

SCHEDULES

SCHEDULE 6

Section 27

DETENTION UNDER SECTION 27

PART 1

TREATMENT OF PERSONS DETAINED UNDER SECTION 27

Place of detention

- 1 (1) The Secretary of State may designate places at which persons may be detained under [section 27](#).
- (2) The power in sub-paragraph (1) may be exercised only in relation to land or a building in the United Kingdom which is owned or controlled by a police force.
- (3) In [this Schedule](#) a reference to a police station includes a reference to any place which the Secretary of State has designated under [sub-paragraph \(1\)](#) as a place where a person may be detained under [section 27](#).
- (4) A constable who arrests a person under [section 27](#) must take the person as soon as is reasonably practicable to the police station which the constable considers the most appropriate.
- (5) Where a person is arrested under [section 27](#) in one part of the United Kingdom and some or all of the person's detention under that section takes place in another part, the provisions of [this Schedule](#) which apply to detention in a particular part of the United Kingdom apply in relation to the person while detained in that part.
- (6) In this paragraph—
 - “building” includes any part of a building;
 - “police force” has the same meaning as in [paragraph 28](#).

Identification

- 2 (1) An authorised person may take any steps which are reasonably necessary for—
 - (a) photographing the detained person,
 - (b) measuring the detained person, or
 - (c) identifying the detained person.
- (2) In [sub-paragraph \(1\)](#) “authorised person” means any of the following—
 - (a) a constable;
 - (b) a prison officer;
 - (c) a person authorised by the Secretary of State.
- (3) [This paragraph](#) does not confer the power to take—

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- (a) fingerprints, non-intimate samples or intimate samples (see instead [paragraphs 10 to 14](#) below), or
- (b) relevant physical data or samples as mentioned in section 18 of the Criminal Procedure (Scotland) Act 1995, as applied by [paragraph 18](#) below.

Video recording of interviews

- 3
- (1) [This paragraph](#) applies to any interview by a constable of a detained person that takes place in a police station.
 - (2) The Secretary of State must—
 - (a) issue a code of practice about the video recording of interviews to which [this paragraph](#) applies, and
 - (b) make regulations requiring the video recording of interviews to which [this paragraph](#) applies in accordance with any relevant code of practice under [paragraph \(a\)](#).
 - (3) Regulations under [sub-paragraph \(2\)](#) must state that the video recording is to be with sound.
 - (4) A code of practice under [this paragraph](#)—
 - (a) may make provision in relation to a particular part of the United Kingdom, and
 - (b) may make different provision for different parts of the United Kingdom.
 - (5) The failure by a constable to observe a provision of a code does not of itself make the constable 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.
- 4
- (1) Before issuing a code of practice under [paragraph 3](#), 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.

Status

- 5
- A detained person is to be treated as being in legal custody throughout the period of the person's detention.

PART 2

RIGHTS OF PERSONS DETAINED UNDER SECTION 27: ENGLAND, WALES AND NORTHERN IRELAND

Right to have named person informed of detention

- 6 (1) Subject to [paragraph 9](#), a person detained under [section 27](#) at a place in England, Wales or Northern Ireland is entitled, if the person so requests, to have one named person informed as soon as is reasonably practicable that the person is being detained there.
- (2) The person named must be—
- (a) a friend of the detained person,
 - (b) a relative of the detained person, or
 - (c) a person who is known to the detained person or who is likely to take an interest in the detained person’s welfare.
- (3) A detained person must be informed of the right under [this paragraph](#) on first being detained.
- (4) Where a detained person is transferred from one place to another, the person is entitled to exercise the right under [this paragraph](#) in respect of the place to which the person is transferred.

Right to consult a solicitor

- 7 (1) Subject to [paragraph 9](#), a person detained under [section 27](#) in England, Wales or Northern Ireland is entitled, if the person 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 \(1\)](#), a record must be made of the request and the time at which it was made.
- (3) A detained person must be informed of the right under [this paragraph](#) on first being detained.
- 8 (1) Where a person exercises the right under [paragraph 7](#) to consult a solicitor, a police officer of at least the rank of superintendent may direct that—
- (a) the person may not consult the solicitor who attends for the purpose of the consultation, or who would so attend but for the giving of the direction, but
 - (b) the person may consult a different solicitor of the person’s choosing.
- (2) A direction under [this paragraph](#) may be given before or after a 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).
- (3) An officer may give a direction under [this paragraph](#) only if the officer has reasonable grounds for believing that—
- (a) unless the direction is given, the person’s consultation with the solicitor will have any of the consequences specified in [sub-paragraph \(4\)](#), or
 - (b) the person has benefited from their criminal conduct and that, unless the direction is given, the person’s consultation with the solicitor will hinder the recovery of the value of the property constituting the benefit.

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- (4) 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,
 - (e) interference with the gathering of information about a person’s involvement in foreign power threat activity,
 - (f) making it more difficult, by the alerting of a person, to prevent foreign power threat activity, and
 - (g) making it more difficult, by the alerting of a person, to secure a person’s apprehension, prosecution or conviction in connection with the person’s involvement in foreign power threat activity.
- (5) For the purposes of [sub-paragraph \(3\)\(b\)](#), the question whether a person has benefited from their criminal conduct is to be decided in accordance with Part 2 or 4 of the Proceeds of Crime Act 2002.

Delay in exercise of rights

- 9 (1) A police officer of at least the rank of superintendent may authorise a delay—
- (a) in informing the person named by a detained person under [paragraph 6](#);
 - (b) in permitting a detained person to consult a solicitor under [paragraph 7](#).
- (2) But the detained person must be permitted to exercise the rights under [paragraphs 6 and 7](#) before the end of the period mentioned in [section 27\(3\)](#).
- (3) An officer may authorise a delay 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 detained person’s detention will have any of the consequences specified in [paragraph 8\(4\)](#), or
 - (b) in the case of an authorisation under [sub-paragraph \(1\)\(b\)](#), that the exercise of the right under [paragraph 7](#) at the time when the detained person desires to exercise it will have any of the consequences specified in [paragraph 8\(4\)](#).
- (4) An officer may also authorise a delay under [sub-paragraph \(1\)](#) if the officer has reasonable grounds for believing that—
- (a) the detained person has benefited from their 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 detained person’s detention (in the case of an authorisation under [sub-paragraph \(1\)\(a\)](#)), or
 - (ii) the detained person’s consultation with a solicitor (in the case of an authorisation under [sub-paragraph \(1\)\(b\)](#)).
- (5) For the purposes of [sub-paragraph \(4\)](#), whether the detained person has benefited from their criminal conduct is to be decided in accordance with Part 2 or 4 of the Proceeds of Crime Act 2002.

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- (6) Where an officer authorises a delay under [sub-paragraph \(1\)](#) orally, the officer must confirm it in writing as soon as is reasonably practicable.
- (7) Where an officer authorises a delay under [sub-paragraph \(1\)](#)—
 - (a) the detained person must be told the reason for the delay as soon as is reasonably practicable, and
 - (b) the reason must be recorded as soon as is reasonably practicable.
- (8) Where the reason for authorising delay no longer applies, there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under [sub-paragraph \(1\)](#).

Taking of intimate and non-intimate samples

- 10 (1) [This paragraph](#) applies where a person is detained under [section 27](#) in England, Wales or Northern Ireland.
- (2) Fingerprints may be taken from the detained person 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 detained person 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 detained person without the appropriate consent only if—
 - (a) the person 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 (but see [sub-paragraphs \(6\) and \(7\)](#)), or
 - (b) the person has been convicted of a recordable offence and, where a non-intimate sample is to be taken, the person 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 intimate sample may be taken from the detained person only if—
 - (a) the person is detained at a police station,
 - (b) the appropriate consent is given in writing,
 - (c) a police officer of at least the rank of superintendent authorises the sample to be taken (but see [sub-paragraph \(6\)](#)), and
 - (d) subject to [paragraph 13\(2\) and \(3\)](#), the sample is taken by a constable.
 - (6) An officer may give an authorisation under [sub-paragraph \(4\)\(a\)](#) or [\(5\)\(c\)](#) only if—
 - (a) the officer reasonably suspects that the detained person has been involved in foreign power threat activity, and
 - (b) the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove the person’s involvement.
 - (7) An officer may also give an authorisation under [sub-paragraph \(4\)\(a\)](#) for the taking of fingerprints if—

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- (a) the officer is satisfied that the detained person's fingerprints will help determine the person's identity, and
 - (b) the person has refused to identify themselves or the officer has reasonable grounds for suspecting that the person is not who they claim to be.
- (8) In [this paragraph](#) references to determining a person's identity include showing that the detained person is not a particular person.
- (9) If an authorisation under [sub-paragraph \(4\)\(a\)](#) or [\(5\)\(c\)](#) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.
- 11 (1) Before fingerprints or a sample are taken from a detained person under [paragraph 10](#), the person must be informed—
- (a) that the fingerprints or sample may be used for the purposes of—
 - (i) a relevant search (within the meaning given by [paragraph 19\(6\)](#)),
 - (ii) section 63A(1) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), or
 - (iii) Article 63A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)) (checking of fingerprints and samples), and
 - (b) where the fingerprints or sample are to be taken under [paragraph 10\(2\)\(a\)](#), [\(3\)\(a\)](#) or [\(4\)\(b\)](#), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a person on an authorisation given under [paragraph 10\(4\)\(a\)](#) or [\(5\)\(c\)](#), the person 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 the person is suspected of having been involved.
- (3) After fingerprints or a sample are taken under [paragraph 10](#), 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 10\(4\)\(a\)](#) or [\(5\)\(c\)](#),
 - (d) the grounds on which that authorisation has been given, and
 - (e) the fact that the appropriate consent has been given.
- 12 (1) [This paragraph](#) applies where—
- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a detained person under [paragraph 10](#),
 - (b) those samples have proved insufficient, and
 - (c) the person has been released from detention.
- (2) An intimate sample may be taken from the person if—
- (a) the appropriate consent is given in writing,
 - (b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
 - (c) subject to [paragraph 13\(2\)](#) and [\(3\)](#), the sample is taken by a constable.

- (3) Paragraphs 10(6) and (9) and 11 apply in relation to the taking of an intimate sample under this paragraph as if references to a detained person are references to a person who was detained under section 27 when the non-intimate samples mentioned in sub-paragraph (1)(a) were taken.
- 13 (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence—
- (a) the court, in determining whether to commit the person for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and
 - (b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.
- (2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a registered medical practitioner acting on the authority of a constable.
- (3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a registered dentist acting on the authority of a constable.
- (4) Where a sample of hair other than pubic hair is to be taken under paragraph 10, 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.
- 14 (1) In the application of paragraphs 10 to 13 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) “insufficient”,
 - (d) “intimate sample”,
 - (e) “non-intimate sample”,
 - (f) “registered dentist”, and
 - (g) “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 25 of this Schedule.
- (3) In the application of paragraphs 10 to 13 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 10 “recordable offence”—
- (a) in relation to a person detained in England or Wales, has the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
 - (b) in relation to a person detained in Northern Ireland, has the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

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PART 3

RIGHTS OF PERSONS DETAINED UNDER SECTION 27: SCOTLAND

- 15 (1) A person detained under [section 27](#) at a place in Scotland is entitled to have intimation of the person's detention and of the place where the person is being detained sent without delay to a solicitor and to another person named by the detained person.
- (2) The person named must be—
- (a) a friend of the detained person,
 - (b) a relative of the detained person, or
 - (c) a person who is known to the detained person or who is likely to take an interest in the detained person's welfare.
- (3) Where a detained person is transferred from one place to another, the person is entitled to exercise the right under [sub-paragraph \(1\)](#) in respect of the place to which the person is transferred.
- (4) A police officer of at least 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 16\(3\)](#) or where [paragraph 16\(4\)](#) applies.
- (5) Where a detained person requests that the intimation be made, a record must be made of the time at which the request was made and complied with.
- (6) A person who is detained as mentioned in [sub-paragraph \(1\)](#) is entitled to consult a solicitor at any time, without delay.
- (7) A police officer of at least 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 16\(3\)](#) or where [paragraph 16\(4\)](#) applies.
- (8) The consultation is to be private.
- (9) A detained person must be permitted to exercise the rights under [this paragraph](#) before the end of the period mentioned in [section 27\(3\)](#).
- (10) A detained person must be informed of the rights under [sub-paragraphs \(1\)](#) and [\(6\)](#) on first being detained.
- 16 (1) Where a person exercises the right under [paragraph 15\(6\)](#) to consult a solicitor, a police officer of at least 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—
- (a) the person may not consult the solicitor who attends for the purpose of the consultation, or who would so attend but for the giving of the direction, but
 - (b) the person may consult a different solicitor of the person's choosing.
- (2) 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).
- (3) The grounds mentioned in [paragraph 15\(4\)](#) and [\(7\)](#) and in [sub-paragraph \(1\)](#) 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;

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- (c) that it will further the recovery of property obtained as a result of an indictable offence;
 - (d) that it will further the operation of Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (confiscation of the proceeds of an offence).
 - (4) This sub-paragraph applies where an officer mentioned in [paragraph 15\(4\)](#) or [\(7\)](#) has reasonable grounds for believing that—
 - (a) the detained person has benefited from their 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 detained person’s detention (in the case of an authorisation under [paragraph 15\(4\)](#)), or
 - (ii) the exercise of the entitlement under [paragraph 15\(6\)](#) (in the case of an authorisation under [paragraph 15\(7\)](#)).
 - (5) For the purposes of [sub-paragraph \(4\)](#), whether the detained person has benefited from their criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.
 - (6) Where delay is authorised in the exercising of any of the rights mentioned in [paragraph 15\(1\)](#) 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 detained person 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.
- 17 (1) [Paragraphs 15](#) and [16](#) have effect, in relation to a person detained under [section 27](#), 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 a person who is detained under [section 27](#) at a place in Scotland appears to a constable to be a child—
 - (a) the other person named by the person detained in pursuance of [paragraph 15\(1\)](#) must be that person’s parent,
 - (b) intimation is to be made under [paragraph 15\(1\)](#) whether the detained person requests that it be made or not, and
 - (c) section 40 of the [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#) (right of under 18s to have access to other person) applies as if the detained person were a person in police custody for the purposes of that section.
- (3) 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 mentioned in [sub-paragraph \(2\)](#).
- 18 (1) Subject to the modifications specified in sub-paragraphs (2) and (3), section 18 of the Criminal Procedure (Scotland) Act 1995 (procedure for taking certain prints and samples) applies to a person detained under [section 27](#) at a police station in Scotland as it applies to a person arrested.
- (2) For subsection (2) of section 18 substitute—

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- “(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—
- (a) the constable reasonably suspects that the person has been involved in foreign power threat activity, and
 - (b) the constable reasonably believes that the relevant physical data will tend to confirm or disprove the person’s involvement.
- (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 person’s fingerprints will help determine their identity, and
 - (b) the person has refused to identify themselves or the constable has reasonable grounds for suspecting that the person is not who they claim to be.
- (2B) In this section references to determining a person’s identity include references to showing that a detained person is not a particular person.”
- (3) Subsections (3) to (5) of section 18 do not apply.

PART 4

DEALING WITH FINGERPRINTS AND SAMPLES ETC: UNITED KINGDOM

Retention of fingerprints and samples etc: general

- 19 (1) **This paragraph** applies to—
- (a) fingerprints taken under [paragraph 10](#),
 - (b) a DNA profile derived from a DNA sample taken under [paragraph 10](#) or [12](#),
 - (c) relevant physical data taken or provided by virtue of [paragraph 18](#), and
 - (d) a DNA profile derived from a DNA sample taken or provided by virtue of [paragraph 18](#).
- (2) Fingerprints, relevant physical data and DNA profiles to which **this paragraph** applies (“[paragraph 19](#) material”) must be destroyed if it appears to the responsible chief officer of police that—
- (a) the material, or, in the case of a DNA profile, the sample from which the DNA profile was derived, was taken or required to be provided unlawfully, or
 - (b) the material was taken or provided, or, in the case of a DNA profile, was derived from a sample taken, from a person in connection with that person’s arrest under [section 27](#) and the arrest was unlawful or based on mistaken identity.
- (3) In any other case, [paragraph 19](#) material must be destroyed unless it is retained under any power conferred by [paragraphs 20](#) or [22](#).
- (4) Where the retention of [paragraph 19](#) material ceases to be allowed under [paragraph 20](#) or [22](#), the material may continue to be retained under any other such power which applies to it.

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- (5) Nothing in [this paragraph](#) prevents a relevant search, in relation to [paragraph 19](#) material, 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.
- (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 10](#) or [12](#), or a DNA profile derived from such samples,
 - (b) other fingerprints and samples taken under [paragraph 1](#) of [Schedule 12](#), or a DNA profile derived from such samples,
 - (c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984,
 - (d) 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 \(N.I. 12\)](#)),
 - (e) any of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995,
 - (f) any of the fingerprints, data or samples obtained under or by virtue of paragraphs 10 or 12 of Schedule 8 to the Terrorism Act 2000, or information derived from such samples,
 - (g) any of the relevant physical data, samples or information held by virtue of section 56 of the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#),
 - (h) material to which section 18 of the Counter-Terrorism Act 2008 applies,
 - (i) 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, and
 - (j) any of the fingerprints, data or samples obtained under or by virtue of paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or information derived from such samples.
- 20 (1) [This paragraph](#) applies to [paragraph 19](#) material relating to a person who is detained under [section 27](#).
- (2) Paragraph 19 material may be retained indefinitely if—
- (a) the person has previously been convicted—
 - (i) of a recordable offence (other than a single exempt conviction), or
 - (ii) in Scotland, of an offence which is punishable by imprisonment, or
 - (b) the person is so convicted before the end of the period within which the material may be retained by virtue of this paragraph.
- (3) In [sub-paragraph \(2\)](#)—
- (a) the reference to a recordable offence includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute—
 - (i) a recordable offence under the law of England and Wales if done there, or
 - (ii) a recordable offence under the law of Northern Ireland if done there, (and, in the application of [sub-paragraph \(2\)](#) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted);

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- (b) the reference to an offence in Scotland which is punishable by imprisonment includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute an offence under the law of Scotland which is punishable by imprisonment if done there (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).
- (4) Paragraph 19 material may be retained until the end of the retention period specified in sub-paragraph (5) if—
 - (a) the person has no previous convictions, or
 - (b) the person has only one exempt conviction.
- (5) The retention period is—
 - (a) in the case of fingerprints or relevant physical data, the period of 3 years 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 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).
- (6) The responsible chief officer of police or a specified chief officer of police may apply to a relevant court for an order extending the retention period.
- (7) An application for an order under [sub-paragraph \(6\)](#) must be made within the period of 3 months ending with the last day of the retention period.
- (8) An order under [sub-paragraph \(6\)](#) may extend the retention period by a period which—
 - (a) begins with the date on which the material would otherwise be required to be destroyed under [this paragraph](#), and
 - (b) ends with the end of the period of 2 years beginning with that date.
- (9) The following persons may appeal to the relevant appeal court against an order under [sub-paragraph \(6\)](#) or a refusal to make such an order—
 - (a) the responsible chief officer of police;
 - (b) a specified chief officer of police;
 - (c) the person from whom the material was taken.
- (10) In Scotland—
 - (a) an application for an order under [sub-paragraph \(6\)](#) is to be made by summary application;
 - (b) an appeal against an order under [sub-paragraph \(6\)](#), or a refusal to make such an order, must be made within 21 days of the relevant court’s decision, and the relevant appeal court’s decision on any such appeal is final.
- (11) Nothing in [this paragraph](#) prevents the start of a new retention period in relation to [paragraph 19](#) material if a person is detained again under [section 27](#) when an existing retention period (whether or not extended) is still in force in relation to that material.
- (12) In [this paragraph](#)—
 - “relevant court” means—

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- (a) in England and Wales, a District Judge (Magistrates' Courts),
 - (b) in Scotland, the sheriff—
 - (i) in whose sheriffdom the person to whom the material relates resides,
 - (ii) in whose sheriffdom that person is believed by the applicant to be, or
 - (iii) to whose sheriffdom that person is believed by the applicant to be intending to come, and
 - (c) in Northern Ireland, a district judge (magistrates' court) in Northern Ireland;
- the "relevant appeal court" means—
- (a) in England and Wales, the Crown Court,
 - (b) in Scotland, the Sheriff Appeal Court, and
 - (c) in Northern Ireland, the County Court;
- a "specified chief officer of police" means—
- (a) in England and Wales—
 - (i) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
 - (ii) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer's police area, and
 - (b) the chief constable of the Police Service of Scotland, where—
 - (i) the person who provided the material, or from whom it was taken, resides in Scotland, or
 - (ii) the chief constable believes that the person is in, or is intending to come to, Scotland, and
 - (c) the Chief Constable of the Police Service of Northern Ireland, where—
 - (i) the person from whom the material was taken resides in Northern Ireland, or
 - (ii) the chief constable believes that the person is in, or is intending to come to, Northern Ireland.
- 21 (1) For the purposes of [paragraph 20](#), 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 or youth 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, or
 - (iii) the person has been found to be under a disability and to have done the act charged in respect of the offence,
 - (b) the person, in relation to an offence in Scotland punishable by imprisonment, 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,

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- (c) the person, in relation to an offence in Scotland punishable by imprisonment, 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,
 - (e) the person, having been given a fixed penalty notice under section 129(1) of the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#) 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) the person, in relation to an offence in Scotland punishable by imprisonment, has been discharged absolutely by order under section 246(3) of the Criminal Procedure (Scotland) Act 1995.
- (2) Paragraph 20 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 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 ([S.I. 1978/1908 \(N.I. 27\)](#)).
- (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 20](#)—
- (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 under 18 years of age.
- (5) In sub-paragraph (4) “qualifying offence”—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, has 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, has 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);

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- (b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);
 - (c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (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 20](#) 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 20](#) whether the person has been convicted of only one offence.

Retention of material covered by a national security determination

- 22 (1) [Paragraph 19](#) material may be retained for as long as a national security determination made by a chief officer of police has effect in relation to the material.
- (2) A national security determination is made if a chief officer of police determines that it is necessary for any [paragraph 19](#) 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,
 - (c) the Chief Constable of the Police Service of Northern Ireland,
 - (d) the Chief Constable of the Ministry of Defence Police,
 - (e) the Chief Constable of the British Transport Police Force, or
 - (f) the Director General of the National Crime Agency.

Fingerprints and relevant physical data: further provision

- 23 (1) [This paragraph](#) applies where [paragraph 19](#) 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 19](#) material,
 - (b) are taken or provided under or by virtue of—
 - (i) [paragraph 1](#) or [4](#) of [Schedule 12](#),
 - (ii) Part 5 of the Police and Criminal Evidence Act 1984,
 - (iii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)),
 - (iv) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
 - (v) [paragraph 10](#) of [Schedule 8](#) to the Terrorism Act 2000,
 - (vi) [paragraph 1](#) or [4](#) of [Schedule 6](#) to the Terrorism Prevention and Investigation Measures Act 2011, or
 - (vii) [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 20](#) or [22](#), 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 \(a\)](#).

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- (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) Any determination under [this paragraph](#) must be recorded in writing.
- 24
- (1) If fingerprints or relevant physical data are required by [paragraph 19](#) 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.

Samples: further provision

- 25
- (1) [This paragraph](#) applies to—
 - (a) samples taken under [paragraph 10](#) or [12](#), or
 - (b) samples taken or provided by virtue of [paragraph 18](#).
 - (2) Samples to which [this paragraph](#) applies must be destroyed if it appears to the responsible chief officer of police that—
 - (a) the sample was taken or required to be provided unlawfully, or
 - (b) the sample was taken from, or provided by, a person in connection with that person’s arrest under [section 27](#) and the arrest was unlawful or based on mistaken identity.
 - (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) The responsible chief officer of police may apply to a relevant court for an order to retain a sample to which [this paragraph](#) applies beyond the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#) if—
 - (a) the sample was taken from a detained person in connection with the investigation of a qualifying offence, and
 - (b) the responsible chief officer of police considers that the condition in [sub-paragraph \(7\)](#) is met.
 - (7) The condition is that, having regard to the nature and complexity of other material that is evidence in relation to the offence, the sample is likely to be needed in any proceedings for the offence for the purposes of—
 - (a) disclosure to, or use by, a defendant, or
 - (b) responding to any challenge by a defendant in respect of the admissibility of material that is evidence on which the prosecution proposes to rely.

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- (8) An application under [sub-paragraph \(6\)](#) must be made before the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#).
- (9) If, on an application made by the responsible chief officer of police under [sub-paragraph \(6\)](#), the relevant court is satisfied that the condition in [sub-paragraph \(7\)](#) is met, it may make an order under this sub-paragraph which—
- (a) allows the sample to be retained for a period of 12 months beginning with the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#), and
 - (b) may be renewed (on one or more occasions) for a further period of not more than 12 months from the end of the period when the order would otherwise cease to have effect.
- (10) An application for an order under [sub-paragraph \(9\)](#) (other than an application for renewal)—
- (a) may be made without notice of the application having been given to the person from whom the sample was taken, and
 - (b) may be heard and determined in private in the absence of that person.
- (11) In Scotland, an application for an order under [sub-paragraph \(9\)](#) (including an application for renewal) is to be made by summary application.
- (12) A sample retained by virtue of an order under [sub-paragraph \(9\)](#) must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (13) A sample must be destroyed if retention of the sample by virtue of an order under [sub-paragraph \(9\)](#) ceases to be allowed.
- (14) 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.
- (15) In [this paragraph](#)—
- “ancillary offence”, in relation to an offence, means any of the following—
 - (a) being art and part in the commission of the offence;
 - (b) inciting a person to commit the offence;
 - (c) attempting or conspiring to commit the offence;
 - “qualifying offence”—
 - (a) in relation to the investigation of an offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984,
 - (b) in relation to the investigation of an offence committed in Scotland, means a relevant offence, an offence listed in section 33(3)(a), or an ancillary offence in relation to such an offence, and
 - (c) in relation to the investigation of an offence committed in Northern Ireland, has the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#));

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“relevant court” means—

- (a) in England and Wales, a District Judge (Magistrates’ Courts),
- (b) in Scotland, the sheriff—
 - (i) in whose sheriffdom the person to whom the sample relates resides,
 - (ii) in whose sheriffdom that person is believed by the responsible chief officer of police to be, or
 - (iii) to whose sheriffdom that person is believed by the responsible chief officer of police to be intending to come, and
- (c) in Northern Ireland, a district judge (magistrates’ court) in Northern Ireland;

“relevant offence” has the same meaning as in section 19A of the Criminal Procedure (Scotland) Act 1995;

“relevant search” has the meaning given by [paragraph 19\(6\)](#).

Restrictions on use of retained material

- 26 (1) Any material to which [paragraph 19](#) or [25](#) applies must not be used other than—
- (a) in the interests of national security,
 - (b) for the purposes of investigating foreign power threat activity,
 - (c) for the purposes of a terrorist investigation (within the meaning of the Terrorism Act 2000),
 - (d) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (e) 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 19\(6\)](#)) may be carried out in relation to material to which [paragraph 19](#) or [25](#) applies if the responsible chief officer of police considers the search to be desirable.
- (3) Material which is required by [paragraph 19](#) or [25](#) 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 reference to crime includes a reference to any conduct which—
 - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
 - (ii) 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, and
 - (c) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime

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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 (but see instead section 19C of the Criminal Procedure (Scotland) Act 1995 (use of samples etc) (as amended by [Schedule 18](#)).

Material disclosable in connection with a criminal investigation

- 27 (1) [Paragraphs 19 to 26](#) do not apply to material relating to a detained person which is, or may become, disclosable under—
- (a) the Criminal Procedure and Investigations Act 1996, or
 - (b) a code of practice prepared under section 23 of that Act and in operation by virtue of an order under section 25 of that Act.
- (2) A sample that—
- (a) falls within [sub-paragraph \(1\)](#), and
 - (b) but for that sub-paragraph would be required to be destroyed under [paragraph 25](#),
- must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (3) A sample that once fell within [sub-paragraph \(1\)](#) but no longer does, and so becomes a sample to which [paragraph 25](#) applies, must be destroyed immediately if the time specified for its destruction under that paragraph has already passed.

Interpretation

- 28 (1) In [paragraphs 19 to 27](#)—
- “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 or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I.12\)](#));
- “paragraph 19 material” has the meaning given by [paragraph 19\(2\)](#);
- “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 National Crime Agency;
 - (j) the British Transport Police Force;
- “recordable offence”—

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- (a) in relation to a conviction in England and Wales, has 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, has 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—

- (a) in relation to fingerprints or samples taken by a constable of the Ministry of Defence Police, or a DNA profile derived from a sample so taken, the Chief Constable of the Ministry of Defence Police;
- (b) in relation to fingerprints or samples taken by a constable of the British Transport Police Force, or a DNA profile derived from a sample so taken, the Chief Constable of the British Transport Police Force;
- (c) in relation to fingerprints or samples taken by a constable who is a National Crime Agency officer, or a DNA profile derived from a sample so taken, the Director General of the National Crime Agency;
- (d) otherwise—
 - (i) 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 relevant police area;
 - (ii) in relation to relevant physical data or samples taken or provided in Scotland, or a DNA profile derived from a sample so taken, the chief constable of the Police Service of Scotland;
 - (iii) 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.

- (2) In the definition of “responsible chief officer of police” in sub-paragraph (1), in paragraph (d)(i), “relevant police area” means 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.

PART 5

REVIEW OF DETENTION UNDER SECTION 27

Requirement

- 29 (1) A person’s detention must be periodically reviewed by a review officer.
- (2) The first review must be carried out as soon as is reasonably practicable after the time of the person’s arrest.
- (3) Subsequent reviews must be carried out at intervals of not more than 12 hours.
- This is subject to [paragraph 30](#).
- (4) A person’s detention may not be reviewed after a warrant has been issued under Part 6 of [this Schedule](#) extending the detention period.

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Postponement

- 30 (1) A review may be postponed if, at the latest time at which it may be carried out in accordance with [paragraph 29](#)—
- (a) the detained person is being questioned by a constable and the review officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,
 - (b) no review officer is readily available, or
 - (c) it is not practicable for any other reason to carry out the review.
- (2) Where a review is postponed it must be carried out as soon as is reasonably practicable.
- (3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review is to be treated as if it were carried out at the latest time at which it could have been carried out in accordance with [paragraph 29](#).

Grounds for continued detention

- 31 (1) A review officer may authorise a person's continued detention only if satisfied that it is necessary—
- (a) to obtain relevant evidence, whether by questioning the person or otherwise,
 - (b) to preserve relevant evidence,
 - (c) pending the result of an examination or analysis of any relevant evidence,
 - (d) pending the result of any examination or analysis which is being carried out, or which is to be carried out, with a view to obtaining relevant evidence,
 - (e) pending a decision whether to apply to the Secretary of State for a deportation notice to be served on the person,
 - (f) pending the making of an application to the Secretary of State for a deportation notice to be served on the person,
 - (g) pending consideration by the Secretary of State of whether to serve a deportation notice on the person, or
 - (h) pending a decision as to whether the person should be charged with an offence.
- (2) The review officer may not authorise continued detention by virtue of [sub-paragraph \(1\)\(a\)](#) to (d) unless satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (3) The review officer may not authorise continued detention by virtue of [sub-paragraph \(1\)\(e\)](#) to (h) unless satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.
- (4) In [this paragraph](#) “relevant evidence” means evidence which relates to the detained person's involvement in foreign power threat activity.
- (5) In [sub-paragraph \(1\)](#) “deportation notice” means notice of a decision to make a deportation order under the Immigration Act 1971.

Review officer

- 32 (1) The review officer must be an officer who has not been directly involved in the investigation in connection with which the person is detained.
- (2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer must be an officer of at least the rank of inspector.
- (3) In the case of any other review, the review officer must be an officer of at least the rank of superintendent.
- 33 (1) [This paragraph](#) applies where—
- (a) the review officer is of a rank lower than superintendent,
 - (b) an officer of higher rank than the review officer gives directions relating to the detained person, and
 - (c) those directions are at variance with the performance by the review officer of a duty imposed on the review officer under [this Schedule](#).
- (2) The review officer must refer the matter at once to an officer of at least the rank of superintendent.

Representations

- 34 (1) Before determining whether to authorise a person's continued detention, a review officer must give either of the following persons an opportunity to make representations about the detention—
- (a) the detained person, or
 - (b) a solicitor representing the detained person 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 detained person if the officer considers that the person is unfit to make representations because of the person's condition or behaviour.

Rights

- 35 (1) A review officer who authorises continued detention must inform the detained person—
- (a) of any rights under [paragraphs 6 and 7](#) which the person has not yet exercised, and
 - (b) of any delay to the exercise of any of the person's rights which has been authorised in accordance with [paragraph 9](#).
- (2) Where a review of a person's detention is being carried out at a time when the person's exercise of a right under [paragraph 6 or 7](#) is being delayed, the review officer must—
- (a) consider whether the reason or reasons for which the delay was authorised continue to apply, and
 - (b) if, in the review officer's opinion, the reason or reasons have ceased to apply, inform the officer who authorised the delay of that opinion (unless the delay was authorised by the review officer).

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- (3) In the application of [this paragraph](#) to Scotland, for the references to [paragraphs 6, 7 and 9](#) substitute references to [paragraph 15](#).
- (4) Article 8(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 ([S.I. 1998/1504 \(N.I. 9\)](#)) (requirement to bring an accused person before the court after arrest) does not apply in relation to a detained person.

Record

- 36 (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 grounds upon which continued detention is authorised,
 - (b) the reason for postponing the review,
 - (c) the fact that the detained person has been informed as required under [paragraph 35\(1\)](#),
 - (d) the officer’s conclusion on the matter considered under [paragraph 35\(2\)\(a\)](#),
 - (e) the fact that the officer has taken action under [paragraph 35\(2\)\(b\)](#), and
 - (f) the fact that the detained person is being detained by virtue of [section 27\(6\)](#) or [\(7\)](#).
- (2) The review officer must—
- (a) make the record in the presence of the detained person, and
 - (b) inform the detained person at that time whether the review officer is authorising continued detention, and if so, of the grounds for such authorisation.
- (3) [Sub-paragraph \(2\)](#) does not apply where, at the time when the record is made, the detained person is—
- (a) incapable of understanding what is said to them,
 - (b) violent or likely to become violent, or
 - (c) in urgent need of medical attention.

PART 6

EXTENSION OF DETENTION UNDER [SECTION 27](#)

Warrants of further detention

- 37 (1) Each of the following—
- (a) in England and Wales, a Crown Prosecutor,
 - (b) in Scotland, the Lord Advocate or a procurator fiscal,
 - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
 - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
- may apply to a judicial authority for the issue of a warrant of further detention in relation to a person.
- (2) A warrant of further detention is a warrant—
- (a) authorising the further detention under [section 27](#) of a person for the specified period, and

- (b) stating the time at which it is issued.
- (3) Subject to [sub-paragraph \(4\)](#) and [paragraph 44](#), the specified period in relation to a person is the period of 7 days beginning with the time of the person's arrest under [section 27](#).
- (4) A judicial authority may issue a warrant of further detention in relation to a person which specifies a shorter period as the period for which the person's further detention is authorised if—
 - (a) the application for the warrant is an application for a warrant specifying a shorter period, or
 - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the specified period to be as long as the period of 7 days mentioned in [sub-paragraph \(3\)](#).
- (5) In [this Part](#) “judicial authority” means—
 - (a) in England and Wales, a District Judge (Magistrates' Courts) who is designated for the purpose of [this Part](#) by the Lord Chief Justice of England and Wales,
 - (b) in Scotland, a sheriff, and
 - (c) in Northern Ireland, a district judge (magistrates' courts) in Northern Ireland who is designated for the purpose of [this Part](#) by the Lord Chief Justice of Northern Ireland.
- (6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the functions under [sub-paragraph \(5\)\(a\)](#).
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise the functions under [sub-paragraph \(5\)\(c\)](#)—
 - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).

Time limit

- 38
- (1) An application for a warrant must be made—
 - (a) during the period mentioned in [section 27\(3\)](#), or
 - (b) within 6 hours of the end of that period.
 - (2) The judicial authority hearing an application made by virtue of [sub-paragraph \(1\)\(b\)](#) must dismiss the application if it considers that it would have been reasonably practicable to make it during the period mentioned in [section 27\(3\)](#).
 - (3) For the purposes of [this Schedule](#), an application for a warrant is made when written or oral notice of an intention to make the application is given to a judicial authority.

Notice

- 39
- An application for a warrant of further detention may not be heard unless the person to whom it relates has been given a notice stating—
- (a) that the application has been made,
 - (b) the time at which the application was made,

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- (c) the time at which it is to be heard, and
- (d) the grounds upon which further detention is sought.

Grounds for extension

- 40 (1) A judicial authority may issue a warrant of further detention only if satisfied that—
- (a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary as mentioned in [sub-paragraph \(2\)](#), and
 - (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (2) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary—
- (a) to obtain relevant evidence whether by questioning the person or otherwise,
 - (b) to preserve relevant evidence,
 - (c) pending the result of an examination or analysis of any relevant evidence, or
 - (d) pending the examination or analysis of anything which is being carried out, or is to be carried out, with a view to obtaining relevant evidence.
- (3) In [this paragraph](#) “relevant evidence” means, in relation to the person to whom the application relates, evidence which relates to the person’s involvement in foreign power threat activity.

Representation

- 41 (1) The person to whom an application relates—
- (a) must be given an opportunity to make oral or written representations to the judicial authority about the application, and
 - (b) subject to [sub-paragraph \(3\)](#), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—
- (a) the person is not legally represented,
 - (b) the person is entitled to be legally represented, and
 - (c) the person wishes to be so represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing—
- (a) the person to whom the application relates;
 - (b) anyone representing that person.
- (4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—
- (a) that the hearing of the application must be conducted, and
 - (b) that all representations by or on behalf of a person for the purposes of the hearing must be made,
- by such means (whether a live television link or other means) falling within [sub-paragraph \(5\)](#) as may be specified in the direction and not in the presence (apart from

by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.

- (5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of that person (without being present at the hearing and to the extent that they are not excluded from it under [sub-paragraph \(3\)](#))—
 - (a) to see and hear the judicial authority and the making of representations to it by other persons, and
 - (b) to be seen and heard by the judicial authority.
- (6) If the person to whom the application relates wishes to make representations about whether a direction should be given under [sub-paragraph \(4\)](#), the person must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.
- (7) [Sub-paragraph \(2\)](#) applies to the hearing of representations about whether a direction should be given under [sub-paragraph \(4\)](#) in the case of any application as it applies to a hearing of the application.
- (8) A judicial authority may not give a direction under [sub-paragraph \(4\)](#) unless—
 - (a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within [sub-paragraph \(5\)](#), and
 - (b) that notification has not been withdrawn.
- (9) If in a case where it has power to do so a judicial authority decides not to give a direction under [sub-paragraph \(4\)](#), it shall state its reasons for not giving it.

Information

- 42 (1) A person who has made an application for a warrant may apply to the judicial authority for an order that specified information upon which the person intends to rely be withheld from—
 - (a) the person to whom the application relates, and
 - (b) anyone representing the person.
- (2) Subject to [sub-paragraph \(3\)](#), a judicial authority may make an order under [sub-paragraph \(1\)](#) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed—
 - (a) evidence of an offence under any of the provisions mentioned in [section 33\(3\)\(a\)](#) would be interfered with or harmed,
 - (b) evidence of an offence under [section 18](#) would be interfered with or harmed,
 - (c) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
 - (d) the apprehension, prosecution or conviction of a person who is suspected of being involved in foreign power threat activity would be made more difficult as a result of the person being alerted,
 - (e) the prevention of foreign power threat activity would be made more difficult as a result of a person being alerted,
 - (f) the gathering of information about the commission, preparation or instigation of foreign power threat activity would be interfered with, or

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- (g) a person would be interfered with or physically injured.
- (3) A judicial authority may also make an order under [sub-paragraph \(1\)](#) in relation to specified information if satisfied that there are reasonable grounds for believing that—
 - (a) the detained person has benefited from their criminal conduct, and
 - (b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.
- (4) For the purposes of [sub-paragraph \(3\)](#) the question whether a person has benefited from their criminal conduct is to be decided in accordance with Part 2, 3 or 4 of the Proceeds of Crime Act 2002.
- (5) The judicial authority may direct that the following be excluded from the hearing of the application under [this paragraph](#)—
 - (a) the person to whom the application for a warrant relates, and
 - (b) anyone representing that person.

Adjournments

- 43 (1) A judicial authority may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in [section 27\(3\)](#).
- (2) [This paragraph](#) does not apply to an adjournment under [paragraph 41\(2\)](#).

Extensions of warrants

- 44 (1) Each of the following—
 - (a) in England and Wales, a Crown Prosecutor,
 - (b) in Scotland, the Lord Advocate or a procurator fiscal,
 - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
 - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
 may apply for the extension or further extension of the period specified in a warrant of further detention.
- (2) The person to whom an application under [sub-paragraph \(1\)](#) may be made is a judicial authority.
- (3) Where the period specified is extended, the warrant must be endorsed with a note stating the new specified period.
- (4) Subject to [sub-paragraph \(6\)](#), the period by which the specified period is extended or further extended is the period which—
 - (a) begins with the time specified in [sub-paragraph \(5\)](#), and
 - (b) ends with whichever is the earlier of—
 - (i) the end of the period of 7 days beginning with that time, and
 - (ii) the end of the period of 14 days beginning with the time of the arrest of the person to which the warrant relates.
- (5) The time referred to in [sub-paragraph \(4\)\(a\)](#) is—

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- (a) in the case of a warrant specifying a period which has not previously been extended under [this paragraph](#), the end of the period specified in the warrant, and
 - (b) in any other case, the end of the period for which the period specified in the warrant was last extended under [this paragraph](#).
- (6) A judicial authority may extend or further extend the period specified in a warrant by a shorter period than is required by [sub-paragraph \(4\)](#) if—
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required, or
 - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.
- (7) [Paragraphs 38\(3\)](#) and [39](#) to [42](#) apply to an application under [this paragraph](#) as they apply to an application for a warrant of further detention.
- (8) A judicial authority may adjourn the hearing of an application under [sub-paragraph \(1\)](#) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.
- (9) [Sub-paragraph \(8\)](#) does not apply to an adjournment under [paragraph 41\(2\)](#).

Detention - conditions

- 45 (1) [This paragraph](#) applies where—
- (a) a person is detained by virtue of a warrant issued under [this Part](#) of [this Schedule](#), and
 - (b) the detention is not authorised by virtue of [section 27\(6\)](#) or [\(7\)](#) or otherwise apart from the warrant.
- (2) If, at any time, it appears to the police officer or other person in charge of the detained person’s case (“the officer in charge”) that any of the matters mentioned in [paragraph 40\(1\)\(a\)](#) and [\(b\)](#) on which the judicial authority last authorised the person’s further detention no longer apply, the officer in charge must—
- (a) if the officer in charge has custody of the detained person, release the person immediately, and
 - (b) if the officer in charge does not, immediately inform the person who does have custody of the detained person that those matters no longer apply in the detained person’s case.
- (3) A person with custody of the detained person who is informed in accordance with [this paragraph](#) that those matters no longer apply must release the detained person immediately.

PART 7

EMERGENCY POWER WHEN PARLIAMENT DISSOLVED ETC. FOR TEMPORARY EXTENSION OF MAXIMUM PERIOD FOR DETENTION UNDER [SECTION 27](#)

- 46 (1) The Secretary of State may make temporary extension regulations if—
- (a) either—
 - (i) Parliament is dissolved, or

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- (ii) Parliament has met after a dissolution but the first King’s Speech of the Parliament has not yet taken place, and
 - (b) the Secretary of State considers that it is necessary by reason of urgency to make such regulations.
- (2) Temporary extension regulations are regulations which provide, in relation to the period of three months beginning with the coming into force of the regulations, for paragraphs 44 and 45 to be read as if—
 - (a) in paragraph 44(4)(b)(ii), for “14 days” there were substituted “28 days”, and
 - (b) the other modifications in sub-paragraphs (3) and (4) were made.
- (3) The other modifications of paragraph 44 are—
 - (a) the insertion, at the end of sub-paragraph (1), of—

“This is subject to sub-paragraphs (1A) to (1I).”
 - (b) the insertion, after sub-paragraph (1), of—

“(1A) Sub-paragraph (1B) applies in relation to any proposed application under sub-paragraph (1) for the further extension of the period specified in a warrant of further detention where the grant (otherwise than in accordance with sub-paragraph (6)(b)) of the application would extend the specified period such that it ends at a time that is more than 14 days after the time of the arrest of the person to whom the warrant relates.

(1B) No person may make such an application—

 - (a) in England and Wales, without the consent of the Director of Public Prosecutions,
 - (b) in Scotland, without the consent of the Lord Advocate, and
 - (c) in Northern Ireland, without the consent of the Director of Public Prosecutions for Northern Ireland,

unless the person making the application is the person whose consent is required.
 - (1C) The Director of Public Prosecutions must exercise personally any function under sub-paragraph (1B) of giving consent.
 - (1D) The only exception is if—
 - (a) the Director is unavailable, and
 - (b) there is another person who is designated in writing by the Director acting personally as the person who is authorised to exercise any such function when the Director is unavailable.
 - (1E) In that case—
 - (a) the other person may exercise the function but must do so personally, and
 - (b) the Director acting personally—
 - (i) must review the exercise of the function as soon as practicable, and
 - (ii) may revoke any consent given.

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- (1F) Where the consent is so revoked after an application has been made or extension granted, the application is to be dismissed or (as the case may be) the extension is to be revoked.
- (1G) Sub-paragraphs (1C) to (1F) apply instead of any other provisions which would otherwise have enabled any function of the Director of Public Prosecutions under sub-paragraph (1B) of giving consent to be exercised by a person other than the Director.
- (1H) The Director of Public Prosecutions for Northern Ireland must exercise personally any function under sub-paragraph (1B) of giving consent unless the function is exercised personally by the Deputy Director of Public Prosecutions for Northern Ireland by virtue of section 30(4) or (7) of the Justice (Northern Ireland) Act 2002 (powers of Deputy Director to exercise functions of Director).
- (1I) Sub-paragraph (1H) applies instead of section 36 of the Act of 2002 (delegation of the functions of the Director of Public Prosecutions for Northern Ireland to persons other than the Deputy Director) in relation to the functions of the Director of Public Prosecutions for Northern Ireland and the Deputy Director of Public Prosecutions for Northern Ireland under, or (as the case may be) by virtue of, sub-paragraph (1B) above of giving consent.”
- (c) the substitution, for “a judicial authority” in sub-paragraph (2), of—
 - (a) in the case of an application falling within sub-paragraph (2A), a judicial authority, and
 - (b) in any other case, a senior judge”
- (d) the insertion, after sub-paragraph (2), of—
 - “(2A) An application for the extension or further extension of a period falls within this sub-paragraph if—
 - (a) the grant of the application otherwise than in accordance with sub-paragraph (6)(b) would extend that period such that it ends at a time that is no more than 14 days after the time of the arrest of the person to whom the warrant relates, and
 - (b) no application has previously been made to a senior judge in respect of that period.”
- (e) the insertion, after “judicial authority” in both places in sub-paragraph (6) where it appears, of “or senior judge”
- (f) the insertion, after “detention” in sub-paragraph (7), of “but, in relation to an application made by virtue of sub-paragraph (2)(b) to a senior judge, as if—
 - (a) references to a judicial authority were references to a senior judge, and
 - (b) references to the judicial authority in question were references to the senior judge in question”
- (g) the insertion, after “judicial authority” in sub-paragraph (8), of “or senior judge”, and
- (h) the insertion, after sub-paragraph (9), of—

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“(10) In this paragraph and [paragraph 45](#) “senior judge” means a judge of the High Court or of the High Court of Justiciary.”

- (4) The modification of [paragraph 45](#) is the insertion, in [sub-paragraph \(2\)](#), after “judicial authority”, of “or senior judge”.
- (5) Temporary extension regulations apply, except so far as the regulations provide otherwise, to any person who is being detained under [section 27](#) when the regulations come into force (as well as any person who is subsequently detained under that section).
- (6) The Secretary of State may by regulations revoke temporary extension regulations if the Secretary of State considers it appropriate to do so (whether or not the conditions mentioned in [paragraphs \(a\) and \(b\) of sub-paragraph \(1\)](#) are met).
- (7) [Sub-paragraph \(8\)](#) applies if—
- (a) any of the following events occurs—
 - (i) the revocation without replacement of temporary extension regulations,
 - (ii) the expiry of the period of three months mentioned in [sub-paragraph \(2\)](#) in relation to such regulations,
 - (iii) the ceasing to have effect of such regulations by virtue of [section 96\(8\) and \(9\)](#), and
 - (b) at that time—
 - (i) a person is being detained by virtue of a further extension under [paragraph 44](#),
 - (ii) the person’s further detention was authorised by virtue of the temporary extension regulations concerned (before the revocation or expiry of those regulations or before those regulations ceased to have effect) for a period ending more than 14 days after the time of the person’s arrest under [section 27](#),
 - (iii) that 14 days has expired, and
 - (iv) the person’s detention is not otherwise authorised by law.
- (8) The person with custody of the detained person must release the detained person immediately.
- (9) Subject to [sub-paragraphs \(7\) and \(8\)](#), the fact that—
- (a) temporary extension regulations are revoked,
 - (b) the period of three months mentioned in [sub-paragraph \(2\)](#) has expired in relation to such regulations, or
 - (c) such regulations cease to have effect by virtue of [section 96\(8\) and \(9\)](#),
- is without prejudice to anything previously done by virtue of the regulations or to the making of new regulations.