

*These notes refer to the Justice Act (Northern Ireland)
2015 (c.9) which received Royal Assent on 24 July 2015*

Justice Act (Northern Ireland) 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Miscellaneous

Personal samples, DNA profiles and fingerprints

Section 83: Power to take further fingerprints or non-intimate samples

This section amends Article 61 and Article 63 of PACE to provide powers for police to take fingerprints or a non-intimate sample from persons without their consent, in cases where the investigation was discontinued but then resumed and the previous DNA sample, profile and fingerprints had been destroyed.

Consequential amendments to Schedule 2A of PACE, impose a time limit of six months from the resumption of the investigation for the sample and fingerprints to be retaken.

Section 84: Retention of material; persons convicted of an offence in England and Wales or Scotland

This section will correct a gap identified in new Article 63G of PACE which makes provision for the retention of DNA and fingerprints taken from persons convicted of an offence outside Northern Ireland. As currently enacted, Article 63G would not permit the retention of the DNA profile and fingerprints taken from a person in Northern Ireland on the basis of a conviction recorded against the person for a recordable, non-qualifying offence in England, Scotland or Wales. New Article 63GA of PACE will ensure that DNA and fingerprints taken in Northern Ireland may be retained by virtue of the existence of a conviction in England, Scotland or Wales.

Section 85: Retention of DNA profiles or fingerprints: persons given a prosecutorial fine

This section makes provision for a DNA profile and fingerprints taken by police from a person who accepts a prosecutorial fine for an offence to be retained for a period of two years.

Section 86: Power to retain DNA profile or fingerprints in connection with different offence

This section substitutes a new Article 63N into PACE to provide that fingerprints or a DNA profile taken in connection with the investigation of one offence are to be treated as if they were taken in connection with the investigation of any other offence that the person is subsequently arrested for, charged with, convicted of or given a penalty notice for. This means that provisions in PACE for the retention of fingerprints or DNA profiles where there is a criminal conviction will apply in such cases, without the need for a causal link between the arrest in respect of which the fingerprints and DNA profiles were taken and the subsequent offence.

Section 87: Retention of personal samples that are or may be disclosable

This section amends Article 63R of PACE to insert a reference to Article 63P of PACE (which governs the retention of DNA samples) thereby making the retention rules for samples subject to the Criminal Procedure and Investigations Act 1996 (CPIA) in the same way as DNA profiles and fingerprints retained under Articles 63B to 63O and 63Q. The amendments provide that any sample retained under the CPIA must not be used other than for the purposes of any proceedings for the offence in connection with which it was taken and, that once the CPIA no longer applies, the sample must be destroyed.