert—  
“(da) all contact details on that date;”;
  - (b) after paragraph (f) insert—  
“(fa) all contact details on the date on which notification is made;”;
  - (c) after paragraph (g) insert—  
“(ga) identifying information of any motor vehicle of which the person is the registered keeper, or which the person has a right to use (whether routinely or on specific occasions or for specific purposes), on the date on which notification is made;  
(gb) the financial information specified in paragraph 1 of Schedule 3A;  
(gc) the information about identification documents specified in paragraph 2 of Schedule 3A;”.
- (3) In section 48 (notification of changes)—

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- (a) in the heading, at the end insert “ : general ”;
- (b) after subsection (4) insert—
  - “(4A) If there is a change in the contact details of a person to whom the notification requirements apply, the person must notify the police of the new contact details.
  - (4B) If a person to whom the notification requirements apply ceases to use contact details which the person has previously notified under this Part, the person must notify the police of that fact.
  - (4C) If a person to whom the notification requirements apply becomes the registered keeper of, or acquires a right to use, a motor vehicle the identifying information of which has not previously been notified to the police, the person must notify the police of the identifying information of that motor vehicle.
  - (4D) If there is a change in the identifying information of a motor vehicle previously notified under this Part, the person must notify the police—
    - (a) that there has been a change, and
    - (b) of the new identifying information of the motor vehicle.
  - (4E) If a person to whom the notification requirements apply ceases to be the registered keeper of a motor vehicle the identifying information of which the person has notified, or ceases to have the right to use such a motor vehicle, the person must notify the police that the person is no longer the registered keeper of the motor vehicle or no longer has the right to use it.”;
- (c) for subsection (7) substitute—
  - “(7) Notification under this section must be made—
    - (a) in a case to which subsection (4C) applies, before the earlier of the following—
      - (i) the end of the period of three days beginning with the day on which the person becomes the registered keeper of the motor vehicle or acquires a right to use it, or
      - (ii) the first occasion on which the person uses the motor vehicle by virtue of being its registered keeper or having a right to use it,
    - (b) in a case to which subsection (4D) applies, before the earlier of the following—
      - (i) the end of the period of three days beginning with the day on which the identifying information changes, or
      - (ii) the first occasion on which the person uses the motor vehicle after the identifying information has changed,
    - (c) in any other case, before the end of the period of three days beginning with the day on which the event in question occurs (and, where subsection (3) applies, that is the day with which the period referred to in paragraph (a) or (b) (as the case may be) of subsection (3) ends).”



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(4) After section 48 insert—

**“48A Notification of changes: financial information and information about identification documents**

- (1) If there is a change in any of the financial information (see paragraph 1 of Schedule 3A), or information about identification documents (see paragraph 2 of that Schedule), in relation to a person to whom the notification requirements apply, the person must notify the police of the change.
- (2) For the purposes of subsection (1) there is a change in the financial information if—
  - (a) an account previously notified in accordance with this Part is closed;
  - (b) a payment card previously notified in accordance with this Part is no longer held by the person notified as holding it;
  - (c) an account is opened, or a payment card is obtained, which would have been required to be notified in accordance with section 47(2)(gb) if the account or card had been held at the time when notification was made under section 47(1);
  - (d) any other financial information previously notified in accordance with this Part is altered or becomes inaccurate.
- (3) For the purposes of subsection (1) there is a change in the information about identification documents if—
  - (a) the person ceases to hold a passport or other document previously notified in accordance with this Part;
  - (b) the person obtains a passport or other document which would have been required to be notified in accordance with section 47(2)(gc) if it had been held at the time when notification was made under section 47(1).
- (4) Where a change required to be notified under subsection (1) relates to opening a new account or obtaining a new payment card as mentioned in subsection (2)(c), the person must in notifying the change include all the information (so far as relevant) specified in paragraph 1(2) of Schedule 3A in respect of the new account or card.
- (5) Where a change required to be notified under subsection (1) relates to the holding of a new passport or other document as mentioned in subsection (3)(b), the person must in notifying the change include all the information (so far as relevant) specified in paragraph 2 of Schedule 3A in relation to the new passport or other document.
- (6) Notification under this section must be made before the end of the period of three days beginning with the day on which the event in question occurs.
- (7) In determining the period within which notification is to be made under this section, any time when the person is—
  - (a) remanded in or committed to custody by any order of a court,
  - (b) serving a sentence of imprisonment or detention,
  - (c) detained in a hospital, or
  - (d) detained under the Immigration Acts,

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is to be ignored.

(8) Notification under this section must be accompanied by re-notification of the other information mentioned in section 47(2).”

(5) In section 49 (periodic re-notification)—

- (a) in subsection (1), for “the period of one year” substitute “ the applicable period ”;
- (b) after that subsection insert—

“(1A) In this section the “applicable period” means—

- (a) in the case of a person who has no sole or main residence in the United Kingdom, the period of one week, and
- (b) in any other case, the period of one year.””

(6) In section 60 (minor definitions), at the appropriate places insert the following definitions—

““contact details” means—

- (a) telephone numbers (if any), and
- (b) email addresses (if any);”;

““identifying information”, in relation to a motor vehicle, means—

- (a) the registration number of the vehicle,
- (b) the make, model and colour of the vehicle, and
- (c) the location where the vehicle is normally kept when not in use;”;

““motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;”;

““payment card” means a credit card, a charge card, a prepaid card or a debit card;”;

““registered keeper”, in relation to a motor vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994;”.

(7) After Schedule 3 insert, as Schedule 3A, the Schedule set out in Schedule 1 to this Act.

## 13 Power to enter and search home

In the Counter-Terrorism Act 2008, after section 56 insert—

*“Entry and search of home address*

### **56A Power to enter and search home address**

- (1) If on an application made by a senior police officer of the relevant force a justice is satisfied that the requirements in subsection (2) are met, the justice may issue a warrant authorising a constable of that force—
  - (a) to enter premises specified in the warrant for the purpose of assessing the risks posed by the person to whom the warrant relates; and
  - (b) to search the premises for that purpose.

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- (2) The requirements are—
- (a) that the person to whom the warrant relates—
    - (i) is a person to whom the notification requirements apply, and
    - (ii) is not a person to whom subsection (3) applies,
  - (b) that the address of each set of premises specified in the application is an address falling within subsection (4),
  - (c) that it is necessary for a constable to enter and search the premises for the purpose mentioned in subsection (1)(a), and
  - (d) that on at least two occasions a constable has sought entry to the premises in order to search them for that purpose and has been unable to gain entry for that purpose.
- (3) This subsection applies to a person who is—
- (a) remanded in or committed to custody by order of a court,
  - (b) serving a sentence of imprisonment or a term of service detention,
  - (c) detained in a hospital, or
  - (d) outside the United Kingdom.
- (4) An address falls within this subsection if—
- (a) it is the address which was last notified in accordance with the notification requirements by the person to whom the warrant relates, or
  - (b) there are reasonable grounds to believe that the person to whom the warrant relates resides there or may regularly be found there.
- (5) A warrant issued under this section must specify each set of premises to which it relates.
- (6) The warrant may authorise the constable executing it to use reasonable force if necessary to enter and search the premises.
- (7) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose mentioned in subsection (1)(a).
- (8) Where a warrant issued under this section authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum.
- (9) In this section—
- “justice” means—
- (a) in the application of this section to England and Wales, a justice of the peace;
  - (b) in the application of this section to Northern Ireland, a lay magistrate;
  - (c) in the application of this section to Scotland, a sheriff or summary sheriff;
- “the relevant force” means—
- (a) in relation to premises in England or Wales, the police force maintained for the police area in which the premises in respect of which the application is made or the warrant is issued are situated;

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(b) in relation to premises in Northern Ireland, the Police Service of Northern Ireland;

(c) in relation to premises in Scotland, the Police Service of Scotland;  
 “senior police officer” means a constable of the rank of superintendent or above;

“sentence of imprisonment” includes any form of custodial sentence (apart from service detention);

“service detention” has the meaning given by section 374 of the Armed Forces Act 2006.”

### *Serious crime prevention orders*

## **14 Serious crime prevention orders**

(1) Schedule 1 to the Serious Crime Act 2007 (serious offences for the purposes of serious crime prevention orders) is amended as follows.

(2) In Part 1 (serious offences in England and Wales), after paragraph 2 insert—

### **2A “Terrorism**

An offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (offences to which Part 4 of that Act applies: terrorism offences).”

(3) In Part 1A (serious offences in Scotland), after paragraph 16B insert—

### **16BA “Terrorism**

An offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (offences to which Part 4 of that Act applies: terrorism offences).”

(4) In Part 2 (serious offences in Northern Ireland), after paragraph 18 insert—

### **18A “Terrorism**

An offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (offences to which Part 4 of that Act applies: terrorism offences).”

## **CHAPTER 3**

### **COUNTER-TERRORISM POWERS**

## **15 Traffic regulation**

(1) The Road Traffic Regulation Act 1984 is amended as follows.

(2) After section 22C insert—

### **“22CA Section 22C: power to impose charges**

(1) This section applies where a traffic authority—

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- (a) makes, or proposes to make, an order by virtue of section 22C, or
  - (b) issues, or proposes to issue, a notice by virtue of that section,

for the purpose of protecting a relevant event or a relevant site from danger or damage connected with terrorism.
- (2) The authority may impose a charge of such amount as it thinks reasonable in respect of anything done in connection with or in consequence of the order or notice (or proposed order or notice).
- (3) The charge is payable—
  - (a) in the case of a relevant event, by the person promoting or organising the event;
  - (b) in the case of a relevant site, by the occupier of the site.
- (4) But a charge may not be imposed in relation to the holding of a relevant event if the event is a public procession, or public assembly, held for the purpose of—
  - (a) demonstrating support for, or opposition to, the views or actions of any person or body of persons,
  - (b) publicising a cause or campaign, or
  - (c) marking or commemorating an event.
- (5) In this section—
  - “public assembly” means an assembly of two or more persons in a public place which is wholly or partly open to the air;
  - “public place” means—
    - (a) any highway or, in Scotland, any road within the meaning of the Roads (Scotland) Act 1984, and
    - (b) any place to which at the material time the public, or any section of the public, has access (on payment or otherwise) as of right or by virtue of an express or implied permission;
  - “public procession” means a procession in a public place;
  - “relevant event” means—
    - (a) a sporting event, social event or entertainment, or
    - (b) any other event that is organised for commercial, charitable or not for profit purposes;
  - “relevant site” means a site on which activities are carried out in connection with the supply of essential goods or services.
- (6) The reference in the definition of “relevant site” to essential goods or services is a reference to goods or services disruption in the supply of which would cause, or would create a significant risk of, serious damage to—
  - (a) human welfare in a place in the United Kingdom,
  - (b) the environment of a place in the United Kingdom,
  - (c) the economy of the United Kingdom, or
  - (d) the national security of the United Kingdom.
- (7) For the purposes of subsection (6)(a) disruption in the supply of goods, systems or services causes serious damage to human welfare only if it causes—
  - (a) loss of human life,

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- (b) human illness or injury,
  - (c) disruption of a supply of money, food, water, energy or fuel,
  - (d) disruption of a system of communication,
  - (e) disruption of facilities for transport, or
  - (f) disruption of services relating to health.
- (8) References in this section to the supply of services include references to the provision of systems or facilities.”
- (3) Section 22D (section 22C: supplemental) is amended in accordance with subsections (4) to (9).
- (4) In subsection (1)—
- (a) after “made” insert “ , and a notice may be issued, ”;
  - (b) after “the order” insert “ or notice ”.
- (5) After subsection (1) insert—
- “(1A) Any statutory requirement to publish a proposal for, or a notice of, the making of an order does not apply to an order made by virtue of section 22C if the chief officer of police for the area to which the order relates considers that to do so would risk undermining the purpose for which the order is made.”
- (6) In subsection (2), after “made” insert “ , or a notice issued, ”.
- (7) In subsection (3), after “made” insert “ , or a notice under that section issued, ”.
- (8) In subsection (4)—
- (a) after “made” insert “ , or a notice issued, ”;
  - (b) after “the order,” insert “ notice, ”.
- (9) In subsection (5)—
- (a) in the words before paragraph (a), after “made” insert “ , or a notice issued, ”;
  - (b) in paragraph (a) after “order” insert “ or notice ”;
  - (c) after paragraph (c) insert—
    - “(d) enable a constable to authorise a person of a description specified in the order or notice to do anything that the constable could do by virtue of this subsection.”
- (10) In section 67 (emergencies and temporary obstructions), after subsection (1A) insert—
- “(1B) In the application of subsection (1) in connection with terrorism or the prospect of terrorism—
- (a) the reference to vehicular traffic is to be read as a reference to any kind of traffic (including pedestrians), and
  - (b) the other references to traffic are to be read accordingly.”
- (11) After section 94 insert (in Part 7)—

**“94A Bollards and other obstructions: terrorism**

- (1) This section applies where the passage, or the passage in any direction, of traffic (including pedestrians), or of traffic of any class, is prohibited at any point of a road by virtue of the exercise of a power under section 67 for a

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purpose relating to danger or damage connected with terrorism or the prospect of terrorism.

- (2) An authorised person may place at or near that point whatever bollards or other obstructions the person considers appropriate for preventing the passage of the traffic.

“Authorised person” means a constable or a person authorised or required to act on behalf of a constable.

- (3) The bollards or other obstructions that may be placed under this section—
- (a) include obstructions of any description,
  - (b) may be either fixed or moveable, and
  - (c) may be placed so as to prevent the passage of traffic at all times or certain times only.
- (4) Where the passage of traffic along a stretch of road is prevented by virtue of the power under subsection (2) being exercised in respect of one or more points on the road, the power under that subsection includes placing, or authorising the placing of, further obstructions on that stretch of road.
- (5) A power conferred by this section to place an obstruction includes power to maintain or light it.
- (6) Nothing in this section affects any power that a constable has apart from this section.”

## 16 Evidence obtained under port and border control powers

In Schedule 7 to the Terrorism Act 2000 (port and border controls), after paragraph 5 insert—

- “5A (1) An answer or information given orally by a person in response to a question asked under paragraph 2 or 3 may not be used in evidence against the person in criminal proceedings.
- (2) Sub-paragraph (1) does not apply—
- (a) in the case of proceedings for an offence under paragraph 18 of this Schedule,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the answer or information mentioned in sub-paragraph (1).
- (3) An answer or information may not be used by virtue of sub-paragraph (2) (c) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In sub-paragraph (2)(b) the reference to a prosecution for perjury is—

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- (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
- (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).”

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**Commencement Information**

**II** S. 16 in force at 13.8.2020 by S.I. 2020/792, reg. 2(a)

**17 Persons detained under port and border control powers**

- (1) Schedule 8 to the Terrorism Act 2000 (detention) is amended as follows.
- (2) In paragraph 6, after sub-paragraph (3) insert—
  - “(4) A detained person must be informed of the right under this paragraph on first being detained.”
- (3) In paragraph 7, after sub-paragraph (2) insert—
  - “(3) A detained person must be informed of the right under this paragraph on first being detained.”
- (4) In paragraph 9—
  - (a) for sub-paragraphs (1) and (2) substitute—
    - “(1) This paragraph applies where a detained person exercises the right under paragraph 7 to consult a solicitor.
    - (2) A police officer of at least the rank of superintendent may direct that the right—
      - (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
      - (b) may instead be exercised by consulting a different solicitor of the detained person's choosing.
    - (2A) A direction under this paragraph may be given before or after a detained person's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).”, and
  - (b) omit sub-paragraphs (4) and (5).
- (5) In paragraph 16—
  - (a) in sub-paragraph (8), omit “Subject to paragraph 17,”, and
  - (b) after sub-paragraph (9) insert—
    - “(10) A detained person must be informed of the rights under sub-paragraphs (1) and (6) on first being detained.”
- (6) In paragraph 17—
  - (a) for sub-paragraphs (1) and (2) substitute—



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- “(1) This paragraph applies where a detained person exercises the right under paragraph 16(6) to consult a solicitor.
- (2) A police officer not below the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in sub-paragraph (3), direct that the right—
- (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
- (b) may instead be exercised by consulting a different solicitor of the detained person's choosing.
- (2A) A direction under this paragraph may be given before or after a detained person's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).”, and
- (b) in sub-paragraph (3), in the opening words for “(1)” substitute “ (2) ”.

#### Commencement Information

**I2** S. 17 in force at 13.8.2020 by S.I. 2020/792, reg. 2(b)

## 18 Detention of terrorist suspects: hospital treatment

- (1) The Terrorism Act 2000 is amended as follows.
- (2) In section 41 (arrest without a warrant), after subsection (8) insert—
- “(8A) If a person detained under this section, including by virtue of a warrant under Part 3 of Schedule 8, is removed to hospital because the person needs medical treatment—
- (a) any time during which the person is being questioned in hospital or on the way there or back for the purpose of obtaining relevant evidence is to be included in calculating any period which falls to be calculated for the purposes of this section or Part 3 of Schedule 8, but
- (b) any other time when the person is in hospital or on the way there or back is not to be included.
- (8B) In subsection (8A), “relevant evidence” means, in relation to the detained person, evidence which—
- (a) relates to the person's commission of an offence under any of the provisions mentioned in section 40(1)(a), or
- (b) indicates that the person is a person falling within section 40(1)(b).”
- (3) In Schedule 7 (port and border controls), in paragraph 6A, after sub-paragraph (3) insert—
- “(3A) If a person detained under paragraph 6 is removed to hospital because the person needs medical treatment—
- (a) any time during which the person is being questioned under paragraph 2 or 3 in hospital or on the way there or back is to be included in calculating the 6 hour period, but

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- (b) any other time when the person is in hospital or on the way there or back is not to be included.”

**Commencement Information**

**I3** S. 18 in force at 13.8.2020 by S.I. 2020/792, reg. 2(c)

**19 Retention of biometric data for counter-terrorism purposes etc**

Schedule 2 contains amendments in relation to the retention of biometric data for counter-terrorism and other national security purposes.

**Commencement Information**

**I4** S. 19 in force at 13.8.2020 for specified purposes by S.I. 2020/792, reg. 2(d)

**CHAPTER 4**

MISCELLANEOUS

**20 Persons vulnerable to being drawn into terrorism**

- (1) The Counter-Terrorism and Security Act 2015 is amended in accordance with subsections (2) to (7).
- (2) Section 36 (assessment and support for persons vulnerable to being drawn into terrorism: local panels) is amended in accordance with subsections (3) and (4).
- (3) In subsection (2), after “police” insert “, or by a local authority, ”.
- (4) In subsection (3), after “police” insert “ or a local authority ”.
- (5) Section 38 (co-operation) is amended in accordance with subsections (6) and (7).
- (6) In subsection (1)(b), after “the police” insert “ and local authorities ”.
- (7) In subsection (8)—
  - (a) after “police” insert “ and local authorities ”;
  - (b) after “officer's” insert “or local authority's”.
- (8) The Secretary of State must <sup>F3</sup>... make arrangements for an independent review and report on the Government strategy for supporting people vulnerable to being drawn into terrorism.
- (9) The report and any recommendations of the review under subsection (8) must be laid before both Houses of Parliament <sup>F4</sup>....
- (10) The laying of the report and recommendations under subsection (9) must be accompanied by a statement by the Secretary of State responding to each recommendation made as part of the independent review.

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### Textual Amendments

- F3** Words in s. 20(8) omitted (with effect in accordance with s. 45(2) of the amending Act) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 45(1)(a), 50(1)(g)
- F4** Words in s. 20(9) omitted (with effect in accordance with s. 45(2) of the amending Act) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 45(1)(b), 50(1)(g)

## 21 Terrorism reinsurance

- (1) Section 2 of the Reinsurance (Acts of Terrorism) Act 1993 (reinsurance arrangements to which the Act applies) is amended as follows.
- (2) In subsection (1)—
- (a) omit “and” at the end of paragraph (a);
  - (b) after paragraph (b) insert “and
  - (c) any loss which falls within subsection (1A);”.
- (3) After subsection (1) insert—
- “(1A) Loss falls within this subsection if—
- (a) it results from interruption to business carried on in Great Britain, and
  - (b) the interruption results from or is consequential upon acts of terrorism.”

## PART 2

### BORDER SECURITY

## 22 Port and border controls

Schedule 3 confers powers exercisable at ports and borders etc.

### Commencement Information

- I5** S. 22 in force at 13.8.2020 for specified purposes by S.I. 2020/792, reg. 2(f)
- I6** S. 22 in force at 1.6.2021 for specified purposes for N.I. by S.I. 2021/622, reg. 2(a)

## PART 3

### FINAL PROVISIONS

## 23 Minor and consequential amendments

- (1) Schedule 4 contains minor and consequential amendments.
- (2) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.

*Status: Point in time view as at 01/06/2021. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

- (3) Regulations under this section may amend any enactment passed or made before this Act or in the same Session.
- (4) A statutory instrument containing regulations under this section any of which amend primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) A statutory instrument containing regulations under this section none of which amends primary legislation is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Regulations under this section—
- (a) are to be made by statutory instrument;
  - (b) may make different provision for different purposes;
  - (c) may include incidental, supplementary, consequential, transitional or saving provision.
- (7) In this section—
- “amend” includes repeal or revoke;
- “enactment” includes—
- (a) an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978,
  - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
  - (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
  - (d) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
- “primary legislation” means—
- (a) an Act of Parliament,
  - (b) an Act or Measure of the National Assembly for Wales,
  - (c) an Act of the Scottish Parliament, or
  - (d) Northern Ireland legislation.

#### Commencement Information

- I7** S. 23(1) in force at Royal Assent for specified purposes and in force at 12.4.2019 for further specified purposes and s. 23(2)-(7) in force at Royal Assent, see s. 27(1)(b)(f)(2)(d)(3)
- I8** S. 23(1) in force at 13.8.2020 for specified purposes by S.I. 2020/792, reg. 2(h)

## 24 Notification requirements: transitional provisions

- (1) The amendments made by sections 12 and 13 apply in relation to notification requirements that apply to a person in respect of an offence committed, or a sentence or order imposed, before, on or after the commencement day.
- (2) The amendments made by sections 12 and 13 apply in relation to a person to whom the notification requirements apply whether the person became subject to those requirements before the commencement day or becomes so on or after the commencement day, subject as follows.

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- (3) If the person has made an initial notification under section 47 of the Counter-Terrorism Act 2008 before the commencement day, the person must make a further such notification under that section of the information in subsection (2) of that section, as amended by section 12 of this Act.
- (4) So far as relating to the further notification mentioned in subsection (3), the reference in section 47(1) of the Counter-Terrorism Act 2008 to the period of three days beginning with the day on which the person was dealt with in respect of the offence is to be read—
  - (a) in the case of a person who has a sole or main residence in the United Kingdom, as a reference to the period of three months beginning with the commencement day;
  - (b) in the case of a person who does not have a sole or main residence in the United Kingdom, as a reference to the period of one week beginning with the commencement day.
- (5) The requirement imposed by subsection (3) to notify information under section 47(1) of the Counter-Terrorism Act 2008 within a period mentioned in subsection (4) of this section does not apply if the information is otherwise notified before the end of that period when a person complies with a duty imposed by—
  - (a) section 48 of that Act (notification of changes: general);
  - (b) section 48A of that Act (notification of changes: financial information and information about identification documents);
  - (c) section 49 of that Act (periodic re-notification).
- (6) For the purposes of section 54(1) of the Counter-Terrorism Act 2008 (offences relating to notification), references to compliance with section 47 are to be read as including references to compliance with that section as modified in accordance with subsections (3) and (4).
- (7) The amendment made by paragraph 51 of Schedule 4 does not apply in relation to a person whose intended date of departure is before the end of the period of 7 days beginning with the day on which the amendment comes into force.
- (8) In this section, “the commencement day” means the day on which section 12 comes into force.

## **25 Other transitional provisions**

- (1) An amendment made by any of sections 1, 2, 3, 5 or 6 applies only in a case where every act or other event proof of which is required for conviction of the offence in question takes place on or after the day on which the amendment comes into force.
- (2) An amendment made by section 7 or 8 applies only in relation to an offence committed on or after the day on which the amendment comes into force.
- (3) Except as otherwise provided by subsection (4), an amendment made by section 9 or 10, or by Part 1 of Schedule 4, applies in relation to a person sentenced for an offence on or after the day on which the amendment comes into force, whether the offence was committed before that day or on or after it.
- (4) The amendments made by section 9 and Part 1 of Schedule 4, so far as they have effect for the purposes of the following provisions, apply only in relation to a person

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sentenced for an offence committed on or after the day on which they come into force—

- (a) sections 225(1)(a) and 226(1)(a) of the Criminal Justice Act 2003, and
  - (b) sections 219(1)(b) and 221(1)(b) of the Armed Forces Act 2006.
- (5) An amendment made by section 11 or Part 2 of Schedule 4 applies only in relation to a person sentenced for an offence committed on or after the day on which the amendment comes into force.
- (6) An amendment made by section 14 applies in relation to an offence or conduct whether committed or occurring before the day on which the amendment comes into force or on or after that day.
- (7) An amendment made by the following provisions of Schedule 2 applies only in respect of a national security determination made or renewed on or after the day on which the amendment comes into force—
- (a) paragraph 3(4);
  - (b) paragraph 7(4);
  - (c) paragraph 10(4);
  - (d) paragraph 13(4);
  - (e) paragraph 16(4);
  - (f) paragraph 19.
- (8) For the purposes of subsection (7)—
- (a) it does not matter whether the material to which the determination relates was taken or provided, or was derived from material taken or provided, before the day on which the amendment comes into force or on or after that day;
  - (b) the reference to the renewal of a determination on or after that day includes a reference to the renewal of a determination that was first made before that day.
- (9) The powers conferred by Schedule 3 are exercisable in relation to a hostile act whether carried out before the day on which that Schedule comes into force or on or after that day.

## **26 Extent**

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, except as otherwise provided by subsections (2) to (6).
- (2) Section 9 extends to England and Wales only.
- (3) Section 10 extends to Scotland only.
- (4) Section 11 extends to Northern Ireland only.
- (5) The following provisions extend to England and Wales and Scotland only—
  - (a) section 15;
  - (b) section 20;
  - (c) section 21.
- (6) An amendment or repeal made by Schedule 2 or 4 has the same extent as the provision amended or repealed.

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- (7) The power under section 338(1) of the Criminal Justice Act 2003 (extension to the Channel Islands or the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.
- (8) The power under section 39(6) of the Terrorism Act 2006 (extension to the Channel Islands or the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.
- (9) The power under section 31(4) of the Terrorism Prevention and Investigation Measures Act 2011 (extension to the Isle of Man) may be exercised in relation to any amendments made to that Act by this Act.

## 27 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
  - (a) section 21;
  - (b) section 23(2) to (7);
  - (c) section 26;
  - (d) this section;
  - (e) section 28;
  - (f) paragraph 19 of Schedule 4 and section 23(1) so far as relating to that paragraph;
  - (g) any other provision of this Act so far as necessary for enabling the exercise on or after the day on which this Act is passed of any power under Schedule 3 to make regulations or to issue codes of practice.
- (2) The following provisions come into force on such day or days as the Secretary of State may by regulations appoint—
  - (a) sections 16, 17 and 18;
  - (b) section 19 and Schedule 2;
  - (c) section 22 and Schedule 3 (so far as not brought into force by subsection (1) (g) of this section);
  - (d) paragraphs 17 and 18, 20 to 26 and 28 to 33 of Schedule 4 and section 23(1) so far as relating to those paragraphs.
- (3) The other provisions of this Act come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (5) Regulations under this section are to be made by statutory instrument.

## 28 Short title

This Act may be cited as the Counter-Terrorism and Border Security Act 2019.

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## SCHEDULES

### SCHEDULE 1

Section 12

#### NOTIFICATION REQUIREMENTS: FINANCIAL INFORMATION AND INFORMATION ABOUT IDENTIFICATION DOCUMENTS

This is the Schedule to be inserted as Schedule 3A to the Counter-Terrorism Act 2008—

### “SCHEDULE 3A

Section 47

#### NOTIFICATION REQUIREMENTS: FINANCIAL INFORMATION AND INFORMATION ABOUT IDENTIFICATION DOCUMENTS

#### *Financial information*

- 1 (1) The financial information referred to in section 47(2)(gb) that a person to whom the notification requirements apply must provide is—
- (a) the information specified in sub-paragraph (2) in respect of each account that the person holds with a financial institution on the date on which the notification is made, and
  - (b) if the person runs a business through a company—
    - (i) the information specified in sub-paragraph (2) in respect of each account that the company holds with a financial institution on the date on which the notification is made, and
    - (ii) the name of the company concerned.
- (2) The information required to be given in respect of each account is—
- (a) the name of the financial institution with which the account is held;
  - (b) the address of the office at which the account is held and, if the office is outside the United Kingdom, the address of the principal office of the financial institution (if any) in the United Kingdom;
  - (c) the number of the account;
  - (d) the sort code, if any, in relation to the account;
  - (e) the card number of each payment card relating to the account;
  - (f) the start date (if any) and expiry date in relation to each such card.
- (3) For the purposes of this paragraph—
- (a) “company” includes any body corporate, partnership or unincorporated association;
  - (b) “financial institution” means a person who, in the course of a business, provides financial services consisting of the provision of current or savings accounts or payment card facilities;
  - (c) “payment card” means a credit card, a charge card, a prepaid card and a debit card;



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- (d) the cases in which a person “holds” an account include those where the person is entitled to operate the account;
- (e) it does not matter if an account is held solely or jointly with one or more other persons;
- (f) a person “runs” a business if the person (whether solely or jointly with one or more other persons) exercises, or is entitled to exercise, control or management of the business.

#### *Information about identification documents*

- 2 The information about identification documents referred to in section 47(2)(gc) that a person to whom the notification requirements apply must provide is—
- (a) where the person holds one or more passports on the date on which notification is made, for each passport that the person holds—
    - (i) the number of the passport;
    - (ii) the person's full name as it appears in the passport;
    - (iii) where the passport was issued by or on behalf of the authorities of a country, the name of the country;
    - (iv) where the passport was issued by or on behalf of an international organisation, the name of the organisation;
  - (b) where the person does not hold a passport, but does hold one or more other identity documents (within the meaning of section 7 of the Identity Documents Act 2010) on the date on which notification is made, for each identity document that the person holds—
    - (i) a description of the identity document;
    - (ii) the issue number (if any) of the identity document;
    - (iii) the person's full name as it appears in the identity document;
    - (iv) where the identity document was issued by or on behalf of the authorities of a country, the name of the country;
    - (v) where the identity document was issued by or on behalf of an international organisation, the name of the organisation.”

## SCHEDULE 2

Section 19

### RETENTION OF BIOMETRIC DATA FOR COUNTER-TERRORISM PURPOSES ETC

#### *Police and Criminal Evidence Act 1984*

- 1 The Police and Criminal Evidence Act 1984 is amended as follows.

#### **Commencement Information**

**19** Sch. 2 para. 1 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 2 (1) Section 63F (retention of section 63D material: persons arrested for or charged with a qualifying offence) is amended as follows.
- (2) In subsection (3), for “or (5)” substitute “, (5) or (5A) ”.

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(3) In subsection (5)(a), after “qualifying offence” insert “, other than a terrorism-related qualifying offence,”.

(4) After subsection (5) insert—

“(5A) Material falls within this subsection if—

- (a) it relates to a person who is arrested for a terrorism-related qualifying offence but is not charged with that offence, and
- (b) it was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.”

(5) In subsection (11), after the definition of “a specified chief officer of police” insert—

““terrorism-related qualifying offence” means—

- (a) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (see section 65A(2)(r) below), or
- (b) an ancillary offence, as defined by section 65A(5) below, relating to an offence for the time being listed in section 41(1) of that Act.”

#### **Commencement Information**

**I10** Sch. 2 para. 2 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

3 (1) Section 63M (retention of section 63D material for purposes of national security) is amended as follows.

(2) In subsection (1), for “the responsible” substitute “ a ”.

(3) In subsection (2), for “the responsible” substitute “ a ”.

(4) In subsection (3)(b), for “2 years” substitute “ 5 years ”.

#### **Commencement Information**

**I11** Sch. 2 para. 3 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

4 After section 63P insert—

#### **“63PA Retention of further sets of fingerprints**

(1) This section applies where section 63D material is or includes a person's fingerprints (“the original fingerprints”).

(2) A constable may make a determination under this section in respect of any further fingerprints taken from the same person (“the further fingerprints”) if any of conditions 1 to 3 are met.

(3) Condition 1 is met if—

- (a) the further fingerprints are section 63D material, and
- (b) the further fingerprints or the original fingerprints were taken in connection with a terrorist investigation.

(4) Condition 2 is met if the further fingerprints were taken from the person in England or Wales under—

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- (a) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
  - (b) paragraph 1 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
  - (c) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (5) Condition 3 is met if the further fingerprints—
- (a) are material to which section 18 of the Counter-Terrorism Act 2008 applies, and
  - (b) are held under the law of England and Wales.
- (6) Where a determination under this section is made in respect of the further fingerprints—
- (a) the further fingerprints may be retained for as long as the original fingerprints are retained under a power conferred by sections 63E to 63O (including those sections as applied by section 63P), and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).
- (7) Subsection (6)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (8) A written record must be made of a determination under this section.”

#### Commencement Information

**I12** Sch. 2 para. 4 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

PROSPECTIVE

*Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

- 5 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.
- (2) In Article 63D (retention of Article 63B material: persons arrested for or charged with a qualifying offence) (as inserted by Schedule 2 to the Criminal Justice Act (Northern Ireland) 2013 (c. 7 N.I.))—
- (a) in paragraph (1), for sub-paragraph (a) substitute—
    - “(a) relates to a person who—
      - (i) is arrested for a qualifying offence other than a terrorism-related qualifying offence but is not charged with that offence, or
      - (ii) is charged with any qualifying offence but is not convicted of that offence, and”;
  - (b) in paragraph (14), after the definition of “prescribed” insert—
    - ““terrorism-related qualifying offence” means—

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- (a) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (see Article 53A(2)(r)), or
- (b) an ancillary offence, as defined by Article 53A(4), relating to an offence for the time being listed in section 41(1) of that Act.”

(3) After Article 63D insert—

*“ Retention of Article 63B material: persons arrested for terrorism-related qualifying offence*

63D(1) This Article applies to Article 63B material which—

- (a) relates to a person who is arrested for a terrorism-related qualifying offence but is not charged with that 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) If the person has previously been convicted of a recordable offence which is not an excluded offence, or is so convicted before the material is required to be destroyed by virtue of this Article, the material may be retained indefinitely.
- (3) Otherwise, the material may be retained—
- (a) in the case of fingerprints, for the period of 3 years beginning with the date on which the fingerprints were taken;
  - (b) in the case of a DNA profile, for 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).

(4) In this Article—

“excluded offence”, in relation to a person, means a recordable offence—

- (a) which—
  - (i) is not a qualifying offence,
  - (ii) is the only recordable offence of which the person has been convicted, and
  - (iii) was committed when the person was aged under 18, and
- (b) for which the person was not given a custodial sentence of 5 years or more;

“terrorism-related qualifying offence” means—

- (a) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (see Article 53A(2)(r)), or
- (b) an ancillary offence, as defined by Article 53A(4), relating to an offence for the time being listed in section 41(1) of that Act.”

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### *Criminal Procedure (Scotland) Act 1995*

6 The Criminal Procedure (Scotland) Act 1995 is amended as follows.

#### **Commencement Information**

**I13** Sch. 2 para. 6 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 7
- (1) Section 18G (retention of samples etc: national security) is amended as follows.
  - (2) In subsection (2) for “the relevant chief constable” substitute “ the chief constable of the Police Service of Scotland ”.
  - (3) In subsection (3) for “the relevant chief constable” substitute “ the chief constable of the Police Service of Scotland ”.
  - (4) In subsection (4)(b) for “2 years” substitute “ 5 years ”.
  - (5) Omit subsection (6).

#### **Commencement Information**

**I14** Sch. 2 para. 7 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

8 After section 18G insert—

#### **“18GA Retention of further fingerprints**

- (1) This section applies where—
  - (a) relevant physical data to which section 18G applies has been taken from or provided by a person, and
  - (b) the data is or includes the person's fingerprints (“the original fingerprints”).
- (2) A constable may make a determination under this section in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if—
  - (a) the further fingerprints were taken under or by virtue of—
    - (i) any provision, power or authority mentioned in section 18G(1), or
    - (ii) paragraph 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, and
  - (b) the further fingerprints or the original fingerprints were taken—
    - (i) in connection with a terrorist investigation, as defined by section 32 of the Terrorism Act 2000, or
    - (ii) under a power conferred by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (3) Where a determination under this section is made in respect of the further fingerprints—
  - (a) the further fingerprints may be retained for as long as the original fingerprints are retained in accordance with this Part, and

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- (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).
- (4) Subsection (3)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (5) A written record must be made of a determination under this section.”

**Commencement Information**

**I15** Sch. 2 para. 8 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

*Terrorism Act 2000*

- 9 Part 1 of Schedule 8 to the Terrorism Act 2000 (treatment of persons detained under section 41 of, or Schedule 7 to, that Act) is amended as follows.

**Commencement Information**

**I16** Sch. 2 para. 9 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 10 (1) Paragraph 20E is amended as follows.
- (2) In sub-paragraph (1), for “the responsible” substitute “ a ”.
  - (3) In sub-paragraph (2), for “the responsible” substitute “ a ”.
  - (4) In sub-paragraph (3)(b), for “2 years” substitute “ 5 years ”.
  - (5) After sub-paragraph (3) insert—
    - “(4) In this paragraph “chief officer of police” means—
      - (a) a chief officer of police of a police force in England and Wales,
      - (b) the chief constable of the Police Service of Scotland, or
      - (c) the Chief Constable of the Police Service of Northern Ireland.”

**Commencement Information**

**I17** Sch. 2 para. 10 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 11 After paragraph 20E insert—
- “(20E) (1) This paragraph applies where paragraph 20A material is or includes a person's fingerprints (“the original fingerprints”).
  - (2) A constable may make a determination under this paragraph in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if conditions 1 and 2 are met.
  - (3) Condition 1 is met if the further fingerprints—
    - (a) are paragraph 20A material,
    - (b) are taken or provided under or by virtue of—

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

- (i) Part 5 of the Police and Criminal Evidence Act 1984,
  - (ii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
  - (iii) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
  - (iv) paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
  - (v) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or
- (c) are material to which section 18 of the Counter-Terrorism Act 2008 applies.
- (4) Condition 2 is met if—
- (a) in a case where the further fingerprints are material to which section 18 of the Counter-Terrorism Act 2008 applies, the original fingerprints and the further fingerprints are held under the law of the same part of the United Kingdom;
  - (b) in any other case, the original fingerprints and the further fingerprints were taken from or provided by the person in the same part of the United Kingdom.
- (5) Where a determination under this paragraph is made in respect of the further fingerprints—
- (a) the further fingerprints may be retained for as long as the original fingerprints are retained under any power conferred by paragraphs 20B to 20E, and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).
- (6) Sub-paragraph (5)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (7) A written record must be made of a determination under this paragraph.
- (8) In this paragraph—
- (a) “enactment” includes—
    - (i) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
    - (ii) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
  - (b) references to a part of the United Kingdom are references to—
    - (i) England and Wales,
    - (ii) Scotland, or
    - (iii) Northern Ireland.”

#### Commencement Information

**I18** Sch. 2 para. 11 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

*Status: Point in time view as at 01/06/2021. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

### *Counter-Terrorism Act 2008*

12 The Counter-Terrorism Act 2008 is amended as follows.

#### **Commencement Information**

**I19** Sch. 2 para. 12 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 13 (1) Section 18B (retention for purposes of national security) is amended as follows.
- (2) In subsection (1) after “responsible officer” insert “, or by a chief officer of police,”.
- (3) In subsection (2) after “responsible officer” insert “, or a chief officer of police,”.
- (4) In subsection (3)(b) for “2 years” substitute “ 5 years ”.
- (5) After subsection (3) insert—
- “(4) In this section “chief officer of police” means a person other than the responsible officer who is—
- (a) the chief officer of police of a police force in England and Wales, or
- (b) the Chief Constable of the Police Service of Northern Ireland.”

#### **Commencement Information**

**I20** Sch. 2 para. 13 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

14 After section 18B insert—

#### **“18BA Retention of further fingerprints**

- (1) This section applies where section 18 material is or includes a person's fingerprints (“the original fingerprints”).
- (2) An appropriate officer may make a determination under this section in respect of any further fingerprints taken from the same person (“the further fingerprints”) if conditions 1 and 2 are met.
- (3) Condition 1 is met if the further fingerprints—
- (a) are section 18 material, or
- (b) are taken under—
- (i) Part 5 of the Police and Criminal Evidence Act 1984,
- (ii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
- (iii) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
- (iv) paragraph 1 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
- (v) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (4) Condition 2 is met if both the original fingerprints and the further fingerprints—
- (a) are held by a law enforcement authority under the law of England and Wales, or



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- (b) are held by a law enforcement authority under the law of Northern Ireland.
- (5) Where a determination under this section is made in respect of the further fingerprints—
  - (a) the further fingerprints may be retained for as long as the original fingerprints are retained under a power conferred by section 18A or 18B, and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).
- (6) Subsection (5)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (7) A written record must be made of a determination under this section.
- (8) In this section—
  - “appropriate officer” means—
    - (a) a constable, or
    - (b) an officer of Revenue and Customs who is not below such grade as is designated for the purposes of this section by the Commissioners for Her Majesty's Revenue and Customers;
  - “enactment” includes an enactment comprised in, or in an instrument made under, Northern Ireland legislation.”

**Commencement Information**

**I21** Sch. 2 para. 14 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

*Terrorism Prevention and Investigation Measures Act 2011*

- 15 Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (fingerprints and samples) is amended as follows.

**Commencement Information**

**I22** Sch. 2 para. 15 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 16 (1) Paragraph 11 is amended as follows.
- (2) In sub-paragraph (1), for “the responsible” substitute “ a ”.
  - (3) In sub-paragraph (2), for “the responsible” substitute “ a ”.
  - (4) in sub-paragraph (3)(b), for “2 years” substitute “ 5 years ”.
  - (5) After sub-paragraph (3) insert—
    - “(4) In this paragraph “chief officer of police” means—
      - (a) a chief officer of police of a police force in England and Wales,
      - (b) the chief constable of the Police Service of Scotland, or

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(c) the Chief Constable of the Police Service of Northern Ireland.”

**Commencement Information**

**I23** Sch. 2 para. 16 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

17 After paragraph 11 insert—

“11A(1) This paragraph applies where paragraph 6 material is or includes a person's fingerprints (“the original fingerprints”).

(2) A constable may make a determination under this paragraph in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if conditions 1 and 2 are met.

(3) Condition 1 is met if the further fingerprints—

- (a) are paragraph 6 material,
- (b) are taken or provided under or by virtue of—
  - (i) Part 5 of the Police and Criminal Evidence Act 1984,
  - (ii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
  - (iii) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
  - (iv) paragraph 10 of Schedule 8 to the Terrorism Act 2000, or
  - (v) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or
- (c) are material to which section 18 of the Counter-Terrorism Act 2008 applies.

(4) Condition 2 is met if—

- (a) in a case where the further fingerprints are material to which section 18 of the Counter-Terrorism Act 2008 applies, the original fingerprints and the further fingerprints are held under the law of the same part of the United Kingdom;
- (b) in any other case, the original fingerprints and the further fingerprints were taken from or provided by the person in the same part of the United Kingdom.

(5) Where a determination under this paragraph is made in respect of the further fingerprints—

- (a) the further fingerprints may be retained for as long as the original fingerprints are retained under any power conferred by paragraph 8, 9 or 11, and
- (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).

(6) Sub-paragraph (5)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.

(7) A written record must be made of a determination under this paragraph.

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- (8) In this paragraph—
- (a) “enactment” includes—
- (i) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
  - (ii) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
- (b) references to a part of the United Kingdom are references to—
- (i) England and Wales,
  - (ii) Scotland, or
  - (iii) Northern Ireland.”

#### Commencement Information

**I24** Sch. 2 para. 17 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

PROSPECTIVE

#### *Protection of Freedoms Act 2012*

- 18 Part 6 of Schedule 1 to the Protection of Freedoms Act 2012 (material subject to the Police and Criminal Evidence (Northern Ireland) Order 1989) is amended as follows.
- 19 In paragraph 7, in sub-paragraph (3)(b) for “2 years” substitute “ 5 years ”.
- 20 After paragraph 7 insert—
- “7A (1) This paragraph applies where—
- (a) fingerprints to which paragraph 7 applies have been taken from a person (“the original fingerprints”), and
  - (b) a national security determination under that paragraph is made in relation to the original fingerprints.
- (2) A constable may make a determination under this paragraph in respect of any further fingerprints taken from the same person (“the further fingerprints”) if condition 1 or condition 2 is met.
- (3) Condition 1 is met if—
- (a) the further fingerprints are fingerprints to which paragraph 7 applies, and
  - (b) the further fingerprints or the original fingerprints were taken in connection with a terrorist investigation, as defined by section 32 of the Terrorism Act 2000.
- (4) Condition 2 is met if the further fingerprints were taken from the person in Northern Ireland under—
- (a) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
  - (b) paragraph 1 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or

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- (c) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (5) Where a determination under this paragraph is made in respect of the further fingerprints—
- (a) the national security determination made in relation to the original fingerprints also applies in relation to the further fingerprints, and
- (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as the national security determination has effect.
- (6) A written record must be made of a determination under this paragraph.
- (7) In this paragraph “enactment” includes an enactment comprised in, or in an instrument made under, Northern Ireland legislation.”

## SCHEDULE 3

Section 22

### BORDER SECURITY

#### Modifications etc. (not altering text)

- C3** Sch. 3 modified by S.I. 1993/1813, **Sch. 4 para. 7** (as inserted (12.2.2019 for specified purposes; 13.8.2020 in so far as not already in force) by Counter Terrorism and Border Security Act 2019 (c. 3), s. 27(1)(g), Sch. 3 para. 63(1) (with s. 25(9), **Sch. 3 para. 63(2)**); S.I. 2020/792, **reg. 2(g)**)
- C4** Sch. 3 modified by S.I. 1994/1405, **art. 7** (as amended (coming into force in accordance with art. 1(3) of the amending S.I.) by The Channel Tunnel (International Arrangements and Miscellaneous Provisions) (Amendment) Order 2020 (S.I. 2020/915), arts. 1(3), **11**)
- C5** Sch. 3 modified (30.9.2020 immediately after the amendments by S.I. 2020/915, art. 5 come into force) by The Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020 (S.I. 2020/916), arts. 1(3), **6**

## PART 1

### POWERS

#### *Power to stop, question and detain*

- 1 (1) An examining officer may question a person for the purpose of determining whether the person appears to be a person who is, or has been, engaged in hostile activity if condition 1 or condition 2 is met.
- (2) Condition 1 is met if—
- (a) the person is at a port or in the border area, and
- (b) the examining officer believes that the person's presence at the port or in the border area is connected with the person's—
- (i) entry into, or departure from, Great Britain or Northern Ireland, or
- (ii) travel by air within Great Britain or Northern Ireland.

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- (3) Condition 2 is met if the person is on a ship or aircraft which has arrived at any place in Great Britain or Northern Ireland (whether from within or outside Great Britain or Northern Ireland).
- (4) An examining officer may exercise the powers under this paragraph whether or not there are grounds for suspecting that a person is or has been engaged in hostile activity.
- (5) A person is or has been engaged in hostile activity for the purposes of this Schedule if the person is or has been concerned in the commission, preparation or instigation of a hostile act that is or may be—
  - (a) carried out for, or on behalf of, a State other than the United Kingdom, or
  - (b) otherwise in the interests of a State other than the United Kingdom.
- (6) An act is a “hostile act” if it—
  - (a) threatens national security,
  - (b) threatens the economic well-being of the United Kingdom in a way relevant to the interests of national security, or
  - (c) is an act of serious crime.
- (7) For the purposes of this paragraph—
  - (a) it is immaterial—
    - (i) whether a person is aware that activity in which they are or have been engaged is hostile activity, or
    - (ii) whether a State for or on behalf of which, or in the interests of which, a hostile act is carried out has instigated, sanctioned, or is otherwise aware of, the carrying out of the act;
  - (b) “State” includes the government of a State and any organ of its government;
  - (c) references to a State other than the United Kingdom include references to any territory outside the United Kingdom;
  - (d) the reference to serious crime is to crime where—
    - (i) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or
    - (ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

#### Commencement Information

**125** Sch. 3 para. 1 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**126** Sch. 3 para. 1 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 2 An examining officer may question a person who is in the border area for the purpose of determining whether the person's presence in the area is connected with the person's entry into, or departure from, Northern Ireland.

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#### Commencement Information

**I27** Sch. 3 para. 2 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I28** Sch. 3 para. 2 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 3 A person (“P”) questioned under paragraph 1 or 2 must—
- (a) give the examining officer any information in P’s possession that the officer requests;
  - (b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes P’s identity;
  - (c) declare whether any documents of a kind specified by the examining officer are in P’s possession;
  - (d) give the examining officer on request any such document.

#### Commencement Information

**I29** Sch. 3 para. 3 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I30** Sch. 3 para. 3 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 4 (1) For the purposes of exercising a power under paragraph 1 or 2 an examining officer may—
- (a) stop a person or vehicle;
  - (b) detain a person.
- (2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person’s removal from a ship, aircraft or vehicle.
- (3) Where a person is detained under this paragraph the provisions of Parts 2 and 3 of this Schedule (detention and review of detention) apply.
- (4) The power conferred by sub-paragraph (1)(a) to stop a vehicle does not include a power to stop an aircraft that is airborne.

#### Commencement Information

**I31** Sch. 3 para. 4 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I32** Sch. 3 para. 4 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 5 (1) This paragraph applies where a person is questioned under paragraph 1 or 2.
- (2) At the end of the 1 hour period, the person may not be questioned under either of those paragraphs unless the person is detained under paragraph 4.
- (3) If the person is detained under paragraph 4, the person must be released not later than the end of the 6 hour period (unless detained under another power).
- (4) In this paragraph—
- “the 1 hour period” is the period of 1 hour beginning with the time the person is first questioned under paragraph 1 or 2;
- “the 6 hour period” is the period of 6 hours beginning with that time.

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- (5) If a person detained under paragraph 4 is removed to hospital because the person needs medical treatment—
- (a) any time during which the person is being questioned under paragraph 1 or 2 in hospital or on the way there or back is to be included in calculating the 6 hour period, but
  - (b) any other time when the person is in hospital or on the way there or back is not to be included.

#### Commencement Information

**I33** Sch. 3 para. 5 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I34** Sch. 3 para. 5 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 6 (1) An answer or information given orally by a person in response to a question asked under paragraph 1 or 2 may not be used in evidence in criminal proceedings.
- (2) Sub-paragraph (1) does not apply—
- (a) in the case of proceedings under paragraph 23,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the answer or information mentioned in sub-paragraph (1).
- (3) A statement may not be used by virtue of sub-paragraph (2)(c) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In sub-paragraph (2)(b) the reference to a prosecution for perjury is—
- (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
  - (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).

#### Commencement Information

**I35** Sch. 3 para. 6 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I36** Sch. 3 para. 6 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### Searches

- 7 An examining officer may, for the purpose of determining whether there are any persons the officer may wish to question under paragraph 1—
- (a) search a ship or aircraft;
  - (b) search anything on a ship or aircraft;
  - (c) search anything that the officer reasonably believes has been, or is about to be, on a ship or aircraft.

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### Commencement Information

**I37** Sch. 3 para. 7 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I38** Sch. 3 para. 7 in force at 13.8.2020 in so far as not already in force by S.I. 2020/792, reg. 2(g)

- 8 (1) An examining officer who questions a person under paragraph 1 may—
- (a) search the person;
  - (b) search anything on a ship or aircraft that the person has with them or which belongs to them;
  - (c) search anything which the person has with them or which belongs to them and which the officer reasonably believes has been, or is about to be, on a ship or aircraft;
  - (d) search a ship or aircraft for anything falling within paragraph (b);
  - (e) search a vehicle which is on a ship or aircraft;
  - (f) search a vehicle which the officer reasonably believes has been, or is about to be, on a ship or aircraft.
- (2) Where an examining officer questions a person in the border area under paragraph 1 the officer may (in addition to the matters specified in sub-paragraph (1))—
- (a) search a vehicle;
  - (b) search anything in or on a vehicle;
  - (c) search anything which the officer reasonably believes has been, or is about to be, in or on a vehicle.
- (3) The powers conferred by sub-paragraphs (1) and (2) are exercisable only for the purposes of determining whether a person is or has been engaged in hostile activity.
- (4) A search of a person under this paragraph—
- (a) must be carried out by somebody of the same sex;
  - (b) does not extend to the carrying out of an intimate search.
- (5) A strip search of a person may not be carried out under this paragraph unless—
- (a) the person is detained under paragraph 4,
  - (b) the examining officer has reasonable grounds to suspect that the person is concealing something which may be evidence that the person is or has been engaged in hostile activity, and
  - (c) the search is authorised by a senior officer who has not been directly involved in the questioning of the person.
- (6) “Senior officer” means—
- (a) where the examining officer is a constable, a constable of a higher rank than the examining officer,
  - (b) where the examining officer is an immigration officer, an immigration officer of a higher grade than the examining officer, and
  - (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.
- (7) In this paragraph—
- “intimate search” means a search which consists of a physical examination of a person's body orifices other than the mouth;



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“strip search” means a search which is not an intimate search but involves the removal of an article of clothing which—

- (a) is being worn wholly or partly on the trunk, and
- (b) is being so worn either next to the skin or next to an article of underwear.

#### Commencement Information

**I39** Sch. 3 para. 8 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I40** Sch. 3 para. 8 in force at 13.8.2020 in so far as not already in force by S.I. 2020/792, reg. 2(g)

- 9 (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether they have been used in connection with a person's engagement in hostile activity.
- (2) This paragraph applies to—
- (a) goods which have arrived in or are about to leave Great Britain or Northern Ireland on a ship or vehicle, and
  - (b) goods which have arrived at or are about to leave any place in Great Britain or Northern Ireland on an aircraft (whether the place they have come from or are going to is within or outside Great Britain or Northern Ireland).
- (3) The reference in sub-paragraph (2)(a) to goods which are about to leave Great Britain or Northern Ireland on a ship includes goods which—
- (a) are held at premises operated by a sea cargo agent, and
  - (b) are to be delivered to a place in Great Britain or Northern Ireland for carriage on a ship.
- (4) The reference in sub-paragraph (2)(b) to goods which are about to leave any place in Great Britain or Northern Ireland on an aircraft includes goods which—
- (a) are held at premises operated by an air cargo agent, and
  - (b) are to be delivered to a place in Great Britain or Northern Ireland for carriage on an aircraft.
- (5) An examination under this paragraph may be carried out only—
- (a) at a port;
  - (b) at premises operated by a sea cargo agent or an air cargo agent;
  - (c) at a transit shed;
  - (d) at a designated examination location.
- (6) For the purposes of determining whether to carry out an examination under this paragraph an examining officer may—
- (a) board a ship or aircraft;
  - (b) enter premises operated by a sea cargo agent or an air cargo agent;
  - (c) enter a transit shed;
  - (d) enter a designated examination location.
- (7) In this paragraph—
- “air cargo agent” has the meaning given by section 21F(1) of the Aviation Security Act 1982;

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“designated examination location” means a location designated by the Secretary of State under paragraph 9(2D) of Schedule 7 to the Terrorism Act 2000;

“goods” includes property of any description and containers;

“sea cargo agent” has the meaning given by section 41(1) of the Aviation and Maritime Security Act 1990;

“transit shed” has the meaning given by section 25A of the Customs and Excise Management Act 1979.

#### Commencement Information

**I41** Sch. 3 para. 9 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I42** Sch. 3 para. 9 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 10 (1) An examining officer may authorise a person to carry out on the officer's behalf a search or examination under any of paragraphs 7 to 9.
- (2) A person authorised under this paragraph is to be treated as an examining officer for the purposes of—
- paragraphs 9(6) and 11, and
  - Part 4 of this Schedule.

#### Commencement Information

**I43** Sch. 3 para. 10 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I44** Sch. 3 para. 10 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Retention of property*

- 11 (1) This paragraph applies to any article which—
- is given to an examining officer in accordance with paragraph 3(d),
  - is searched or found on a search under paragraph 8, or
  - is examined under paragraph 9.
- (2) An examining officer may retain the article—
- for the purpose of examination, for a period not exceeding 7 days beginning with the day on which the retention commences,
  - while the officer believes that it may be needed for use as evidence in criminal proceedings,
  - while the officer believes that it may be needed in connection with a decision of the Secretary of State whether to make a deportation order under the Immigration Act 1971,
  - while the officer believes that it could be used in connection with the carrying out of a hostile act, or
  - while the officer believes it necessary to do so for the purpose of preventing death or significant injury.

#### Commencement Information

**I45** Sch. 3 para. 11 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

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**I46** Sch. 3 para. 11 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 12 (1) This paragraph applies in relation to an article retained by virtue of paragraph 11(2) (d) or (e), other than an article in respect of which an authorisation is granted under paragraph 14.
- (2) The Investigatory Powers Commissioner (“the Commissioner”) must be informed of the article's retention as soon as is reasonably practicable.
- (3) Sub-paragraph (4) applies where it appears to the Commissioner that there are reasonable grounds to believe—
- (a) that the article has been or could be used in connection with the carrying out of a hostile act, or
  - (b) that returning the article to the person from whom it was taken could result in a risk of death or significant injury to any person.
- (4) The Commissioner may—
- (a) direct that the article is destroyed, or
  - (b) authorise the retention and use of the article (subject to sub-paragraph (5)).
- (5) The Commissioner may authorise the retention and use of an article under sub-paragraph (4)(b) that consists of or includes confidential material only if satisfied that—
- (a) arrangements are in place that are sufficient for ensuring that the material is retained securely, and
  - (b) the material will be used only so far as necessary and proportionate for a relevant purpose.
- (6) If the Commissioner does not proceed under sub-paragraph (4) in relation to an article, the Commissioner must (subject to sub-paragraph (7)) direct that the article is returned to the person from whom it was taken.
- (7) Sub-paragraph (6) does not apply if the article is further retained under a power conferred by paragraph 11(2)(b) or (c).
- (8) In authorising the retention and use of an article under this paragraph the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.
- (9) For the purposes of sub-paragraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary—
- (a) in the interests of national security,
  - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
  - (c) for the purpose of preventing or detecting serious crime, or
  - (d) for the purpose of preventing death or significant injury.
- (10) In this paragraph “confidential material” means—
- (a) confidential journalistic material, within the meaning of the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act), and
  - (b) protected material as defined by sub-paragraph (11).
- (11) “Protected material”—
- (a) in relation to England and Wales, means—

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- (i) items subject to legal privilege, within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act),
- (ii) material falling within section 11(1)(a) or (b) of that Act (certain personal records, human tissue or tissue fluid held in confidence), or
- (iii) material to which section 14(2) of that Act applies (other material acquired in course of a trade etc that is held in confidence);
- (b) in relation to Scotland, means—
  - (i) items in respect of which a claim to confidentiality of communications could be maintained in legal proceedings, or
  - (ii) other material of a kind mentioned in paragraph (a)(ii) or (iii) of this sub-paragraph;
- (c) in relation to Northern Ireland, means—
  - (i) items subject to legal privilege, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order),
  - (ii) material falling with Article 13(1)(a) or (b) of that Order (certain personal records, human tissue or tissue fluid held in confidence), or
  - (iii) material to which Article 16(2) of that Order applies (other material acquired in the course of a trade etc that is held in confidence).

#### Commencement Information

**I47** Sch. 3 para. 12 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I48** Sch. 3 para. 12 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 13 (1) Before proceeding under paragraph 12 in relation to an article, the Commissioner—
- (a) must invite each affected party to make representations, before the end of whatever period the Commissioner may specify, about how the Commissioner should proceed under that paragraph, and
  - (b) must have regard to any representations made by an affected party before the end of that period.
- (2) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, exercises a function under paragraph 12 in relation to an article, an affected party may ask the Investigatory Powers Commissioner to decide whether to approve the way in which the function was exercised.
- (3) Each of the following is an “affected party” for the purposes of this paragraph—
- (a) where the examining officer is a constable, the responsible chief officer,
  - (b) the Secretary of State, and
  - (c) the person from whom the article was taken.
- (4) In sub-paragraph (3) “responsible chief officer” means—
- (a) in a case where the article was taken in connection with an investigation being conducted by a police force in England and Wales, the chief officer of police of that police force;
  - (b) in a case where the article was taken in connection with an investigation being conducted by the Police Service of Scotland, the chief constable of the Police Service of Scotland;

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- (c) in a case where the article was taken in connection with an investigation being conducted by the Police Service of Northern Ireland, the Chief Constable of the Police Service of Northern Ireland;
  - (d) in any other case—
    - (i) where the examining officer is a constable of a police force in England and Wales, the chief officer of police of that police force,
    - (ii) where the examining officer is a constable of the Police Service of Scotland, the chief constable of the Police Service of Scotland, or
    - (iii) where the examining officer is a constable of the Police Service of Northern Ireland, the Chief Constable of the Police Service of Northern Ireland.
- (5) Sub-paragraph (6) applies where —
- (a) a direction for the destruction of an article is given under paragraph 12, or
  - (b) authorisation for the retention and use of an article is granted under that paragraph.
- (6) The Commissioner must inform the person from whom the article was taken that—
- (a) a direction to destroy the article has been given, or
  - (b) (as the case may be) authorisation to retain and use the article has been granted (and in this case the Commissioner must provide details of any conditions subject to which that authorisation was granted).
- (7) A requirement under this paragraph to invite representations from, or to provide information to, the person from whom an article was taken applies only so far as it is reasonably practicable to do so.
- (8) Representations under sub-paragraph (1) must be made in writing.

#### **Commencement Information**

**I49** Sch. 3 para. 13 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I50** Sch. 3 para. 13 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 14 (1) This paragraph applies where—
- (a) an article is retained by virtue of paragraph 11(2)(d) or (e), and
  - (b) the examining officer who retained the article considers that the urgency condition is met in relation to the article.
- (2) The urgency condition is met in relation to an article if—
- (a) there is an urgent need for the article to be examined or otherwise used for the purpose of preventing—
    - (i) the carrying out of a hostile act, or
    - (ii) death or significant injury,or for the purpose of mitigating the risk of any such act, death or injury occurring, and
  - (b) the time it would take for the requirements of paragraphs 12 and 13 to be complied with in relation to the article would not enable such use to take place with sufficient urgency.
- (3) The examining officer may apply to a senior officer for authorisation to continue to retain and use the article.

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- (4) An application under sub-paragraph (3) in relation to an article may be made only to a senior officer who has not been directly involved in the exercise of any power under this Part of this Schedule to take the article or to question a person from whom the article was taken.
- (5) A senior officer may grant an authorisation under this paragraph for the retention and use of the article if satisfied—
- (a) that there are reasonable grounds for considering that the urgency condition is met in relation to the article, and
  - (b) in the case of an article that consists of or includes confidential material, that—
    - (i) arrangements are in place that are sufficient for ensuring that the material is retained securely, and
    - (ii) the material will be used only so far as necessary and proportionate for a purpose mentioned in sub-paragraph (2)(a).
- (6) An authorisation under this paragraph—
- (a) must be recorded in writing;
  - (b) may be granted subject to whatever conditions the senior officer thinks appropriate.
- (7) Paragraphs 15 and 16 contain further provision about authorisations granted under this paragraph.
- (8) In this paragraph—
- “confidential material” has the meaning given by paragraph 12(10) and (11);
- “senior officer” means—
- (a) where the examining officer is a constable, another constable of at least the rank of superintendent,
  - (b) where the examining officer is an immigration officer, an immigration officer of a higher grade than the examining officer, and
  - (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.

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**Commencement Information**

**I51** Sch. 3 para. 14 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I52** Sch. 3 para. 14 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 15 (1) If a senior officer grants an authorisation under paragraph 14, the examining officer who applied for the authorisation must inform the Investigatory Powers Commissioner and each affected party of its grant.
- (2) The information required under sub-paragraph (1) must be given as soon as reasonably practicable and in any event within 24 hours after the grant of the authorisation.
- (3) An affected party may make representations to the Commissioner about how the Commissioner should proceed under paragraph 16 in respect of an authorisation granted under paragraph 14.

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- (4) Representations under sub-paragraph (3) must be made in writing no later than the end of two working days beginning with the first working day after the day on which the authorisation is granted.
- (5) The information provided under sub-paragraph (1) must include an explanation of the right to make representations in writing and the time by which they must be made.
- (6) The Commissioner must have regard to any representations received before the end of the time mentioned in sub-paragraph (4) in determining how to proceed under paragraph 16.
- (7) The requirement under this paragraph to provide information to the person from whom an article was taken applies only so far as it is reasonably practicable to do so.
- (8) In this paragraph and paragraph 16—
  - “affected party” has the meaning given by paragraph 13(3);
  - “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the authorisation is granted.

#### **Commencement Information**

**I53** Sch. 3 para. 15 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I54** Sch. 3 para. 15 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), reg. 2(g)

- 16 (1) This paragraph applies after the Investigatory Powers Commissioner has considered any representations made about an authorisation in accordance with paragraph 15.
- (2) The Commissioner must—
  - (a) approve the grant of the authorisation, or
  - (b) cancel the authorisation.
- (3) A decision under sub-paragraph (2) must be made—
  - (a) after the end of the time for making representations referred to in paragraph 15(4), and
  - (b) before the end of three working days beginning with the first working day after the day on which the authorisation is granted.
- (4) If the decision under sub-paragraph (2) is to approve the grant of the authorisation, the retention and use of the article may continue in accordance with the conditions on which the authorisation was granted (subject to any further conditions or variation of the existing conditions that the Commissioner specifies).
- (5) If the decision under sub-paragraph (2) is to cancel the authorisation, any further use of the article must stop as soon as possible.
- (6) If the Commissioner cancels the authorisation the Commissioner may direct that the article—
  - (a) is destroyed, or
  - (b) is returned to the person from whom it was taken,and the Commissioner may further direct that all reasonable steps are taken to secure that any information derived from the article is destroyed.

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- (7) Sub-paragraphs (5) and (6) do not apply if the article is further retained under a power conferred by paragraph 11(2)(b) or (c).
- (8) The Commissioner must inform each affected party of the Commissioner's decision under sub-paragraph (2).
- (9) The requirement under this paragraph to provide information to the person from whom the article was taken applies only so far as it is reasonably practicable to do so.
- (10) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, exercises a function under this paragraph in relation to an article, an affected party may ask the Investigatory Powers Commissioner to decide whether to approve the way in which the function was exercised.
- (11) Nothing in this paragraph affects the lawfulness of—
  - (a) anything done under an authorisation before it is cancelled;
  - (b) if anything is in the process of being done under an authorisation when it is cancelled—
    - (i) anything done before that thing could be stopped, or
    - (ii) anything done which it is not reasonably practicable to stop.

#### **Commencement Information**

**I55** Sch. 3 para. 16 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I56** Sch. 3 para. 16 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Power to make and retain copies*

- 17 (1) This paragraph applies where the examining officer is a constable.
- (2) The officer may copy anything which—
- (a) is given to the officer in accordance with paragraph 3,
  - (b) is searched or found on a search under paragraph 8, or
  - (c) is examined under paragraph 9.
- (3) The copy may be retained—
- (a) for so long as it is necessary for the purpose of determining whether a person is or has been engaged in hostile activity,
  - (b) while the examining officer believes that it may be needed for use as evidence in criminal proceedings,
  - (c) while the examining officer believes that it may be needed in connection with a decision by the Secretary of State whether to make a deportation order under the Immigration Act 1971,
  - (d) while the examining officer believes it necessary to retain the copy—
    - (i) in the interests of national security,
    - (ii) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security, or
    - (iii) for the purpose of preventing or detecting an act of serious crime, or
  - (e) while the examining officer believes it necessary to retain the copy to prevent death or significant injury.



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#### Commencement Information

**I57** Sch. 3 para. 17 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I58** Sch. 3 para. 17 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 18
- (1) This paragraph applies in relation to a copy consisting of or including confidential material that is retained by virtue of paragraph 17(3)(d) or (e), other than a copy in respect of which an authorisation is granted under paragraph 20.
  - (2) The Investigatory Powers Commissioner (“the Commissioner”) must be informed of the copy's retention as soon as is reasonably practicable.
  - (3) The Commissioner may authorise the retention and use of the copy if both of the following two conditions are met.
  - (4) The first condition is that it appears to the Commissioner that there are reasonable grounds to believe that it is necessary to retain the copy—
    - (a) in the interests of national security,
    - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
    - (c) for the purpose of preventing or detecting an act of serious crime, or
    - (d) for the purpose of preventing death or significant injury.
  - (5) The second condition is that the Commissioner is satisfied that—
    - (a) arrangements are in place that are sufficient for ensuring that any confidential material contained in the copy is retained securely, and
    - (b) the material will be used only so far as necessary and proportionate for a relevant purpose.
  - (6) If the Commissioner does not proceed under sub-paragraph (3) in relation to a copy, the Commissioner must (subject to sub-paragraph (7)) direct that the copy is destroyed.
  - (7) Sub-paragraph (6) does not apply if the copy is further retained under a power conferred by paragraph 17(3)(b) or (c).
  - (8) In authorising the retention and use of a copy under sub-paragraph (3) the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.
  - (9) For the purposes of sub-paragraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary—
    - (a) in the interests of national security,
    - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
    - (c) for the purpose of preventing or detecting serious crime, or
    - (d) for the purpose of preventing death or significant injury.
  - (10) In this paragraph “confidential material” has the meaning given by paragraph 12(10) and (11).

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

### Commencement Information

**I59** Sch. 3 para. 18 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I60** Sch. 3 para. 18 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 19 (1) Before proceeding under paragraph 18 in relation to a copy, the Commissioner—
- (a) must invite each affected party to make representations, before the end of whatever period the Commissioner may specify, about how the Commissioner should proceed under that paragraph, and
  - (b) must have regard to any representations made by an affected party before the end of that period.
- (2) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, exercises a function under paragraph 18 in relation to a copy, an affected party may ask the Investigatory Powers Commissioner to decide whether to approve the way in which the function was exercised.
- (3) Each of the following is an “affected party” for the purposes of this paragraph—
- (a) where the examining officer is a constable, the responsible chief officer,
  - (b) the Secretary of State, and
  - (c) the person from whom the article was taken from which the copy was made.
- (4) In sub-paragraph (3) “responsible chief officer” means—
- (a) in a case where the copy was made in connection with an investigation being conducted by a police force in England and Wales, the chief officer of police of that police force;
  - (b) in a case where the copy was made in connection with an investigation being conducted by the Police Service of Scotland, the chief constable of the Police Service of Scotland;
  - (c) in a case where the copy was made in connection with an investigation being conducted by the Police Service of Northern Ireland, the Chief Constable of the Police Service of Northern Ireland;
  - (d) in any other case—
    - (i) where the examining officer is a constable of a police force in England and Wales, the chief officer of police of that police force,
    - (ii) where the examining officer is a constable of the Police Service of Scotland, the chief constable of the Police Service of Scotland, or
    - (iii) where the examining officer is a constable of the Police Service of Northern Ireland, the Chief Constable of the Police Service of Northern Ireland.
- (5) Sub-paragraph (6) applies where—
- (a) a direction for the destruction of a copy is given under paragraph 18, or
  - (b) authorisation for the retention and use of a copy is granted under that paragraph.
- (6) The Commissioner must inform the person from whom the article was taken from which the copy was made that—
- (a) a direction to destroy the copy has been given, or

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- (b) (as the case may be) authorisation to retain and use the copy has been granted (and in this case the Commissioner must provide details of any conditions subject to which that authorisation was granted).
- (7) A requirement under this paragraph to invite representations from, or to provide information to, the person from whom an article was taken from which a copy was made applies only so far as it is reasonably practicable to do so.
- (8) Representations under sub-paragraph (1) must be made in writing.

#### **Commencement Information**

**I61** Sch. 3 para. 19 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I62** Sch. 3 para. 19 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 20 (1) This paragraph applies where—
- (a) a copy consisting of or including confidential material is retained by virtue of paragraph 17(3)(d) or (e), and
  - (b) the examining officer who retained the copy considers that the urgency condition is met in relation to the copy.
- (2) The urgency condition is met in relation to a copy if—
- (a) there is an urgent need for the copy to be examined or otherwise used for the purpose of preventing—
    - (i) the carrying out of a hostile act, or
    - (ii) death or significant injury,or for the purpose of mitigating the risk of any such act, death or injury occurring, and
  - (b) the time it would take for the requirements of paragraphs 18 and 19 to be complied with in relation to the copy would not enable such use to take place with sufficient urgency.
- (3) The examining officer may apply to a senior officer for authorisation to continue to retain and use the copy.
- (4) An application under sub-paragraph (3) in relation to a copy may be made only to a senior officer who has not been directly involved in the exercise of any power under this Part of this Schedule to make the copy or to question a person from whom the article was taken from which the copy was made.
- (5) A senior officer may grant an authorisation under this paragraph for the retention and use of a copy if satisfied that—
- (a) there are reasonable grounds for considering that the urgency condition is met in relation to the copy,
  - (b) arrangements are in place that are sufficient for ensuring that confidential material contained in the copy is retained securely, and
  - (c) the material will be used only so far as necessary and proportionate for a purpose mentioned in sub-paragraph (2)(a).
- (6) An authorisation under this paragraph—
- (a) must be recorded in writing;
  - (b) may be granted subject to whatever conditions the senior officer thinks appropriate.

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- (7) Paragraphs 21 and 22 contain further provision about authorisations granted under this paragraph.
- (8) In this paragraph—
- “confidential material” has the meaning given by paragraph 12(10) and (11);
- “senior officer” means—
- (a) where the examining officer is a constable, another constable of at least the rank of superintendent,
  - (b) where the examining officer is an immigration officer, an immigration officer of a higher grade than the examining officer, and
  - (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.

#### Commencement Information

**I63** Sch. 3 para. 20 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I64** Sch. 3 para. 20 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 21 (1) If a senior officer grants an authorisation under paragraph 20, the examining officer who applied for the authorisation must inform the Investigatory Powers Commissioner and each affected party of its grant.
- (2) The information required under sub-paragraph (1) must be given as soon as reasonably practicable and in any event within 24 hours after the grant of the authorisation.
- (3) An affected party may make representations to the Commissioner about how the Commissioner should proceed under paragraph 22 in respect of an authorisation granted under paragraph 20.
- (4) Representations under sub-paragraph (3) must be made in writing no later than the end of two working days beginning with the first working day after the day on which the authorisation is granted.
- (5) The information provided under sub-paragraph (1) must include an explanation of the right to make representations in writing and the time by which they must be made.
- (6) The Commissioner must have regard to any representations made before the end of the time mentioned in sub-paragraph (4) in determining how to proceed under paragraph 22.
- (7) The requirement under this paragraph to provide information to the person from whom an article was taken from which the copy was made applies only so far as it is reasonably practicable to do so.
- (8) In this paragraph and paragraph 22—
- “affected party” has the meaning given by paragraph 19(3);
- “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the authorisation is granted.

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#### Commencement Information

**I65** Sch. 3 para. 21 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I66** Sch. 3 para. 21 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 22 (1) This paragraph applies after the Investigatory Powers Commissioner has considered any representations made about an authorisation in accordance with paragraph 21.
- (2) The Commissioner must—
- (a) approve the grant of the authorisation, or
  - (b) cancel the authorisation.
- (3) A decision under sub-paragraph (2) must be made—
- (a) after the end of the period for making representations referred to in paragraph 21(4), and
  - (b) before the end of three working days beginning with the first working day after the day on which the authorisation is granted.
- (4) If the decision under sub-paragraph (2) is to approve the grant of the authorisation, the retention and use of the copy may continue in accordance with the conditions on which the authorisation was granted (subject to any further conditions or variation of the existing conditions that the Commissioner specifies).
- (5) If the decision under sub-paragraph (2) is to cancel the authorisation, any further use of the copy must stop as soon as possible.
- (6) If the Commissioner cancels the authorisation the Commissioner may direct that—
- (a) the copy is destroyed, and
  - (b) all reasonable steps are taken to secure that any information derived from the copy is also destroyed.
- (7) Sub-paragraphs (5) and (6) do not apply if the copy is further retained under a power conferred by paragraph 17(3)(b) or (c).
- (8) The Commissioner must inform each affected party of the Commissioner's decision under sub-paragraph (2).
- (9) The requirement under this paragraph to provide information to the person from whom the article was taken from which the copy was made applies only so far as it is reasonably practicable to do so.
- (10) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, exercises a function under this paragraph in relation to a copy, an affected party may ask the Investigatory Powers Commissioner to decide whether to approve the way in which the function was exercised.
- (11) Nothing in this paragraph affects the lawfulness of—
- (a) anything done under an authorisation before it cancelled;
  - (b) if anything is in the process of being done under an authorisation when it is cancelled—
    - (i) anything done before that thing could be stopped, or
    - (ii) anything done which it is not reasonably practicable to stop.

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#### Commencement Information

**I67** Sch. 3 para. 22 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I68** Sch. 3 para. 22 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### Offences

- 23 (1) A person commits an offence if the person—
- (a) wilfully fails to comply with a duty imposed under or by virtue of this Part of this Schedule, or
  - (b) wilfully obstructs, or seeks to frustrate, a search or examination under or by virtue of this Part of this Schedule.
- (2) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 4 on the standard scale, or to both;
  - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (3) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in sub-paragraph (2)(a) to 51 weeks is to be read as a reference to 3 months.
- (4) Proceedings for an offence under this paragraph are not to be started—
- (a) in England and Wales, except with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except with the consent of the Director of Public Prosecutions for Northern Ireland.
- (5) But if it appears to the Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland that an offence under this paragraph has been committed for a purpose wholly or partly connected with the affairs of a country other than the United Kingdom, consent may be given for the purposes of this paragraph only with the permission—
- (a) in the case of the Director of Public Prosecutions, of the Attorney General, and
  - (b) in the case of the Director of Public Prosecutions for Northern Ireland, of the Advocate General for Northern Ireland.

#### Commencement Information

**I69** Sch. 3 para. 23 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I70** Sch. 3 para. 23 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

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### *Exercise of powers*

- 24 The powers conferred by this Part of this Schedule are exercisable in spite of the rights conferred by section 1 of the Immigration Act 1971 (general principles regulating entry into and staying in the United Kingdom).

#### **Commencement Information**

- I71** Sch. 3 para. 24 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)  
**I72** Sch. 3 para. 24 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

## **PART 2**

### **DETENTION**

#### *Place of detention*

- 25 (1) A detainee may be detained at a place designated under paragraph 1(1) of Schedule 8 to the Terrorism Act 2000 as a place where persons may be detained under Schedule 7 to that Act.
- (2) A detainee may be taken in the custody of an examining officer or of a person acting under an examining officer's authority to and from any place where the detainee's attendance is required for the purpose of—
- (a) the detainee's examination under Part 1 of this Schedule,
  - (b) establishing the detainee's nationality or citizenship, or
  - (c) making arrangements for the detainee's admission to a country or territory outside the United Kingdom.
- (3) Where a detainee is arrested in one part of the United Kingdom and all or part of the detainee's detention takes place in another part, the provisions of this Part of this Schedule which apply to detention in a particular part of the United Kingdom apply in relation to the detainee while detained in that part.
- (4) In this Part of this Schedule—
- (a) references to a police station include references to any place that is designated as mentioned in sub-paragraph (1);
  - (b) “detainee” means a person detained under Part 1 of this Schedule.

#### **Commencement Information**

- I73** Sch. 3 para. 25 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)  
**I74** Sch. 3 para. 25 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

#### *Identification*

- 26 (1) An examining officer may take any steps which are reasonably necessary for—
- (a) photographing the detainee,
  - (b) measuring the detainee, or
  - (c) identifying the detainee.

*Status: Point in time view as at 01/06/2021. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

- (2) This paragraph does not confer the power to take—
- (a) fingerprints, non-intimate samples or intimate samples (see instead paragraph 34 below for power to take fingerprints and non-intimate samples), or
  - (b) relevant physical data or samples as mentioned in section 18 of the Criminal Procedure (Scotland) Act 1995 as applied by paragraph 42 below (see instead that paragraph).

#### Commencement Information

**I75** Sch. 3 para. 26 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I76** Sch. 3 para. 26 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Video recording of interviews*

- 27 (1) This paragraph applies to any interview by a constable of a detainee that takes place in a police station.
- (2) The video recording (with sound) of interviews to which this paragraph applies must be carried out in accordance with any relevant code of practice under Part 4 of this Schedule.

#### Commencement Information

**I77** Sch. 3 para. 27 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I78** Sch. 3 para. 27 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Status*

- 28 A detainee is to be deemed to be in legal custody throughout the period of the detainee's detention.

#### Commencement Information

**I79** Sch. 3 para. 28 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I80** Sch. 3 para. 28 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Rights: England, Wales and Northern Ireland*

- 29 (1) Subject to paragraph 32, a detainee who is detained at a place in England, Wales or Northern Ireland is entitled, if the detainee so requests, to have one named person informed as soon as is reasonably practicable that the detainee is being detained there.
- (2) The person named must be—
- (a) a friend of the detainee,
  - (b) a relative, or
  - (c) a person who is known to the detainee or who is likely to take an interest in the detainee's welfare.



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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

- (3) Where a detainee is transferred from one place to another, the detainee is to be entitled to exercise the right under this paragraph in respect of the place to which the detainee is transferred.
- (4) A detainee must be informed of the right under this paragraph on first being detained.

#### Commencement Information

**I81** Sch. 3 para. 29 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I82** Sch. 3 para. 29 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 30 (1) Subject to paragraphs 32 and 33, a detainee who is detained in England, Wales or Northern Ireland is entitled, if the detainee so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time.
- (2) Where a request is made under sub-paragraph (1), the request and the time at which it was made must be recorded.
- (3) A detainee must be informed of the right under this paragraph on first being detained.

#### Commencement Information

**I83** Sch. 3 para. 30 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I84** Sch. 3 para. 30 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 31 (1) This paragraph applies where a detainee makes a request to consult a solicitor.
- (2) The examining officer may not question the detainee under paragraph 1 or 2 until the detainee has consulted a solicitor (or no longer wishes to do so).
- (3) Sub-paragraph (2) does not apply if the examining officer reasonably believes that postponing the questioning until then would be likely to prejudice determination of the relevant matters.
- (4) The powers conferred by paragraph 8 (search powers where a person is questioned under paragraph 1) may be used when questioning is postponed because of sub-paragraph (2).
- (5) The detainee is entitled to consult a solicitor in person.
- (6) Sub-paragraph (5) does not apply if the examining officer reasonably believes that the time it would take to consult a solicitor in person would be likely to prejudice determination of the relevant matters.
- (7) In that case the examining officer may require any consultation to take place in another way.
- (8) In this paragraph “the relevant matters” means the matters the examining officer seeks to determine under paragraph 1 or 2.

#### Commencement Information

**I85** Sch. 3 para. 31 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I86** Sch. 3 para. 31 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

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- 32 (1) A police officer of at least the rank of superintendent may authorise a delay—
- (a) in informing the person named by a detainee under paragraph 29;
  - (b) in permitting a detainee to consult a solicitor under paragraph 30.
- (2) An officer may give an authorisation under sub-paragraph (1) only if the officer has reasonable grounds for believing—
- (a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detainee's detention will have any of the consequences specified in sub-paragraph (3), or
  - (b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 30 at the time when the detainee desires to exercise it will have any of the consequences specified in sub-paragraph (3).
- (3) Those consequences are—
- (a) interference with or harm to evidence of an indictable offence,
  - (b) interference with or physical injury to any person,
  - (c) the alerting of persons who are suspected of having committed an indictable offence but who have not been arrested for it,
  - (d) the hindering of the recovery of property obtained as a result of an indictable offence, or
  - (e) interference with the gathering of information about the commission, preparation or instigation of acts carried out in connection with a person's engagement in hostile activity.
- (4) If an authorisation under sub-paragraph (1) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.
- (5) Where an authorisation under sub-paragraph (1) is given—
- (a) the detainee is to be told the reason for the delay as soon as is reasonably practicable, and
  - (b) the reason is to be recorded as soon as is reasonably practicable.
- (6) Where the reason for authorising delay ceases to subsist there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).

#### Commencement Information

**I87** Sch. 3 para. 32 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I88** Sch. 3 para. 32 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), reg. 2(g)

- 33 (1) This paragraph applies where a detainee exercises the right under paragraph 30 to consult a solicitor.
- (2) A police officer of at least the rank of superintendent may direct that the right—
- (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
  - (b) may instead be exercised by consulting a different solicitor of the detainee's choosing.

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- (3) A direction under this paragraph may be given before or after a detainee's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).
- (4) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing—
  - (a) that, unless the direction is given, the exercise of the right by the detainee will have any of the consequences specified in paragraph 32(3), or
  - (b) that the detainee has benefited from the detainee's criminal conduct and that, unless the direction is given, the exercise of the right by the detainee will hinder the recovery of the value of the property constituting the benefit.
- (5) For the purposes of sub-paragraph (4) the question whether a person has benefited from the person's criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.

#### Commencement Information

**I89** Sch. 3 para. 33 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I90** Sch. 3 para. 33 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

#### *Fingerprints and samples: England, Wales and Northern Ireland*

- 34
- (1) This paragraph applies where a detainee is detained in England, Wales or Northern Ireland.
  - (2) Fingerprints may be taken from the detainee only if they are taken by a constable—
    - (a) with the appropriate consent given in writing, or
    - (b) without that consent under sub-paragraph (4).
  - (3) A non-intimate sample may be taken from the detainee only if it is taken by a constable—
    - (a) with the appropriate consent given in writing, or
    - (b) without that consent under sub-paragraph (4).
  - (4) Fingerprints or a non-intimate sample may be taken from the detainee without the appropriate consent only if—
    - (a) the detainee is detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken, or
    - (b) the detainee has been convicted of a recordable offence and, where a non-intimate sample is to be taken, was convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland).
  - (5) An officer may give an authorisation under sub-paragraph (4)(a) only if—
    - (a) in the case of the taking of fingerprints or samples, condition 1 is met, or
    - (b) in the case of the taking of fingerprints, condition 2 is met.
  - (6) Condition 1 is met if the officer is satisfied that it is necessary for the fingerprints or sample to be taken in order to assist in determining whether the detainee is or has been engaged in hostile activity.

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- (7) Condition 2 is met if—
- (a) the officer is satisfied that the fingerprints of the detainee will facilitate the ascertainment of the detainee's identity, and
  - (b) the detainee has refused to identify himself or herself or the officer has reasonable grounds for suspecting that the detainee is not who the detainee claims to be.
- (8) In this paragraph references to ascertaining a person's identity include references to showing that the person is not a particular person.
- (9) If an authorisation under sub-paragraph (4)(a) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.

#### Commencement Information

**I91** Sch. 3 para. 34 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I92** Sch. 3 para. 34 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 35 (1) Before fingerprints or a sample are taken from a person under paragraph 34, the person must be informed—
- (a) that the fingerprints or sample may be used for the purposes of—
    - (i) a relevant search, as defined by paragraph 43(6),
    - (ii) section 63A(1) of the Police and Criminal Evidence Act 1984, or
    - (iii) Article 63A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)), and
  - (b) where the fingerprints or sample are to be taken under paragraph 34(2)(a), (3)(a) or (4)(b), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a detainee upon an authorisation given under paragraph 34(4)(a), the detainee must be informed—
- (a) that the authorisation has been given,
  - (b) of the grounds upon which it has been given, and
  - (c) where relevant, of the nature of the offence in which it is suspected that the detainee has been involved.
- (3) After fingerprints or a sample are taken under paragraph 34, any of the following which apply must be recorded as soon as reasonably practicable—
- (a) the fact that the person has been informed in accordance with sub-paragraphs (1) and (2),
  - (b) the reason referred to in sub-paragraph (1)(b),
  - (c) the authorisation given under paragraph 34(4)(a),
  - (d) the grounds upon which that authorisation has been given, and
  - (e) the fact that the appropriate consent has been given.
- (4) Where a sample of hair is to be taken under paragraph 34, the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

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#### Commencement Information

**193** Sch. 3 para. 35 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**194** Sch. 3 para. 35 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 36 (1) In the application of paragraphs 26, 34 and 35 in relation to a person detained in England or Wales, the following expressions have the meaning given by section 65 of the Police and Criminal Evidence Act 1984—
- (a) “appropriate consent”,
  - (b) “fingerprints”,
  - (c) “intimate sample”,
  - (d) “non-intimate sample”, and
  - (e) “sufficient”.
- (2) In the application of section 65(2A) of the Police and Criminal Evidence Act 1984 for the purposes of sub-paragraph (1) of this paragraph, the reference to the destruction of a sample under section 63R of that Act is a reference to the destruction of a sample under paragraph 43 of this Schedule.
- (3) In the application of paragraphs 26, 34 and 35 in relation to a person detained in Northern Ireland, the expressions listed in sub-paragraph (1) have the meaning given by Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (4) In paragraph 34 “recordable offence” has—
- (a) in relation to a detainee in England or Wales, the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
  - (b) in relation to a detainee in Northern Ireland, the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

#### Commencement Information

**195** Sch. 3 para. 36 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**196** Sch. 3 para. 36 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Rights: Scotland*

- 37 (1) A detainee who is detained at a place in Scotland is entitled to have intimation of the detention and of the place sent without delay to a solicitor and to another person named by the detainee.
- (2) The person named must be—
- (a) a friend of the detainee,
  - (b) a relative, or
  - (c) a person who is known to the detainee or who is likely to take an interest in the detainee's welfare.
- (3) A detainee who is transferred from one place to another is entitled to exercise the right under sub-paragraph (1) in respect of the place to which the detainee is transferred.

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- (4) A police officer not below the rank of superintendent may authorise a delay in making intimation where, in the officer's view, the delay is necessary on one of the grounds mentioned in paragraph 39(4) or where paragraph 39(5) applies.
- (5) Where a detainee requests that the intimation be made, the time when the request—
  - (a) is made, and
  - (b) is complied with,
 must be recorded.
- (6) A person detained as mentioned in sub-paragraph (1) is entitled to consult a solicitor at any time, without delay.
- (7) A police officer not below the rank of superintendent may authorise a delay in holding the consultation where, in the officer's view, the delay is necessary on one of the grounds mentioned in paragraph 39(4) or where paragraph 39(5) applies.
- (8) The consultation must be held in private.
- (9) A detainee must be informed of the rights under sub-paragraphs (1) and (6) on first being detained.

#### Commencement Information

**I97** Sch. 3 para. 37 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I98** Sch. 3 para. 37 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 38
- (1) This paragraph applies where a detainee in Scotland requests to consult a solicitor.
  - (2) The examining officer may not question the detainee under paragraph 1 or 2 until the person has consulted a solicitor (or no longer wishes to do so).
  - (3) Sub-paragraph (2) does not apply if the examining officer reasonably believes that postponing the questioning until then would be likely to prejudice determination of the relevant matters.
  - (4) The powers given by paragraph 8 (search powers where a person is questioned under paragraph 1) may be used when questioning is postponed because of sub-paragraph (2).
  - (5) The detainee is entitled to consult a solicitor in person.
  - (6) Sub-paragraph (5) does not apply if the examining officer reasonably believes that the time it would take to consult a solicitor in person would be likely to prejudice determination of the relevant matters.
  - (7) In that case the examining officer may require any consultation to take place in another way.
  - (8) In this paragraph “the relevant matters” means the matters the examining officer seeks to determine under paragraph 1 or 2.

#### Commencement Information

**I99** Sch. 3 para. 38 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

**I100** Sch. 3 para. 38 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 39 (1) Sub-paragraph (2) applies where a detainee exercises the right under paragraph 37(6) to consult a solicitor.
- (2) A police officer not below the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in sub-paragraph (4), direct that the right—
- (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
  - (b) may instead be exercised by consulting a different solicitor of the detainee's choosing.
- (3) A direction under this paragraph may be given before or after a detainee's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).
- (4) The grounds mentioned in paragraph 37(4) and (7) and in sub-paragraph (2) are—
- (a) that it is in the interests of the investigation or prevention of crime;
  - (b) that it is in the interests of the apprehension, prosecution or conviction of offenders;
  - (c) that it will further the recovery of property obtained as a result of the commission of an offence;
  - (d) that it will further the operation of Part 2 or 3 of the Proceeds of Crime Act 2002 or the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)) (confiscation of the proceeds of an offence);
  - (e) that it will further the gathering of information about the commission, preparation or instigation of acts carried out in connection with a person's engagement in hostile activity.
- (5) This sub-paragraph applies where an officer mentioned in paragraph 37(4) or (7) has reasonable grounds for believing that—
- (a) the detainee has benefited from the detainee's criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by—
    - (i) informing the named person of the detainee's detention (in the case of an authorisation under paragraph 37(4)), or
    - (ii) the exercise of the entitlement under paragraph 37(6) (in the case of an authorisation under paragraph 37(7)).
- (6) For the purposes of sub-paragraph (5) the question whether a person has benefited from the person's criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.
- (7) Where delay is authorised in the exercising of any of the rights mentioned in paragraph 37(1) and (6)—
- (a) if the authorisation is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable,
  - (b) the detainee must be told the reason for the delay as soon as is reasonably practicable, and
  - (c) the reason must be recorded as soon as is reasonably practicable.

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#### Commencement Information

**I101** Sch. 3 para. 39 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I102** Sch. 3 para. 39 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 40 (1) Paragraphs 37 to 39 have effect in relation to a detainee in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.
- (2) But where the detainee appears to a constable to be a child—
- (a) the other person named by the detainee in pursuance of paragraph 37(1) must be the detainee's parent,
  - (b) intimation is to be made under paragraph 37(1) whether the detainee requests that it be made or not, and
  - (c) section 40 of the Criminal Justice (Scotland) Act 2016 (right of under 18s to have access to other person) applies as if the detainee were a person in police custody for the purposes of that section.
- (3) In relation to a detainee who is detained at a place other than a police station, sub-paragraph (2) applies as if references to a constable included an examining officer.
- (4) For the purposes of sub-paragraph (2)—
- “child” means a person under 16 years of age;
- “parent” includes guardian and any person who has the care of the child.

#### Commencement Information

**I103** Sch. 3 para. 40 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I104** Sch. 3 para. 40 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 41 (1) Subject to sub-paragraph (2), where a detainee is permitted to consult a solicitor, the solicitor is to be allowed to be present at any interview carried out in connection with an investigation carried out for the purposes of Part 1 of this Schedule.
- (2) A police officer not below the rank of Assistant Chief Constable may direct that the solicitor is not to be allowed to be present at an interview (or part of an interview) if the officer is satisfied that the solicitor's behaviour during the interview would interfere with, or obstruct, the conduct of the interview.

#### Commencement Information

**I105** Sch. 3 para. 41 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I106** Sch. 3 para. 41 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### *Fingerprints and samples: Scotland*

- 42 (1) Subject to the following modification, section 18 of the Criminal Procedure (Scotland) Act 1995 (procedure for taking certain prints and samples) applies to a detainee detained at a police station in Scotland under Part 1 of this Schedule as it applies to a person arrested.
- (2) The modification is that section 18 applies as if—



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- (a) for subsection (2) of that section the following were substituted—
- “(2) Subject to subsection (2A), a constable may take from a detained person or require a detained person to provide relevant physical data only if the officer is satisfied that it is necessary to do so in order to assist in determining whether that person is or has been engaged in hostile activity.
- (2A) A constable may also take fingerprints from a detained person or require the person to provide them if—
- (a) the constable is satisfied that the fingerprints will facilitate the ascertainment of the person's identity; and
- (b) the person has refused to identify himself or herself or the constable has reasonable grounds for suspecting that the person is not who the person claims to be.”;
- (b) subsections (3) to (5) were omitted;
- (c) after subsection (8) there were inserted—
- “(9) In this section—
- (a) references to a “detained person” are references to a person detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019;
- (b) the reference to engagement in hostile activity is to be read in accordance with paragraph 1 of that Schedule.”

**Commencement Information**

**I107** Sch. 3 para. 42 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I108** Sch. 3 para. 42 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

*Destruction and retention of fingerprints and samples etc: United Kingdom*

- 43 (1) This paragraph applies to—
- (a) fingerprints taken under paragraph 34,
- (b) a DNA profile derived from a DNA sample taken under paragraph 34,
- (c) relevant physical data taken or provided by virtue of paragraph 42, and
- (d) a DNA profile derived from a DNA sample taken by virtue of paragraph 42.
- (2) Fingerprints, relevant physical data and DNA profiles to which this paragraph applies (“paragraph 43 material”) must be destroyed if it appears to the responsible chief officer of police that the taking or providing of the material or, in the case of a DNA profile, the taking of the sample from which the DNA profile was derived, was unlawful.
- (3) In any other case, paragraph 43 material must be destroyed unless it is retained under a power conferred by paragraph 44, 46 or 47.
- (4) Paragraph 43 material which ceases to be retained under a power mentioned in subparagraph (3) may continue to be retained under any other power which applies to it.
- (5) Nothing in this paragraph prevents a relevant search, in relation to paragraph 43 material, from being carried out within such time as may reasonably be required

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for the search if the responsible chief officer of police considers the search to be desirable.

- (6) For the purposes of sub-paragraph (5), “a relevant search” is a search carried out for the purpose of checking the material against—
- (a) other fingerprints or samples taken under paragraph 34 or a DNA profile derived from such a sample,
  - (b) any of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995,
  - (c) fingerprints or samples taken under paragraph 10 or 12 of Schedule 8 to the Terrorism Act 2000 or a DNA profile derived from a sample taken under one of those paragraphs,
  - (d) any of the relevant physical data, samples or information held by virtue of section 56 of the Criminal Justice (Scotland) Act 2003,
  - (e) material to which section 18 of the Counter-Terrorism Act 2008 applies,
  - (f) any of the fingerprints, data or samples obtained under paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or information derived from such samples,
  - (g) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), and
  - (h) any of the fingerprints, samples and information mentioned in Article 63A(1)(a) and (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (checking of fingerprints and samples).

#### Commencement Information

**I109** Sch. 3 para. 43 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I110** Sch. 3 para. 43 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 44 (1) Paragraph 43 material may be retained indefinitely in the case of a detainee who—
- (a) 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
  - (b) is so convicted before the end of the period within which the material may be retained by virtue of this paragraph.
- (2) In sub-paragraph (1)—
- (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 (1) 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

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done there (and, in the application of sub-paragraph (1) 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 6 months 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 6 months 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).

#### Commencement Information

**I111** Sch. 3 para. 44 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I112** Sch. 3 para. 44 in force at 13.8.2020 in so far as not already in force except in relation to N.I. by [S.I. 2020/792](#), [reg. 2\(g\)](#)

**I113** Sch. 3 para. 44 in force at 1.6.2021 for N.I. by [S.I. 2021/622](#), [reg. 2\(b\)](#)

- 45 (1) For the purposes of paragraph 44, a person is to be treated as having been convicted of an offence if—
- (a) in relation to a recordable offence in England and Wales or Northern Ireland—
    - (i) the person has been given a caution in respect of the offence which, at the time of the caution, the person has admitted,
    - (ii) the person has been found not guilty of the offence by reason of insanity,
    - (iii) the person has been found to be under a disability and to have done the act charged in respect of the offence, or
    - (iv) the person has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence,
  - (b) in relation to an offence in Scotland punishable by imprisonment, the person has accepted or has been deemed to accept—
    - (i) a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995,
    - (ii) a compensation offer under section 302A of that Act,
    - (iii) a combined offer under section 302B of that Act, or
    - (iv) a work offer under section 303ZA of that Act,
  - (c) in relation to an offence in Scotland punishable by imprisonment, the person has been acquitted on account of the person's insanity at the time of the offence or (as the case may be) by virtue of section 51A of the Criminal Procedure (Scotland) Act 1995,
  - (d) a finding in respect of the person has been made under section 55(2) of the Criminal Procedure (Scotland) Act 1995 in relation to an offence in Scotland punishable by imprisonment,

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- (e) the person, having been given a fixed penalty notice under section 129(1) of the Antisocial Behaviour etc (Scotland) Act 2004 in connection with an offence in Scotland punishable by imprisonment, has paid—
    - (i) the fixed penalty, or
    - (ii) (as the case may be) the sum which the person is liable to pay by virtue of section 131(5) of that Act, or
  - (f) in relation to an offence in Scotland punishable by imprisonment, the person has been discharged absolutely by order under section 246(3) of the Criminal Procedure (Scotland) Act 1995.
- (2) Paragraph 44 and this paragraph, so far as they relate to persons convicted of an offence, have effect despite anything in the Rehabilitation of Offenders Act 1974.
- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 or 101A of the Protection of Freedoms Act 2012.
- (4) For the purposes of paragraph 44—
- (a) a person has no previous convictions if the person has not previously been convicted—
    - (i) in England and Wales or Northern Ireland of a recordable offence, or
    - (ii) in Scotland of an offence which is punishable by imprisonment, and
  - (b) if the person has previously been convicted of a recordable offence in England and Wales or Northern Ireland, the conviction is exempt if it is in respect of a recordable offence, other than a qualifying offence, committed when the person was aged under 18.
- (5) In sub-paragraph (4) “qualifying offence” has—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, the meaning given by section 65A of the Police and Criminal Evidence Act 1984, and
  - (b) in relation to a conviction in respect of a recordable offence committed in Northern Ireland, the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (6) 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—

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- (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 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).
- (7) For the purposes of paragraph 44 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.
- (8) If a person is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purposes of calculating under paragraph 44 whether the person has been convicted of only one offence.
- (9) Nothing in paragraph 44 prevents the start of a new retention period in relation to paragraph 43 material if a person is detained again under Part 1 of this Schedule when an existing retention period (whether or not extended) is still in force in relation to that material.

#### Commencement Information

**I114** Sch. 3 para. 45 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I115** Sch. 3 para. 45 in force at 13.8.2020 in so far as not already in force except in relation to N.I. by [S.I. 2020/792](#), [reg. 2\(g\)](#)

**I116** Sch. 3 para. 45 in force at 1.6.2021 for N.I. by [S.I. 2021/622](#), [reg. 2\(b\)](#)

- 46
- (1) Paragraph 43 material may be retained for as long as a national security determination made by a chief officer of police has effect in relation to it.
  - (2) A national security determination is made if a chief officer of police determines that it is necessary for any paragraph 43 material to be retained for the purposes of national security.
  - (3) A national security determination—
    - (a) must be made in writing,

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- (b) has effect for a maximum of 5 years beginning with the date on which the determination is made, and
  - (c) may be renewed.
- (4) In this paragraph “chief officer of police” means—
- (a) a chief officer of police of a police force in England and Wales,
  - (b) the chief constable of the Police Service of Scotland, or
  - (c) the Chief Constable of the Police Service of Northern Ireland.

#### Commencement Information

**II17** Sch. 3 para. 46 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**II18** Sch. 3 para. 46 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 47 (1) This paragraph applies where paragraph 43 material is or includes a person's fingerprints (“the original fingerprints”).
- (2) A constable may make a determination under this paragraph in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if conditions 1 and 2 are met.
- (3) Condition 1 is met if the further fingerprints—
- (a) are paragraph 43 material,
  - (b) are taken or provided under or by virtue of—
    - (i) Part 5 of the Police and Criminal Evidence Act 1984,
    - (ii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
    - (iii) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
    - (iv) paragraph 10 of Schedule 8 to the Terrorism Act 2000, or
    - (v) paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
  - (c) are material to which section 18 of the Counter-Terrorism Act 2008 applies.
- (4) Condition 2 is met if—
- (a) in a case where the further fingerprints are material to which section 18 of the Counter-Terrorism Act 2008 applies, the original fingerprints and the further fingerprints are held under the law of the same part of the United Kingdom;
  - (b) in any other case, the original fingerprints and the further fingerprints were taken from or provided by the person in the same part of the United Kingdom.
- (5) Where a determination under this paragraph is made in respect of the further fingerprints—
- (a) the further fingerprints may be retained for as long as the original fingerprints are retained under any power conferred by paragraph 44 or 46, and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).
- (6) Sub-paragraph (5)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.

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(7) A written record must be made of a determination under this paragraph.

**Commencement Information**

**I119** Sch. 3 para. 47 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I120** Sch. 3 para. 47 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 48 (1) If fingerprints or relevant physical data are required by paragraph 43 to be destroyed, any copies of the fingerprints or relevant physical data held by a police force must also be destroyed.
- (2) If a DNA profile is required by that paragraph to be destroyed, no copy may be retained by a police force except in a form which does not include information which identifies the person to whom the DNA profile relates.

**Commencement Information**

**I121** Sch. 3 para. 48 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I122** Sch. 3 para. 48 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 49 (1) This paragraph applies to—
- (a) samples taken under paragraph 34, or
  - (b) samples taken by virtue of paragraph 42.
- (2) Samples to which this paragraph applies must be destroyed if it appears to the responsible chief officer of police that the taking of the sample was unlawful.
- (3) Subject to this, the rule in sub-paragraph (4) or (as the case may be) (5) applies.
- (4) A DNA sample to which this paragraph applies must be destroyed—
- (a) as soon as a DNA profile has been derived from the sample, or
  - (b) if sooner, before the end of the period of 6 months beginning with the date on which the sample was taken.
- (5) Any other sample to which this paragraph applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
- (6) Nothing in this paragraph prevents a relevant search, in relation to samples to which this paragraph applies, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.
- (7) In this paragraph “a relevant search” has the meaning given by paragraph 43(6).

**Commencement Information**

**I123** Sch. 3 para. 49 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I124** Sch. 3 para. 49 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 50 (1) Any material to which paragraph 43 or 49 applies must not be used other than—
- (a) in the interests of national security,

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- (b) for the purposes of a terrorist investigation, as defined by section 32 of the Terrorism Act 2000,
  - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
  - (d) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Subject to sub-paragraph (1), a relevant search (within the meaning given by paragraph 43(6)) may be carried out in relation to material to which paragraph 43 or 49 applies if the responsible chief officer of police considers the search to be desirable.
- (3) Material which is required by paragraph 43 or 49 to be destroyed must not at any time after it is required to be destroyed be used—
- (a) in evidence against the person to whom the material relates, or
  - (b) for the purposes of the investigation of any offence.
- (4) In this paragraph—
- (a) the reference to using material includes a reference to allowing any check to be made against it and to disclosing it to any person;
  - (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.
- (5) Sub-paragraphs (1), (2) and (4) do not form part of the law of Scotland.

#### Commencement Information

**I125** Sch. 3 para. 50 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I126** Sch. 3 para. 50 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 51 In paragraphs 43 to 50—
- “DNA profile” means any information derived from a DNA sample;
  - “DNA sample” means any material that has come from a human body and consists of or includes human cells;
  - “fingerprints” has the meaning given by section 65(1) of the Police and Criminal Evidence Act 1984;
  - “paragraph 43 material” has the meaning given by paragraph 43(2);
  - “police force” means any of the following—
- (a) the metropolitan police force;
  - (b) a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
  - (c) the City of London police force;
  - (d) the Police Service of Scotland;
  - (e) the Scottish Police Authority;
  - (f) the Police Service of Northern Ireland;
  - (g) the Police Service of Northern Ireland Reserve;
  - (h) the Ministry of Defence Police;
  - (i) the Royal Navy Police;



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- (j) the Royal Military Police;
  - (k) the Royal Air Force Police;
  - (l) the British Transport Police;
- “recordable offence” has—
- (a) in relation to a conviction in England and Wales, the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
  - (b) in relation to a conviction in Northern Ireland, the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
- “relevant physical data” has the meaning given by section 18(7A) of the Criminal Procedure (Scotland) Act 1995;
- “responsible chief officer of police” means, in relation to fingerprints or samples taken in England or Wales, or a DNA profile derived from a sample so taken, the chief officer of police for the police area—
- (a) in which the material concerned was taken, or
  - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken;
- “responsible chief officer of police” means, in relation to relevant physical data or samples taken or provided in Scotland, or a DNA profile derived from a sample so taken or provided, the chief constable of the Police Service of Scotland;
- “responsible chief officer of police” means, in relation to fingerprints or samples taken in Northern Ireland, or a DNA profile derived from a sample so taken, the Chief Constable of the Police Service of Northern Ireland.

#### Commencement Information

**1127** Sch. 3 para. 51 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**1128** Sch. 3 para. 51 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

### PART 3

#### REVIEW OF DETENTION

##### *General requirements*

- 52 (1) The detention of a person (“the detainee”) under Part 1 of this Schedule must be periodically reviewed by a review officer.
- (2) The first review must be carried out before the end of the period of one hour beginning with the detainee's detention under that Part.
- (3) Subsequent reviews must be carried out at intervals of not more than two hours.
- (4) The review officer may authorise a detainee's continued detention under Part 1 of this Schedule only if satisfied that it is necessary for the purposes of exercising a power under paragraph 1 or 2.

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- (5) If on a review under this paragraph the review officer does not authorise a detainee's continued detention, the detainee must be released (unless detained under another power).
- (6) In this Part of this Schedule “review officer” means a senior officer who has not been directly involved in questioning the detainee under paragraph 1 or 2.
- (7) “Senior officer” means—
- (a) where the examining officer is a constable, a constable of a higher rank than the examining officer,
  - (b) where the examining officer is an immigration officer, an immigration officer of a higher grade than the examining officer, and
  - (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.

#### Commencement Information

**I129** Sch. 3 para. 52 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I130** Sch. 3 para. 52 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### Representations

- 53 (1) Before determining whether to authorise a detainee's continued detention, a review officer must give either of the following persons an opportunity to make representations about the detention—
- (a) the detainee, or
  - (b) a solicitor representing the detainee who is available at the time of the review.
- (2) Representations may be oral or written.
- (3) A review officer may refuse to hear oral representations from the detainee if the officer considers that the detainee is unfit to make representations because of the detainee's condition or behaviour.

#### Commencement Information

**I131** Sch. 3 para. 53 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I132** Sch. 3 para. 53 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### Rights

- 54 (1) Where a review officer authorises continued detention the officer must inform the detainee—
- (a) of any of the detainee's rights under paragraph 29 or 30 (in the case of a detainee in England, Wales or Northern Ireland), or paragraph 37 (in the case of a detainee in Scotland), which have not yet been exercised, and
  - (b) if the exercise of any of those rights is being delayed in accordance with the provisions of paragraph 31 or 37, of the fact that it is being delayed.
- (2) Where a review of a detainee's detention is being carried out at a time when the detainee's exercise of a right under paragraph 29 or 30 (in the case of a detainee in

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England, Wales or Northern Ireland), or paragraph 37 (in the case of a detainee in Scotland), is being delayed—

- (a) the review officer must consider whether the reason or reasons for which the delay was authorised continue to subsist, and
- (b) if in the review officer's opinion the reason or reasons have ceased to subsist, the review officer must inform the officer who authorised the delay of that opinion (unless the review officer was that officer).

#### Commencement Information

**I133** Sch. 3 para. 54 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I134** Sch. 3 para. 54 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

#### Record

- 55 (1) A review officer carrying out a review must make a written record of the outcome of the review and of any of the following which apply—
- (a) the fact that the officer is satisfied that continued detention is necessary for the purposes of exercising a power under paragraph 1 or 2,
  - (b) the fact that the detainee has been informed as required under paragraph 54(1),
  - (c) the officer's conclusion on the matter considered under paragraph 54(2)(a), and
  - (d) the fact that the officer has taken action under paragraph 54(2)(b).
- (2) The review officer must inform the detainee whether the officer is authorising continued detention, and if so that the officer is satisfied that continued detention is necessary for the purposes of exercising a power under paragraph 1 or 2.
- (3) Sub-paragraph (2) does not apply where the detainee is—
- (a) incapable of understanding what is said,
  - (b) violent or likely to become violent, or
  - (c) in urgent need of medical attention.

#### Commencement Information

**I135** Sch. 3 para. 55 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I136** Sch. 3 para. 55 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

## PART 4

### CODES OF PRACTICE

- 56 (1) The Secretary of State must issue codes of practice about—
- (a) training to be undertaken by constables, immigration officers and customs officers who are to act as examining officers or exercise other functions under this Schedule,
  - (b) the exercise by such persons of functions conferred on them by virtue of this Schedule,

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- (c) the video recording (with sound) of interviews by constables of persons detained under Part 1 of this Schedule at a police station, and
  - (d) reviews under Part 3 of this Schedule.
- (2) An examining officer must perform the functions conferred by virtue of this Schedule in accordance with any relevant code of practice in operation under sub-paragraph (1)(b).
- (3) A code of the kind mentioned in sub-paragraph (1)(c)—
- (a) may make different provision in relation to a particular part of the United Kingdom;
  - (b) may make different provision for different parts of the United Kingdom.
- (4) A code of the kind mentioned in sub-paragraph (1)(d) must include provision about training to be undertaken by persons who are to act as review officers.
- (5) The failure of an examining officer to observe a provision of a code does not of itself make the officer liable to criminal or civil proceedings.
- (6) A code—
- (a) is admissible in evidence in criminal and civil proceedings, and
  - (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- (7) The Secretary of State may revise a code and issue the revised code.

#### Commencement Information

**1137** Sch. 3 para. 56 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**1138** Sch. 3 para. 56 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), reg. 2(g)

- 57 (1) Before issuing a code under paragraph 56 the Secretary of State must—
- (a) publish a draft code,
  - (b) consider any representations made about the draft, and
  - (c) if the Secretary of State thinks it appropriate, modify the draft in the light of any such representations.
- (2) The Secretary of State must lay a draft of the code before Parliament.
- (3) After the code has been laid before Parliament the Secretary of State may bring it into operation by regulations.
- (4) Sub-paragraphs (1) to (3) apply to the issue of a revised code as they apply to the first issue of the code.
- (5) Regulations under sub-paragraph (3) must be made by statutory instrument.
- (6) A statutory instrument containing regulations under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

#### Commencement Information

**1139** Sch. 3 para. 57 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

**I140** Sch. 3 para. 57 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

## PART 5

### RELATED POWERS

#### *Entry*

- 58 (1) An examining officer may enter a vehicle for the purpose of exercising a function conferred on the officer by virtue of this Schedule.
- (2) In this paragraph “vehicle” includes an aircraft, hovercraft, train or vessel.

#### **Commencement Information**

**I141** Sch. 3 para. 58 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I142** Sch. 3 para. 58 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

#### *Reasonable force*

- 59 (1) An examining officer may if necessary use reasonable force for the purpose of exercising a power conferred on the officer by virtue of this Schedule.
- (2) Sub-paragraph (1) does not apply in relation to the powers conferred by paragraphs 1 or 2.

#### **Commencement Information**

**I143** Sch. 3 para. 59 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I144** Sch. 3 para. 59 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

#### *Information*

- 60 (1) Information acquired by an examining officer may be supplied—
- (a) to the Secretary of State for use in relation to immigration;
  - (b) to the Commissioners for Her Majesty's Revenue and Customs or a customs officer;
  - (c) to a constable;
  - (d) to the National Crime Agency;
  - (e) to a person specified in regulations made by the Secretary of State for use of a kind specified in the regulations.
- (2) Information acquired by a customs officer or an immigration officer may be supplied to an examining officer.
- (3) A person may be specified in regulations under this paragraph only if the person exercises public functions (whether or not in the United Kingdom).
- (4) Regulations under this paragraph must be made by statutory instrument.

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- (5) A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

**Commencement Information**

**I145** Sch. 3 para. 60 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I146** Sch. 3 para. 60 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

*Other police powers*

- 61 A power conferred by virtue of this Schedule on a constable—
- (a) is additional to powers exercisable at common law or by virtue of any other enactment, and
  - (b) is not to be taken to affect those powers.

**Commencement Information**

**I147** Sch. 3 para. 61 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I148** Sch. 3 para. 61 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

**PART 6**

REVIEW OF POWERS

- 62 (1) The Investigatory Powers Commissioner (“the Commissioner”) must—
- (a) keep under review the operation of the preceding provisions of this Schedule, and
  - (b) as soon as reasonably practicable after the end of each calendar year, make a report to the Secretary of State about the outcome of the review for that calendar year.
- (2) The Commissioner may, at any time, make any such report to the Secretary of State, on any matter relating to the function of the Commissioner under sub-paragraph (1) (a), as the Commissioner considers appropriate.
- (3) On receiving a report under this paragraph the Secretary of State must—
- (a) publish the report, and
  - (b) lay a copy of the published report before Parliament together with a statement as to whether any part of the report has been excluded from publication under sub-paragraph (4).
- (4) The Secretary of State may, after consultation with the Commissioner, exclude from publication any part of a report received under this paragraph if, in the opinion of the Secretary of State, the publication of that part would be contrary to the public interest or prejudicial to—
- (a) national security,
  - (b) the prevention or detection of crime,
  - (c) the economic well-being of the United Kingdom, or

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- (d) the continued discharge of the functions of any public authority whose activities include activities that are subject to review by the Commissioner.
- (5) Section 229(6) and (7) of the Investigatory Powers Act 2016 (duty not to act contrary to public interest etc) apply to the exercise of functions under this paragraph as they apply to the exercise of functions under that Act.
- (6) In section 231 of the Investigatory Powers Act 2016 (error reporting), the reference in subsection (9)(a) to any other enactment does not include this Schedule.
- (7) The duty in section 234(1) of the Investigatory Powers Act 2016 (annual and other reports) to make a report about the carrying out of functions does not apply in relation to the functions of the Commissioner under this Schedule.
- (8) In this paragraph “public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal.

#### Commencement Information

**I149** Sch. 3 para. 62 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I150** Sch. 3 para. 62 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

## PART 7

### CROSS-CHANNEL RAIL SERVICES

- 63 (1) At the end of Schedule 4 to the Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813) insert—

*“Counter-Terrorism and Border Security Act 2019*

- 7 (1) Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (border security) is modified as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (2) omit—
    - (i) “or in the border area”, in both places where it occurs;
    - (ii) “or Northern Ireland”, where it occurs in paragraph (b) (i);
    - (iii) paragraph (b)(ii);
  - (b) in sub-paragraph (3)—
    - (i) for “ship or aircraft” substitute “through train or shuttle train”;
    - (ii) omit “or Northern Ireland”, in both places where it occurs;
  - (c) after sub-paragraph (3) insert—

“(3A) An examination under sub-paragraph (1) may be commenced in a train during the period when it is a control area.”
- (3) Omit paragraph 2.
- (4) In paragraph 4—

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- (a) in sub-paragraph (1), for “vehicle” substitute “ through train or shuttle train ”;
  - (b) in sub-paragraph (2), for “ship, aircraft or vehicle” substitute “ through train or shuttle train ”;
  - (c) omit sub-paragraph (4).
- (5) In paragraph 7, for “ship or aircraft”, in each place where it occurs, substitute “ through train or shuttle train ”.
- (6) In paragraph 8—
- (a) in sub-paragraph (1), for “ship or aircraft”, in each place where it occurs, substitute “ through train or shuttle train ”;
  - (b) omit sub-paragraph (2).
- (7) In paragraph 9—
- (a) in sub-paragraph (2)—
    - (i) in paragraph (a) omit “or Northern Ireland”;
    - (ii) in paragraph (a) for “ship or vehicle” substitute “ through train or shuttle train ”;
    - (iii) omit paragraph (b);
  - (b) omit sub-paragraphs (3) and (4);
  - (c) in sub-paragraph (5), omit paragraph (b);
  - (d) in sub-paragraph (6)—
    - (i) for “ship or aircraft” substitute “ through train or shuttle train ”;
    - (ii) omit paragraph (b).
- (8) Omit paragraph 63.
- (9) In paragraph 64—
- (a) in sub-paragraph (4) omit the references to “ship” and “vehicle” and for “an airport and a hoverport” substitute “ a railway station or other place where persons embark or disembark, or goods are loaded or unloaded, on or from a through train or shuttle train (as the case may be) ”;
  - (b) in sub-paragraph (5), for “ship or aircraft”, in both places, substitute “ through train or shuttle train ”;
  - (c) omit sub-paragraph (6).
- (10) In the following provisions, omit “or 2”—
- (a) paragraph 3;
  - (b) paragraph 4(1);
  - (c) paragraph 5(1);
  - (d) paragraph 6;
  - (e) paragraph 31(2) and (8);
  - (f) paragraph 52(4) and (6);
  - (g) paragraph 55(1)(a) and (2).
- (11) In the following provisions, after “this Schedule” insert “ or the Channel Tunnel (International Arrangements) Order 1993 ”
- (a) paragraph 56(1) and (2) (in each place where the words occur);



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- (b) paragraph 59(1);
- (c) paragraph 61.”

(2) Nothing in sub-paragraph (1) affects the power in section 11 of the Channel Tunnel Act 1987 to revoke or amend any provision of the Order amended by that sub-paragraph.

#### **Commencement Information**

**I151** Sch. 3 para. 63 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I152** Sch. 3 para. 63 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

## **PART 8**

### INTERPRETATION

- 64 (1) This paragraph applies for the purposes of this Schedule.
- (2) References to engagement in hostile activity are to be read in accordance with paragraph 1(5); and references to a “hostile act” are to be read in accordance with paragraph 1(6).
- (3) “Examining officer” means—
- (a) a constable,
  - (b) an immigration officer who is designated as an examining officer for the purposes of Schedule 7 to the Terrorism Act 2000 (see paragraph 1(1)(b) of that Schedule), and
  - (c) a customs officer who is designated for the purposes of that Schedule (see paragraph 1(1)(c) of that Schedule).
- (4) The following terms have the meaning given—
- “act” includes omission;
  - “article” includes a substance and any other thing;
  - “customs officer” means an officer of Revenue and Customs;
  - “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971;
  - “the Investigatory Powers Commissioner” and “Judicial Commissioner” have the same meanings as in the Investigatory Powers Act 2016 (see section 263(1) of that Act);
  - “port” includes an airport and a hoverport;
  - “property” includes property wherever situated and whether real or personal, heritable or moveable, and things in action and other intangible or incorporeal property;
  - “ship” includes a hovercraft;
  - “vehicle” includes a train.
- (5) A place is to be treated as a port in relation to a person if an examining officer believes the person—
- (a) has gone there for the purpose of embarking on a ship or aircraft, or
  - (b) has arrived there on disembarking from a ship or aircraft.

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- (6) A place is within the “border area” if it is in Northern Ireland and—
- (a) it is no more than one mile from the border between Northern Ireland and the Republic of Ireland, or
  - (b) it is the first place at which a train travelling from the Republic of Ireland stops for the purposes of allowing passengers to leave.
- (7) References to crime include references to any conduct which—
- (a) constitutes one or more criminal offences, or
  - (b) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences.
- (8) References to an enactment include references to—
- (a) an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978,
  - (b) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
  - (c) an enactment comprised in, or in an instrument made under, Northern Ireland legislation.
- (9) References to serious crime are to be read in accordance with paragraph 1(7)(d).
- (10) References to a part of the United Kingdom are references to—
- (a) England and Wales,
  - (b) Scotland, or
  - (c) Northern Ireland.

#### Commencement Information

**1153** Sch. 3 para. 64 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**1154** Sch. 3 para. 64 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), reg. 2(g)

## SCHEDULE 4

Section 23

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### CONSEQUENTIAL AMENDMENTS RELATING TO SECTION 9

##### *Children and Young Persons Act 1933 (c. 12)*

- 1 In the Children and Young Persons Act 1933, in section 49 (restrictions on reports of proceedings in which children or young persons are concerned)—
- (a) in subsection (6)—
    - (i) omit “or” at the end of paragraph (b);
    - (ii) after paragraph (b) insert—
 

“(ba) a terrorism offence, or”;

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(b) in subsection (11), after the definition of “specified” insert—

““terrorism offence” means an offence listed in Part 3 of Schedule 15 to the Criminal Justice Act 2003;”.

*Parliamentary Commissioner Act 1967 (c. 13)*

2 In the Parliamentary Commissioner Act 1967, in section 5 (matters subject to investigation), in subsection (1B)(b) for “or violent” substitute “ , violent or terrorism ”.

*Bail Act 1976 (c. 63)*

3 (1) The Bail Act 1976 is amended as follows.

(2) In section 2 (interpretation), in subsection (2), after the definition of “surrender to custody” insert—

““terrorism offence” means an offence specified in Part 3 of Schedule 15 to the Criminal Justice Act 2003;”.

(3) In section 3AA (conditions for the imposition of electronic monitoring requirements on children and young persons other than in extradition proceedings), in subsection (3)(a) for “or sexual” substitute “ , sexual or terrorism ”.

(4) In section 3AAA (conditions for the imposition of electronic monitoring requirements on children and young persons in extradition proceedings), in subsection (3)(a) for “or sexual” substitute “ , sexual or terrorism ”.

*Repatriation of Prisoners Act 1984 (c. 47)*

4 In the Repatriation of Prisoners Act 1984, in the Schedule (operation of certain enactments in relation to prisoners to whom the Act applies), in paragraph 2(3A) for “or sexual” substitute “ , sexual or terrorism ”.

*Police and Criminal Evidence Act 1984 (c. 60)*

5 In the Police and Criminal Evidence Act 1984, in section 38 (duties of custody officer after charge), in subsection (6A)—

(a) after the definition of “sexual offence” insert—

““terrorism offence” means an offence specified in Part 3 of that Schedule;”;

(b) in the closing words, for “or sexual” substitute “ , sexual or terrorism ”.

*Road Traffic Offenders Act 1988 (c. 53)*

6 In the Road Traffic Offenders Act 1988, in section 35A (extension of disqualification where custodial sentence also imposed), in subsection (4)—

(a) in paragraph (e), for “or sexual” substitute “ , sexual or terrorism ”;

(b) in paragraph (f), for “or sexual” substitute “ , sexual or terrorism ”.

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*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

F57

<p><b>Textual Amendments</b></p> <p><b>F5</b> Sch. 4 para. 7 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), <b>Sch. 28</b> (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2</p> <hr/> <p><b>Modifications etc. (not altering text)</b></p> <p><b>C6</b> Sch. 4 para. 7 modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), <b>ss. 1, 5(2)(3)</b>; S.I. 2012/1236, reg. 2</p>
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*Licensing Act 2003 (c. 17)*

- 8 In the Licensing Act 2003, in Schedule 4 (personal licence: relevant offences), after paragraph 19A insert—
- “19B An offence listed in Part 3 of Schedule 15 to the Criminal Justice Act 2003 (specified terrorism offences).”

*Criminal Justice Act 2003 (c. 44)*

- 9 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In Schedule 15 (specified offences for the purposes of certain sentencing provisions in Chapter 5 of Part 12, relating to dangerous offenders), in Part 1 (specified violent offences) omit the following paragraphs (which mention terrorism offences that appear in the new Part 3, to be inserted by section 9 of this Act)—
- (a) paragraph 59A;
  - (b) paragraph 59B;
  - (c) paragraph 59C;
  - (d) paragraph 59D;
  - (e) paragraph 60A;
  - (f) paragraph 60B;
  - (g) paragraph 60C;
  - (h) paragraph 63B;
  - (i) paragraph 63C;
  - (j) paragraph 63D;
  - (k) paragraph 63E;
  - (l) paragraph 63F.

F6(3) .....

<p><b>Textual Amendments</b></p> <p><b>F6</b> Sch. 4 para. 9(3) repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), <b>Sch. 28</b> (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2</p>
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**Modifications etc. (not altering text)**

- C7 Sch. 4 para. 9(3) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\), ss. 1, 5\(2\)\(3\); S.I. 2012/1236, reg. 2](#)

*Domestic Violence, Crime and Victims Act 2004 (c. 28)*

- 10 In the following provisions of the Domestic Violence, Crime and Victims Act 2004 (which relate to duties of local probation boards in connection with victims of sexual or violent offences), for “or violent” substitute “ , violent or terrorism ”
- (a) section 35(1)(a);
  - (b) section 36(2);
  - (c) section 39(1)(a);
  - (d) section 42(1)(a);
  - (e) section 45(2).

*Armed Forces Act 2006 (c. 52)*

- 11 (1) The Armed Forces Act 2006 is amended as follows.
- (2) In section 219A (extended sentence for certain violent or sexual offenders aged 18 or over)—
- (a) in the heading, for “or sexual” substitute “ , sexual or terrorism ”;
  - (b) in subsection (5)(d), after “specified sexual offence” (in both places) insert “ or a specified terrorism offence ”;
  - (c) in subsection (6), after “ “specified sexual offence” ” insert “ , “specified terrorism offence” ”.
- (3) In section 221A (extended sentence for certain violent or sexual offenders aged under 18)—
- (a) in the heading, for “or sexual” substitute “ , sexual or terrorism ”;
  - (b) in subsection (3)(d), after “specified sexual offence” (in both places) insert “ or a specified terrorism offence ”;
  - (c) in subsection (4), after “ “specified sexual offence” ” insert “ , “specified terrorism offence” ”.

*Coroners and Justice Act 2009 (c. 25)*

- 12 (1) The Coroners and Justice Act 2009 is amended as follows.
- (2) In section 126 (determination of tariffs etc), in subsection (2)—
- (a) in paragraph (c), for “or sexual” substitute “ , sexual or terrorism ”;
  - (b) in paragraph (d), for “or sexual” substitute “ , sexual or terrorism ”.
- (3) Omit section 138 (which inserted certain terrorism offences into Part 1 of Schedule 15 to the Criminal Justice Act 2003).

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

- 13 (1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

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- (2) In section 94 (requirements for electronic monitoring)—
- (a) in subsection (4)(a) for “or sexual” substitute “, sexual or terrorism”;
  - (b) in subsection (8), after the definition of “sexual offence” insert—
 

““terrorism offence” means an offence specified in Part 3 of Schedule 15 to the Criminal Justice Act 2003;”.
- (3) In section 95 (requirements for electronic monitoring: extradition cases), in subsection (4)(a) for “or sexual” substitute “, sexual or terrorism”.
- (4) In section 98 (first set of conditions for a remand to youth detention accommodation), in subsection (3)(a) for “or sexual” substitute “, sexual or terrorism”.
- (5) In section 100 (first set of conditions for a remand to youth detention accommodation: extradition cases), in subsection (3)(a) for “or sexual” substitute “, sexual or terrorism”.
- (6) In section 107 (interpretation of Chapter 3), in subsection (1), after the definition of “sexual offence” insert—
 

““terrorism offence” has the meaning given by section 94(8);”.
- (7) In Schedule 21 (abolition of certain sentences for dangerous offenders and new extended sentences: consequential and transitory), in paragraph 36—
- (a) in sub-paragraph (2) for “or sexual” substitute “, sexual or terrorism”;
  - (b) in sub-paragraph (3) for “or sexual” substitute “, sexual or terrorism”.

## PART 2

### CONSEQUENTIAL AMENDMENTS RELATING TO SECTION 11

#### *Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1))*

- 14 In the Criminal Justice (Northern Ireland) Order 2008, in Schedule 2 (specified offences for the purposes of certain sentencing provisions in Chapter 3, relating to dangerous offenders), in Part 1, omit the following paragraphs (which mention terrorism offences that appear in the new Part 3, to be inserted by section 11)—
- (a) paragraph 27A;
  - (b) paragraph 28A;
  - (c) paragraph 31A.

#### *Coroners and Justice Act 2009 (c. 25)*

- 15 In section 139 of the Coroners and Justice Act 2009 (which inserted certain terrorism offences into Schedules 1 and 2 to the Criminal Justice (Northern Ireland) Order 2008), omit subsections (5) to (8).

#### *Justice Act (Northern Ireland) 2015 (c. 9 (N.I.))*

- 16 (1) Section 55 of the Justice Act (Northern Ireland) 2015 (violent offences prevention orders) is amended as follows.
- (2) In subsection (3), at the end insert “ or a relevant terrorism offence ”.

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(3) After subsection (3) insert—

“(3A) In subsection (3), “relevant terrorism offence” means an offence under—

- (a) section 54 of the Terrorism Act 2000 (weapons training);
- (b) section 56 of that Act (directing a terrorist organisation);
- (c) section 57 of that Act (possession of article for terrorist purposes);
- (d) section 59 of that Act (inciting terrorism overseas);
- (e) section 47 of the Anti-terrorism, Crime and Security Act 2001 (use etc of nuclear weapons);
- (f) section 50 of that Act (assisting or inducing certain weapons-related acts overseas);
- (g) section 113 of that Act (use of noxious substance or thing to cause harm or intimidate);
- (h) section 5 of the Terrorism Act 2006 (preparation of terrorist acts);
- (i) section 6 of that Act (training for terrorism);
- (j) section 9 of that Act (making or possession of radioactive device or material);
- (k) section 10 of that Act (misuse of radioactive device or material for terrorist purposes etc);
- (l) section 11 of that Act (terrorist threats relating to radioactive devices etc).”

(4) In subsection (4), for “that Part” substitute “Part 1 of Schedule 2 to the 2008 Order”.

### PART 3

#### CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

##### *Children and Young Persons Act 1933 (c. 12)*

17 In section 34 of the Children and Young Persons Act 1933 (attendance at court of parent of child or young person charged with an offence), after subsection (11) insert—

“(12) The reference in subsection (2) to a child or young person who is in police detention includes a reference to a child or young person who has been detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019; and in subsection (3) “arrest” includes such detention.”

#### **Commencement Information**

**I155** Sch. 4 para. 17 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

##### *Police and Criminal Evidence Act 1984 (c. 60)*

18 (1) The Police and Criminal Evidence Act 1984 is amended as follows.

(2) In section 51 (savings)—

- (a) omit “or” at the end of paragraph (b);

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- (b) after that paragraph insert—
- “(ba) the powers conferred by virtue of Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (powers of detention);”.
- (3) In section 56 (right to have someone informed when arrested), in subsection (10) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (4) In section 58 (access to legal advice), in subsection (12) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (5) In section 61 (fingerprinting), in subsection (9)(b) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (6) In section 61A (impressions of footwear), in subsection (8)(a) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (7) In section 62 (intimate samples), after subsection (12) insert—
- “(13) Nothing in this section applies to a person detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019; and subsection (1A) does not apply where the non-intimate samples mentioned in that subsection were taken under Part 2 of that Schedule.”
- (8) In section 63 (other samples), in subsection (10) at the end insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (9) In section 63U (exclusion for certain regimes), after subsection (4) insert—
- “(4A) Sections 63D to 63T do not apply to material to which paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (destruction, retention and use of material) apply.”

#### Commencement Information

**I156** Sch. 4 para. 18 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

#### *Legal Aid (Scotland) Act 1986 (c. 47)*

- 19 In section 8A of the Legal Aid (Scotland) Act 1986 (criminal advice and assistance: automatic availability in certain circumstances), in subsection (2) at the end insert—
- “(d) a person who is detained under section 41 of, or Schedule 7 to, the Terrorism Act 2000, or
- (e) a person who is detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.”

#### *Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

- 20 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.



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- (2) In Article 51 (savings), after paragraph (b) insert—
  - “(ba) the powers conferred by virtue of Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (powers of detention);”.
- (3) In Article 57 (right to have someone informed when arrested), in paragraph (10) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (4) In Article 59 (access to legal advice), in paragraph (12) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (5) In Article 61 (fingerprinting), in paragraph (9)(b) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (6) In Article 61A (impressions of footwear), in paragraph (8)(a) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (7) In Article 62 (intimate samples), after paragraph (12) insert—
  - “(13) Nothing in this Article applies to a person detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019; and paragraph (1A) does not apply where the non-intimate samples mentioned in that paragraph were taken under Part 2 of that Schedule.”
- (8) In Article 63 (other samples), in paragraph (11) after “terrorism provisions” insert “ or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (9) In Article 63R (as inserted by Schedule 2 to the Criminal Justice Act (Northern Ireland) 2013 (c. 7 (N.I.))), after paragraph (4) insert—
  - “(4A) Articles 63B to 63Q do not apply to material to which paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (destruction, retention and use of material) apply.”

#### Commencement Information

**I157** Sch. 4 para. 20(1) in force at 13.8.2020 for specified purposes by S.I. 2020/792, reg. 2(i)

**I158** Sch. 4 para. 20(2)-(8) in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

#### *Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813)*

- 21 (1) For paragraph 3 of Schedule 4 to the Channel Tunnel (International Arrangements) Order 1993 substitute—
  - “3 (1) The Terrorism Act 2000 is modified as follows.
  - (2) Schedule 7 is modified in accordance with paragraphs (3) to (15).
  - (3) In paragraph 1—
    - (a) for sub-paragraph (2) substitute—

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- “(2) In this Schedule, “port” includes a railway station or other place where—
- (a) persons embark or disembark, or
  - (b) goods are loaded or unloaded,
- on or from a through train or shuttle train.”;
- (b) in sub-paragraph (3), for “ship or aircraft” substitute “through train or shuttle train”, in both places where it occurs.
- (4) In paragraph 2—
- (a) in sub-paragraph (2), omit—
    - (i) in paragraph (a), “or in the border area”;
    - (ii) in paragraph (b), “or in the area”;
    - (iii) in paragraph (b), the words from “or Northern Ireland” to the end;
  - (b) in sub-paragraph (3)—
    - (i) for “ship or aircraft” substitute “through train or shuttle train”;
    - (ii) omit “or Northern Ireland”, in both places where it occurs;
  - (c) after sub-paragraph (3) insert—
- “(3A) An examination under sub-paragraph (1) may be commenced in a train during the period when it is a control area.”
- (5) Omit paragraphs 3 and 4.
- (6) In paragraph 5, in the opening words, omit “or 3”.
- (7) In paragraph 6—
- (a) in the opening words, omit “or 3”;
  - (b) in sub-paragraph (1), for “vehicle” substitute “through train or shuttle train”;
  - (c) in sub-paragraph (2), for “ship, aircraft or vehicle” substitute “through train or shuttle train”.
- (8) In paragraph 7, for “ship or aircraft” substitute “through train or shuttle train”, in each place where it occurs.
- (9) In paragraph 8—
- (a) for “ship or aircraft” substitute “through train or shuttle train”, in each place where it occurs;
  - (b) omit sub-paragraph (2).
- (10) In paragraph 9—
- (a) in sub-paragraph (2)—
    - (i) in paragraph (a) omit “or Northern Ireland”;
    - (ii) in paragraph (a) for “ship or vehicle” substitute “through train or shuttle train”;
    - (iii) omit paragraph (b);
  - (b) omit sub-paragraphs (2A) and (2B);
  - (c) in sub-paragraph (2C), omit paragraph (b);

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- (d) in sub-paragraph (4)—
    - (i) for “ship or aircraft” substitute “ through train or shuttle train ”;
    - (ii) omit paragraph (c).
  - (11) Omit paragraph 12.
  - (12) In paragraph 13—
    - (a) in sub-paragraph (1)—
      - (i) in the opening words, for “ships or aircraft” substitute “ through trains or shuttle trains ”;
      - (ii) in sub-paragraph (1)(a), for “United Kingdom” substitute “ Tunnel System ”;
    - (b) in sub-paragraph (2), for “ship or aircraft” substitute “ through train or shuttle train ”, in each place where it occurs.
  - (13) For paragraph 14 substitute—
    - “14 (1) The Secretary of State may from time to time give written notice to persons operating international services designating all or any through trains as control areas while they are within any area in the United Kingdom specified in the notice or while they constitute a control zone.
    - (2) The Secretary of State may from time to time give written notice designating a control area—
      - (a) to the Concessionaires as respects any part of the tunnel system in the United Kingdom or of a control zone within the tunnel system in France or Belgium, or
      - (b) to any occupier or person concerned with the management of a terminal control point in the United Kingdom.
    - (3) A notice under sub-paragraph (1) or (2) above may specify facilities to be provided and conditions and restrictions to be observed in a control area, and any persons to whom such a notice is given is to take all reasonable steps to secure that any such facilities, conditions or restrictions are provided or observed.”
  - (14) Omit paragraphs 15, 16 and 17.
  - (15) Omit the Table of Designated Ports.
  - (16) In Schedule 14 (exercise of officers' powers), in paragraphs 5 and 6, after “this Act”, in each place where it occurs, insert “ or the Channel Tunnel (International Arrangements) Order 1993 ”.”
- (2) Nothing in sub-paragraph (1) affects the power in section 11 of the Channel Tunnel Act 1987 to revoke or amend any provision of the Order amended by that sub-paragraph.

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#### Commencement Information

**I159** Sch. 4 para. 21 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

#### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 22 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 18G (retention of samples etc: national security), in subsection (1)—
- (a) in paragraph (a) after “2000” insert “ or by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”;
  - (b) in paragraph (b) after “2000” insert “ or by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.
- (3) In section 19C (sections 18 and 19 to 19AA: use of samples etc), in subsection (1)—
- (a) in paragraph (a) after “2000” insert “ or by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”;
  - (b) in paragraph (b) after “2000” insert “ or by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.

#### Commencement Information

**I160** Sch. 4 para. 22 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

#### *Terrorism Act 2000 (c. 11)*

- 23 (1) The Terrorism Act 2000 is amended as follows.
- (2) In section 41 (arrest without warrant), in subsection (3)(b) after “Schedule 7” insert “, or under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019,”.
- (3) In Schedule 8, in paragraph 20A(6) after paragraph (e) insert—
- “(ea) any of the fingerprints, data or samples obtained under or by virtue of paragraph 34 or 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or information derived from such samples,”.

#### Commencement Information

**I161** Sch. 4 para. 23 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

#### *Regulation of Investigatory Powers Act 2000 (c. 23)*

- 24 In section 3 of the Regulation of Investigatory Powers Act 2000 (lawful interception without an interception warrant), in subsection (3B) at the end insert “ or under paragraph 9 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (border security) ”.

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

**Commencement Information**

**I162** Sch. 4 para. 24 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Postal Services Act 2000 (c. 26)*

- 25 In section 104 of the Postal Services Act 2000 (inviolability of mails), in subsection (3)—
- (a) omit “or” at the end of paragraph (d);
  - (b) at the end of paragraph (e) insert “, or
  - (f) a power conferred by paragraph 9 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (border security).”

**Commencement Information**

**I163** Sch. 4 para. 25 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Counter-Terrorism Act 2008 (c. 28)*

- 26 In section 18 of the Counter-Terrorism Act 2008 (destruction of national security material not subject to existing statutory restrictions), in subsection (8) after paragraph (j) insert—
- “(k) paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.”

**Commencement Information**

**I164** Sch. 4 para. 26 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 (S.S.I. 2011/217)*

- 27 (1) In regulation 8 of the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011—
- (a) the words from “to whom” to the end become paragraph (a), and
  - (b) at the end of that paragraph insert “, or
  - (b) who is detained—
  - (i) under section 41 of, or Schedule 7 to, the Terrorism Act 2000, or
  - (ii) under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.”
- (2) Nothing in sub-paragraph (1) affects any power under the Legal Aid (Scotland) Act 1986 to revoke or amend any provision of the regulations amended by that sub-paragraph.

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019. (See end of Document for details)*

*Terrorism Prevention and Investigation Measures Act 2011 (c. 23)*

- 28 In Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (fingerprints and samples), in paragraph 5, after sub-paragraph (d) insert—
- “(da) any fingerprints or samples taken under paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 or any information derived from such a sample,
  - (db) any relevant physical data taken or provided by virtue of paragraph 42 of that Schedule, any samples taken by virtue of that paragraph or any information derived from such a sample.”

**Commencement Information**

**I165** Sch. 4 para. 28 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Protection of Freedoms Act 2012 (c. 9)*

- 29 In section 20 of the Protection of Freedoms Act 2012 (function of the Commissioner for the Retention and Use of Biometric Material to keep under review national security determinations)—
- (a) in subsection (2), in paragraph (a) after sub-paragraph (iv) insert—
    - “(iva) paragraph 46 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.”;
  - (b) in subsection (6), after paragraph (d) insert—
    - “(e) the retention and use in accordance with paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 of—
      - (i) any material to which paragraph 43 or 49 of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and
      - (ii) any copies of any material to which paragraph 43 of that Schedule applies (fingerprints, relevant physical data and DNA profiles).”;
  - (c) in subsection (8)—
    - (i) omit “and” at the end of paragraph (a);
    - (ii) at the end of (b) insert “, and
    - (c) the reference in subsection (6)(e) to use of material, or copies of material, in accordance with paragraphs 43 to 51 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 includes a reference to use of material, or copies of material, in accordance with section 19C(2)(c) and (d) of the Criminal Procedure (Scotland) Act 1995.”

**Commencement Information**

**I166** Sch. 4 para. 29 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Status: Point in time view as at 01/06/2021. This version of this Act contains provisions that are prospective.*

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*Criminal Legal Aid (General) Regulations 2013 (S.I. 2013/9)*

- 30 (1) In the Criminal Legal Aid (General) Regulations 2013, in regulation 12(2) (prescribed conditions)—
- (a) omit “or” at the end of paragraph (j);
  - (b) at the end of paragraph (k) insert “, or
    - (l) be detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.”
- (2) Nothing in sub-paragraph (1) affects any power under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to revoke or amend any provision of the regulations amended by that sub-paragraph.

**Commencement Information**

**I167** Sch. 4 para. 30 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Civil Legal Services (Financial) Regulations  
(Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 196)*

- 31 (1) In regulation 4(2) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015 (exceptions from requirement to make a determination in respect of an individual's financial resources), after sub-paragraph (a) insert—
- “(aa) is detained under Schedule 7 to the Terrorism Act 2000 or under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019;”.
- (2) Nothing in sub-paragraph (1) affects any power under the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) to revoke or amend any provision of the regulations amended by that sub-paragraph.

**Commencement Information**

**I168** Sch. 4 para. 31 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Civil Legal Services (Remuneration) Order  
(Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 201)*

- 32 (1) In Schedule 2 to the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015 (advice and assistance)—
- (a) for the title to Part 2 substitute “ Matters other than those relating to PACE, Schedule 7 to the Terrorism Act 2000 or Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”;
  - (b) in the title to Part 3 after “matters” insert “, Schedule 7 to the Terrorism Act 2000 matters or Schedule 3 to the Counter-Terrorism and Border Security Act 2019 matters ”;
  - (c) in note (1) to Table 1 in Part 3 (which refers to work relating to interviews conducted under the Police and Criminal Evidence (Northern Ireland) Order 1989), at the end insert “, Schedule 7 to the Terrorism Act 2000 or Schedule 3 to the Counter-Terrorism and Border Security Act 2019 ”.

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- (2) Nothing in sub-paragraph (1) affects any power under the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) to revoke or amend any provision of the Order amended by that sub-paragraph.

**Commencement Information**

**I169** Sch. 4 para. 32 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

*Investigatory Powers Act 2016 (c. 25)*

- 33 In section 47 of the Investigatory Powers Act 2016 (postal services: interception for enforcement purposes), in subsection (2) at the end insert “ or under paragraph 9 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (border security) ”.

**Commencement Information**

**I170** Sch. 4 para. 33 in force at 13.8.2020 by S.I. 2020/792, reg. 2(i)

**PART 4**

OTHER MINOR AND CONSEQUENTIAL AMENDMENTS

*Criminal Procedure and Investigations Act 1996 (c. 25)*

- 34 In section 29 of the Criminal Procedure and Investigations Act 1996 (power to order preparatory hearing), in subsection (6)(e), after “purposes of terrorism” insert “ , eliciting information about armed forces etc, entering or remaining in a designated area ”.

*Terrorism Act 2000 (c. 11)*

- 35 The Terrorism Act 2000 is amended as follows.
- 36 In section 13 (uniform), omit subsection (2).
- 37 In section 23A (forfeiture: other terrorism offences etc), in the list of provisions in subsection (2)(a), after the entry relating to section 57, 58 or 58A insert— “ section 58B (entering or remaining in a designated area); ”.
- 38 In section 118 (defences), in subsection (5)(a), after “58A,” insert “ 58B, ”.
- 39 In Schedule 14 (exercise of officers' powers), in paragraph 4 after sub-paragraph (2) insert—
- “(3) A person may be specified in an order under this paragraph only if the person exercises public functions (whether or not in the United Kingdom).”

*Counter-Terrorism Act 2008 (c. 28)*

- 40 The Counter-Terrorism Act 2008 is amended as follows.



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- 41 In section 18E (sections 18 to 18E: supplementary provisions), in subsection (1), in paragraph (f) of the definition of “responsible officer”, for “Serious Organised Crime Agency”, in both places where it occurs, substitute “National Crime Agency”.
- 42 In section 27 (meaning of “terrorism offence”), in the list of provisions in subsection (1)(a), after the entry relating to sections 56 to 58A insert— “section 58B (entering or remaining in a designated area),”.
- 43 In section 40 (scheme of Part 4), in subsection (2)—
- (a) omit “and” at the end of paragraph (a);
  - (b) after paragraph (b) insert “, and
  - (c) warrants authorising entry and search of premises notified under this Part or where a person to whom the notification requirements apply resides or may be found.”
- 44 In section 41 (offences to which Part 4 applies: terrorism offences), in subsection (1) (a), in the entry relating to sections 56 to 61, after “purposes of terrorism” insert “, eliciting information about members of armed forces etc, entering or remaining in a designated area”.
- 45 In section 48 (notification of changes), in subsection (9) after “this section,”, in the second place it occurs, insert “section 48A (notification of changes: financial information and information about identification documents),”.
- 46 (1) Section 49 (periodic re-notification) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), after “change” insert “: general”;
  - (b) after paragraph (b) insert—  
“(ba) section 48A (notification of changes: financial information and information about identification documents),”.
- (3) In subsection (2), for “period referred to in that subsection” substitute “applicable period.”
- 47 In section 50 (method of notification and related matters), in subsection (1)—
- (a) in paragraph (b), after “change” insert “: general”;
  - (b) after paragraph (b) insert—  
“(ba) section 48A (notification of changes: financial information and information about identification documents),”.
- 48 (1) Section 54 (offences relating to notification) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)—
    - (i) in the entry for section 48, after “changes” insert “: general”;
    - (ii) after the entry for section 48 insert— “section 48A (notification of changes: financial information and information about identification documents),”;
  - (b) in paragraph (b)—
    - (i) in the entry for section 48, after “changes” insert “: general”;

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- (ii) after the entry for section 48 insert— “ section 48A (notification of changes: financial information and information about identification documents), ”.
- (3) In subsection (4)(a)—
  - (a) in the entry for section 48, after “changes” insert “ : general ”;
  - (b) after the entry for section 48 insert— “ section 48A (notification of changes: financial information and information about identification documents), ”.
- 49 (1) Section 55 (effect of absence abroad) is amended as follows.
  - (2) In subsection (5)—
    - (a) in the opening words, for “Section 48” substitute “ Sections 48 and 48A ”;
    - (b) in paragraph (a), for “applies” substitute “ apply ”;
    - (c) in paragraph (b), for “does” substitute “ do ”.
  - (3) In subsection (6), for “Section 48 does” substitute “ Sections 48 and 48A do ”.
  - (4) In subsection (7), for “the period” substitute “ the applicable period ”.
- 50 In section 56 (notification on return after absence from UK), in subsection (1)(b)—
  - (a) in sub-paragraph (ii), after “changes” insert “ : general ”;
  - (b) after that sub-paragraph insert—
    - “(iia) section 48A (notification of changes: financial information and information about identification documents),”.

*Counter-Terrorism Act 2008 (Foreign Travel Notification Requirements) Regulations 2009 (S.I. 2009/2493)*

- 51 (1) In the Counter-Terrorism Act 2008 (Foreign Travel Notification Requirements) Regulations 2009—
  - (a) in regulation 3 (notification of departure: requirement and content), in paragraph (1), omit “for a period of three days or more”;
  - (b) in regulation 4 (notification of departure: timing), in paragraph (4), for “twenty-four” in each place substitute “ 12 ”;
  - (c) in regulation 5 (notification of return), in paragraph (1), omit “for a period of three days or more”.
- (2) Nothing in sub-paragraph (1) affects the power in section 52 of the Counter-Terrorism Act 2008 to revoke or amend any provision of the regulations amended by that sub-paragraph.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019.