

---

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) Order 2013 which makes provision in connection with the coming into force of Chapter 1 of Part 1 of the Protection of Freedoms Act 2012.

Article 3 inserts a new article into that order to provide that fingerprints and DNA profiles that were taken on the basis of purported consent before the coming into force of Chapter 1 of Part 1 of that Act (“legacy material”), from a person who was convicted of an offence, can be retained even if the taking of the fingerprint or DNA sample from which the DNA profile was derived was unlawful.

Article 4 inserts a new article which has effect in relation to legacy material taken from a person who was convicted of an offence and either a non-intimate sample was not taken from that person, or such a sample was taken but was not suitable for analysis or it proved insufficient. In such a case the power to take a sample if the previous sample proves insufficient as a result of its destruction can be exercised even if that previous sample was destroyed pursuant to a statutory requirement.