

SCHEDULES

SCHEDULE 2

RETENTION OF BIOMETRIC DATA FOR COUNTER-TERRORISM PURPOSES ETC

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—

(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**A**) 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—

Status: This is the original version (as it was originally enacted).

- (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.”