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Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV

DETENTION

Detention—miscellaneous

VALID FROM 01/04/2003

[^{F1}45A Use of video-conferencing facilities for decisions about detention

- (1) Subject to the following provisions of this section, the Secretary of State may by regulations provide that, in the case of an arrested person who is held in a police station, some or all of the functions mentioned in subsection (2) may be performed (notwithstanding anything in the preceding provisions of this Part) by an officer who—
 - (a) is not present in that police station; but
 - (b) has access to the use of video-conferencing facilities that enable him to communicate with persons in that station.
- (2) Those functions are—
 - (a) the functions in relation to an arrested person taken to a police station that is not a designated police station which, in the case of an arrested person taken to a station that is a designated police station, are functions of a custody officer under section 37, 38 or 40 above; and
 - (b) the function of carrying out a review under section 40(1)(b) above (review, by an officer of at least the rank of inspector, of the detention of person arrested but not charged).
- (3) Regulations under this section shall specify the use to be made in the performance of the functions mentioned in subsection (2) above of the facilities mentioned in subsection (1) above.

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- (4) Regulations under this section shall not authorise the performance of any of the functions mentioned in subsection (2)(a) above by such an officer as is mentioned in subsection (1) above unless he is a custody officer for a designated police station.
- (5) Where any functions mentioned in subsection (2) above are performed in a manner authorised by regulations under this section—
- (a) any obligation of the officer performing those functions to make a record in connection with the performance of those functions shall have effect as an obligation to cause another officer to make the record; and
 - (b) any requirement for the record to be made in the presence of the arrested person shall apply to the making of that record by that other officer.
- (6) Where the functions mentioned in subsection (2)(b) are performed in a manner authorised by regulations under this section, the requirements under section 40(12) and (13) above for—
- (a) the arrested person, or
 - (b) a solicitor representing him,
- to be given any opportunity to make representations (whether in writing or orally) to the person performing those functions shall have effect as a requirement for that person, or such a solicitor, to be given an opportunity to make representations in a manner authorised by subsection (7) below.
- (7) Representations are made in a manner authorised by this subsection—
- (a) in a case where facilities exist for the immediate transmission of written representations to the officer performing the functions, if they are made either—
 - (i) orally to that officer by means of the video-conferencing facilities used by him for performing those functions; or
 - (ii) in writing to that officer by means of the facilities available for the immediate transmission of the representations;
 and
 - (b) in any other case if they are made orally to that officer by means of the video-conferencing facilities used by him for performing the functions.
- (8) Regulations under this section may make different provision for different cases and may be made so as to have effect in relation only to the police stations specified or described in the regulations.
- (9) Regulations under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Any reference in this section to video-conferencing facilities, in relation to any functions, is a reference to any facilities (whether a live television link or other facilities) by means of which the functions may be performed with the officer performing them, the person in relation to whom they are performed and any legal representative of that person all able to both see and to hear each other.]

Textual Amendments

F1 S. 45A inserted (1.4.2003) by 2001 c. 16, ss. 73(3), 138(2); S.I. 2003/708, art. 2(d)

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46 Detention after charge.

- (1) Where a person—
 - (a) is charged with an offence; and
 - (b) after being charged—
 - (i) is kept in police detention; or
 - (ii) is detained by a local authority in pursuance of arrangements made under section 38(6) above,he shall be brought before a magistrates’ court in accordance with the provisions of this section.
- (2) If he is to be brought before a magistrates’ court for the petty sessions area in which the police station at which he was charged is situated, he shall be brought before such a court as soon as is practicable and in any event not later than the first sitting after he is charged with the offence.
- (3) If no magistrates’ court for that area is due to sit either on the day on which he is charged or on the next day, the custody officer for the police station at which he was charged shall inform the clerk to the justices for the area that there is a person in the area to whom subsection (2) above applies.
- (4) If the person charged is to be brought before a magistrates’ court for a petty sessions area other than that in which the police station at which he was charged is situated, he shall be removed to that area as soon as is practicable and brought before such a court as soon as is practicable after his arrival in the area and in any event not later than the first sitting of a magistrates’ court for that area after his arrival in the area.
- (5) If no magistrates’ court for that area is due to sit either on the day on which he arrives in the area or on the next day—
 - (a) he shall be taken to a police station in the area; and
 - (b) the custody officer at that station shall inform the clerk to the justices for the area that there is a person in the area to whom subsection (4) applies.
- (6) Subject to subsection (8) below, where a clerk to the justices for a petty sessions area has been informed—
 - (a) under subsection (3) above that there is a person in the area to whom subsection (2) above applies; or
 - (b) under subsection (5) above that there is a person in the area to whom subsection (4) above applies,the clerk shall arrange for a magistrates’ court to sit not later than the day next following the relevant day.
- (7) In this section “the relevant day”—
 - (a) in relation to a person who is to be brought before a magistrates’ court for the petty sessions area in which the police station at which he was charged is situated, means the day on which he was charged; and
 - (b) in relation to a person who is to be brought before a magistrates’ court for any other petty sessions area, means the day on which he arrives in the area.
- (8) Where the day next following the relevant day is Christmas Day, Good Friday or a Sunday, the duty of the clerk under subsection (6) above is a duty to arrange for a magistrates’ court to sit not later than the first day after the relevant day which is not one of those days.

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- (9) Nothing in this section requires a person who is in hospital to be brought before a court if he is not well enough.

VALID FROM 01/04/2007

[^{F2}46ZA Persons granted live link bail

- (1) This section applies in relation to bail granted under this Part subject to the duty mentioned in section 47(3)(b) (“live link bail”).
- (2) An accused person who attends a police station to answer to live link bail is not to be treated as in police detention for the purposes of this Act.
- (3) Subsection (2) does not apply in relation to an accused person if—
 - (a) at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to him, he informs a constable that he does not intend to give his consent to the direction;
 - (b) at any such time, a constable informs him that a live link will not be available for his use for the purposes of that section;
 - (c) proceedings in relation to a live link direction under that section have begun but he does not give his consent to the direction; or
 - (d) the court determines for any other reason not to give such a direction.
- (4) If any of paragraphs (a) to (d) of subsection (3) apply in relation to a person, he is to be treated for the purposes of this Part—
 - (a) as if he had been arrested for and charged with the offence in connection with which he was granted bail, and
 - (b) as if he had been so charged at the time when that paragraph first applied in relation to him.
- (5) An accused person who is arrested under section 46A for failing to attend at a police station to answer to live link bail, and who is brought to a police station in accordance with that section, is to be treated for the purposes of this Part—
 - (a) as if he had been arrested for and charged with the offence in connection with which he was granted bail, and
 - (b) as if he had been so charged at the time when he is brought to the station.
- (6) Nothing in subsection (4) or (5) affects the operation of section 47(6).]

Textual Amendments

- F2** S. 46ZA inserted (1.4.2007 for certain purposes, otherwise prosp.) by [Police and Justice Act 2006](#) (c. 48), [ss. 46\(3\)](#), 53; S.I. 2007/709, [art. 3\(n\)](#) (subject to [arts. 6, 7](#))

[46A ^{F3}Power of arrest for failure to answer to police bail.

- (1) A constable may arrest without a warrant any person who, having been released on bail under this Part of this Act subject to a duty to attend at a police station, fails to attend at that police station at the time appointed for him to do so.

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- (2) A person who is arrested under this section shall be taken to the police station appointed as the place at which he is to surrender to custody as soon as practicable after the arrest.
- (3) For the purposes of—
 - (a) section 30 above (subject to the obligation in subsection (2) above), and
 - (b) section 31 above,an arrest under this section shall be treated as an arrest for an offence.]

Textual Amendments

F3 S. 46A inserted (10.4.1995) by 1994 c. 33, s. 29(2)(5); S.I. 1995/721, art. 2, Sch.

47 Bail after arrest.

- (1) Subject to subsection (2) below, a release on bail of a person under this Part of this Act shall be a release on bail granted in accordance with [^{F4}sections 3, 3A, 5 and 5A of the Bail Act 1976 as they apply to bail granted by a constable].
- [^{F5}(1A) The normal powers to impose conditions of bail shall be available to him where a custody officer releases a person on bail under section 38(1) above (including that subsection as applied by section 40(10) above) but not in any other cases. In this subsection, “the normal powers to impose conditions of bail” has the meaning given in section 3(6) of the Bail Act 1976.]
- (2) Nothing in the Bail Act 1976 shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if new evidence justifying a further arrest has come to light since his release.
- (3) Subject to [^{F6}subsections (3A) and (4)] below, in this Part of this Act references to “bail” are references to bail subject to a duty—
 - (a) to appear before a magistrates’ court at such time and such place; or
 - (b) to attend at such police station at such time,as the custody officer may appoint.
- [^{F7}(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates’ court, he shall appoint for the appearance—
 - (a) a date which is not later than the first sitting of the court after the person is charged with the offence; or
 - (b) where he is informed by the clerk to the justices for the relevant petty sessions area that the appearance cannot be accommodated until a later date, that later date.]
- (4) Where a custody officer has granted bail to a person subject to a duty to appear at a police station, the custody officer may give notice in writing to that person that his attendance at the police station is not required.
- [^{F8}(5)
- (6) Where a person [^{F9}who has been granted bail and either has attended at the police station in accordance with the grant of bail or has been arrested under section 46A above is detained at a police station], any time during which he was in police detention

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prior to being granted bail shall be included as part of any period which falls to be calculated under this Part of this Act [^{F10}and any time during which he was on bail shall not be so included].

- (7) Where a person who was released on bail subject to a duty to attend at a police station is re-arrested, the provisions of this Part of this Act shall apply to him as they apply to a person arrested for the first time [^{F11}]; but this subsection does not apply to a person who is arrested under section 46A above or has attended a police station in accordance with the grant of bail (and who accordingly is deemed by section 34(7) above to have been arrested for an offence).]
- (8) In the ^{M1}Magistrates' Court Act 1980—
- (a) the following section shall be substituted for section 43—

“43 Bail on arrest

- (1) Where a person has been granted bail under the Police and Criminal Evidence Act 1984 subject to a duty to appear before a magistrates' court, the court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizances of any sureties for him at that time.
- (2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated.”; and
- (b) the following subsection shall be substituted for section 117(3)—
- “(3) Where a warrant has been endorsed for bail under subsection (1) above—
- (a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and
- (b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.”.

Textual Amendments

- F4** Words in s. 47(1) substituted (10.4.1995) by 1994 c. 33, s. 27(1)(a); S.I. 1995/721, art. 2, **Sch.**
- F5** S. 47(1A) inserted (10.4.1995) by 1994 c. 33, s. 27(1)(b); S.I. 1995/721, art. 2, **Sch.**
- F6** Words in s. 47(3) substituted (30.9.1998 for the purposes specified in S.I. 1998/2327, art. 3(2), **Sch. 2** and otherwise 1.11.1999) by 1998 c. 37, s. 46(1); S.I. 1998/2327, art. 3(2), **Sch.2** and S.I. 1999/2976, **art. 2**
- F7** S. 47(3A) inserted (30.9.1998 for the purposes specified in S.I. 1998/2327, art. 3(2), **Sch. 2** and otherwise 1.11.1999) by 1998 c. 37, s. 46(2); S.I. 1998/2327, art. 3(2), **Sch.2** and S.I. 1999/2976, **art. 2**
- F8** S. 47(5) repealed (10.4.1995) by 1994 c. 33, ss. 29(4)(c)(5), 168(3), **Sch. 11**; S.I. 1995/721, art. 2, **Sch.**
- Appendix B

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- F9** Words in s. 47(6) substituted (10.4.1995) by 1994 c. 33, s. 29(4)(d)(5); S.I. 1995/721, art. 2, Sch.
F10 Words in s. 47(6) inserted (retrospectively) by Police (Detention and Bail) Act 2011 (c. 9), s. 1(1)(3)
F11 Words in s. 47(7) inserted (10.4.1995) by 1994 c. 33, s. 29(4)(e)(5); S.I. 1995/721, art. 2, Sch.

Marginal Citations

- M1** 1980 c. 43.

[^{F12}47A Early administrative hearings conducted by justices' clerks.

Where a person has been charged with an offence at a police station, any requirement imposed under this Part for the person to appear or be brought before a magistrates' court shall be taken to be satisfied if the person appears or is brought before the clerk to the justices for a petty sessions area in order for the clerk to conduct a hearing under section 50 of the Crime and Disorder Act 1998 (early administrative hearings).]

Textual Amendments

- F12** S. 47A inserted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 para.62; S.I. 1998/2327, art. 2(2)(t).

48 Remands to police detention.

In section 128 of the Magistrates' Courts Act 1980—

- (a) in subsection (7) for the words “the custody of a constable” there shall be substituted the words “detention at a police station”;
- (b) after subsection (7) there shall be inserted the following subsection—

“(8) Where a person is committed to detention at a police station under subsection (7) above—

- (a) he shall not be kept in such detention unless there is a need for him to be so detained for the purposes of inquiries into other offences;
- (b) if kept in such detention, he shall be brought back before the magistrates' court which committed him as soon as that need ceases;
- (c) he shall be treated as a person in police detention to whom the duties under section 39 of the Police and Criminal Evidence Act 1984 (responsibilities in relation to persons detained) relate;
- (d) his detention shall be subject to periodic review at the times set out in section 40 of that Act (review of police detention).”.

49 Police detention to count towards custodial sentence.

- (1) In subsection (1) of section 67 of the ^{M2}Criminal Justice Act 1967 (computation of custodial sentences) for the words from “period”, in the first place where it occurs, to “the offender” there shall be substituted the words “relevant period, but where he”.

- (2) The following subsection shall be inserted after that subsection—

“(1A) In subsection (1) above “relevant period” means—

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- (a) any period during which the offender was in police detention in connection with the offence for which the sentence was passed; or
 - (b) any period during which he was in custody—
 - (i) by reason only of having been committed to custody by an order of a court made in connection with any proceedings relating to that sentence or the offence for which it was passed or any proceedings from which those proceedings arose; or
 - (ii) by reason of his having been so committed and having been concurrently detained otherwise than by order of a court.”.
- (3) The following subsections shall be added after subsection (6) of that section—
- “(7) A person is in police detention for the purposes of this section—
- (a) at any time when he is in police detention for the purposes of the Police and Criminal Evidence Act 1984; and
 - (b) at any time when he is detained under section 12 of the Prevention of Terrorism (Temporary Provisions) Act 1984.
- (8) No period of police detention shall be taken into account under this section unless it falls after the coming into force of section 49 of the Police and Criminal Evidence Act 1984.”.

Marginal Citations

M2 1967 c. 80.

50 Records of detention.

- (1) Each police force shall keep written records showing on an annual basis—
- (a) the number of persons kept in police detention for more than 24 hours and subsequently released without charge;
 - (b) the number of applications for warrants of further detention and the results of the applications; and
 - (c) in relation to each warrant of further detention—
 - (i) the period of further detention authorised by it;
 - (ii) the period which the person named in it spent in police detention on its authority; and
 - (iii) whether he was charged or released without charge.
- (2) Every annual report—
- [^{F13}(a) under section 22 of the Police Act 1996; or]
 - (b) made by the Commissioner of Police of the Metropolis,
- shall contain information about the matters mentioned in subsection (1) above in respect of the period to which the report relates.

Textual Amendments

F13 S. 50(2)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1) Sch. 7 Pt. II para.35

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Modifications etc. (not altering text)

- C1** Ss. 8, 9, 15, 16, 17(1)(b)(2) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(a)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(d), 52, 54, 55, 64(1)–(4)(5)(6), Sch. 1 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2
- C2** S. 50 modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**.

51 Savings.

Nothing in this Part of this Act shall affect—

- (a) the powers conferred on immigration officers by section 4 of and Schedule 2 to the ^{M3}Immigration Act 1971 (administrative provisions as to control on entry etc.);
- (b) the powers conferred by or by virtue of [^{F14}section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 or Schedule 2 or 5 to that Act] (powers of arrest and detention and control of entry and procedure for removal);
- (c) any duty of a police officer under—
- (i) section 129, 190 or 202 of the ^{M4}Army Act 1955 (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
 - (ii) section 129, 190 or 202 of the ^{M5}Air Force Act 1955 (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
 - (iii) section 107 of the Naval Discipline Act 1957 (duties of governors of civil prisons etc.); or
 - (iv) paragraph 5 of Schedule 5 to the ^{M6}Reserve Forces Act 1980 (duties of governors of civil prisons); or
- (d) any right of a person in police detention to apply for a writ of habeas corpus or other prerogative remedy.

Textual Amendments

- F14** Words substituted by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 25(1), **Sch. 8 para. 6(4)**

Modifications etc. (not altering text)

- C3** S. 51(b) extended (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**; s. 51(b) extended by the said S.I. 1993/1813, art. 6, **Sch. 3 para. 3** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, **Sch. 3 para. 4(d)**
- C4** Ss. 8, 9, 15, 16, 17(1)(b)(2) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(a)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(d), 52, 54, 55, 64(1)–(4)(5)(6), Sch. 1 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2

Marginal Citations

- M3** 1971 c. 77.
M4 1955 c. 18.
M5 1955 c. 19.
M6 1980 c. 9.

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^{F15}**52**

Textual Amendments

F15 S. 52 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15**; S.I. 1991/828, **art. 3(2)**

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