

2013 No. 2770

POLICE, ENGLAND AND WALES

The Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) (Amendment) (No. 2) Order 2013

<i>Made</i> - - - -	<i>28th October 2013</i>
<i>Laid before Parliament</i>	<i>30th October 2013</i>
<i>Coming into force</i> - -	<i>31st October 2013</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 25 of the Protection of Freedoms Act 2012(a).

Citation and commencement

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) (Amendment) (No. 2) Order 2013.

(2) This Order shall come into force on 31st October 2013.

Amendment of the Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) Order 2013

2. The Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) Order 2013(b) is amended as follows.

3. After article 9 insert the following article—

“Transitional provision

10.—(1) Paragraph (2) applies where—

- (a) section 63D material is or was taken (or, in the case of a DNA profile, derived from a sample taken) before 30th September 2014 from a person in connection with the investigation of an offence, and
- (b) subsequent to the taking of the material or sample, the person is or was arrested for or charged with a different offence, or convicted of or given a penalty notice for a different offence.

(a) 2012 c. 9.

(b) S.I. 2013/1813, as amended by S.I. 2013/2580.

(2) Sections 63E to 63O and sections 63Q and 63T have effect in relation to the section 63D material as if the material were also taken (or, in the case of a DNA profile, derived from a sample taken) –

- (a) in connection with the investigation of the offence mentioned in paragraph (1)(b),
- (b) on the date on which the person was arrested for that offence (or charged with it or given a penalty notice for it, if the person was not arrested).

(3) In this article “section 63D material” has the meaning given in section 65(1) of the Police and Criminal Evidence Act 1984(a).”.

Home Office
28th October 2013

Taylor of Holbeach
Parliamentary Under-Secretary of State

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, making provision in relation to a person whose DNA profile or fingerprints are taken before 30th September 2014. If the person is arrested for or charged with a subsequent offence, or is convicted or given a penalty notice for a subsequent offence, then that person’s profile or fingerprints can be retained by the rules applicable to that subsequent offence.

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(a) 1984 c. 60; the definition of “section 63D material” was inserted into section 65(1) by section 18(2) of the Protection of Freedoms Act 2012.

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