Draft Order laid before Parliament under paragraph 8(6) of Schedule 1 to the Protection of Freedoms Act 2012, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

CRIMINAL LAW, NORTHERN IRELAND
POLICE, NORTHERN IRELAND

The Protection of Freedoms Act 2012 (Northern Ireland) (Biometric data) Order 2015

Made - - - - 2015

Coming into force in accordance with article 1(2)

In accordance with paragraph 8(1) of Schedule 1 to the Protection of Freedoms Act 2012(**1**) ("the Act"), the Secretary of State considers that the Criminal Justice Act (Northern Ireland) 2013(**2**) made by the Northern Ireland Assembly contains provision with the same subject-matter in relation to Northern Ireland as the subject-matter in relation to England and Wales of provision made by one or more of sections 1 to 18 and 23 to 25 of the Act.

In accordance with paragraph 8(6) of Schedule 1 to the Act a draft of this Order was laid before and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of the powers conferred by paragraph 8(2), (3) and (4) of Schedule 1 to the Act, makes the following Order:

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Northern Ireland) (Biometric data) Order 2015.

(2) It comes into force on the day on which section 9(1) of, and Schedule 2 to, the Criminal Justice Act (Northern Ireland) 2013 come into force for the purpose of inserting Article 63B in the 1989 Order(**3**) for all purposes (whether or not that section and Schedule also come into force for other purposes at the same time).

(3) Subject to paragraph (4), this Order extends to Northern Ireland only.

(4) Article 3 and this article also extend to England and Wales and Scotland.

(**1**) 2012 c. 9. Paragraph 8(1) of Schedule 1 to the Protection of Freedoms 2012 Act is amended by section 24 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).
(**2**) 2013 c. 7 (N.I)
(**3**) S.I. 1989/1341 (N.I. 12) ("the 1989 Order").

(5) In this Order "the 1989 Order" means the Police and Criminal Evidence (Northern Ireland) Order 1989.

Corresponding provision for Northern Ireland dealing with excepted matters

2.—(1) The 1989 Order is amended as follows.

(2) In Article 2(2) (general interpretation)(**4**) after the definition of "terrorism" insert—

""terrorist investigation" has the meaning given in section 32 of that Act(**5**);".

(3) In Article 63Q(1) (use of retained material)(**6**) before sub-paragraph (a) insert—

"(za) in the interests of national security,

(zb) for the purposes of a terrorist investigation,".

3.—(1) The Terrorism Act 2000(**7**) is amended as follows.

(2) In paragraph 15 of Schedule 8 (interpretation of paragraphs 10 to 13 of Schedule 8)(**8**) after sub-paragraph (2) insert—

"(2A) In the application of Article 53(3A) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**9**) for the purposes of sub-paragraph (2) of this paragraph, the reference to the destruction of a sample under Article 63P of that Order (destruction of samples) is a reference to the destruction of a sample under paragraph 20G(**10**)of this Schedule.".

Amendments to the Protection of Freedoms Act 2012

4.—(1) The Protection of Freedoms Act 2012 is amended as follows.

(2) In paragraph 7(1)(a) of Schedule 1 (material subject to the 1989 Order)(**11**) for "(destruction of fingerprints and samples)" substitute "(destruction of fingerprints and DNA profiles)".

(3) In paragraph 7(7) omit the definitions of "DNA profile" and "DNA sample".

Corresponding transitional provision for Northern Ireland dealing with excepted matters

5.—(1) In its application to PACE material taken, or (in the case of a DNA profile) derived from a sample taken, before the day on which this Order comes into force and identified by the Chief Constable of the Police Service of Northern Ireland as material requiring consideration under paragraph 7 of Schedule 1 to the Protection of Freedoms Act 2012, Schedule 2 to the Criminal Justice

(**4**) Article 2 of the 1989 Order has been amended on various occasions. Of relevance to this Order, definitions of "the terrorism provisions" and "terrorism" were inserted by paragraph 8(1) and (2) of Schedule 15 to the Terrorism Act 2000 (c.11).

(**5**) 2000 c. 11. The reference to, "that Act" is, by virtue of the definition of "the terrorism provisions", a reference to the Terrorism Act 2000. Section 32 of the Terrorism Act 2000 Act has been amended by section 37(1) of the Terrorism Act 2006 (c. 11).

(**6**) Article 63Q of the 1989 Order is inserted by section 9(1) of, and Schedule 2 to, the Criminal Justice Act (Northern Ireland) 2013 (c.7 (N.I.)).

(**7**) 2000 c. 11.

(**8**) Paragraph 15 of Schedule 8 to the Terrorism Act 2000 (c. 11) has been amended a number of times. Of relevance to this Order, paragraph 15(2) has been amended by section 19 of, and paragraph 1(1) and (8) of Schedule 1 to, the Protection of Freedoms Act 2012 (c. 9). Paragraph 15(2) was previously amended by, and paragraph 15(2A) was previously inserted by, section 17(1), (6) and (7) of the Crime and Security Act 2010 (c. 17) but those amendments have not been commenced and section 17 of the 2010 Act has been repealed by section 115(2) of, and Part 1 of Schedule 10 to, the Protection of Freedoms Act 2012.

(**9**) Article 53(3A) of the 1989 Order was inserted by section 9(2) of, and paragraph 1(3) of Schedule 3 to, the Criminal Justice Act (Northern Ireland) 2013 (c.7 (N.I.)).

(**10**) Paragraph 20G of Schedule 8 to the Terrorism Act 2000 (c. 11) was inserted by section 19 of, and paragraph 1(4) of Schedule 1 to the Protection of Freedoms Act 2012 (c. 9).

(**11**) Paragraph 7(1) of Schedule 1 to the Protection of Freedoms Act 2012 (c.9) has been amended by paragraphs 7(1) and (2) of Schedule 3 to the Criminal Justice Act (Northern Ireland) 2013 (c. 7 (N.I)).