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DRAFT STATUTORY INSTRUMENTS

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**2007 No.**

**The Police and Criminal Evidence  
(Amendment) (Northern Ireland) Order 2007**

**PART V**

**DETENTION**

**Detention reviews**

**19.**—(1) Article 41 of PACE (review of police detention) is amended as follows.

(2) In paragraph (8) for the words from “the substitution” to the end substitute “the modifications specified in paragraph (8A)”.

(3) After that paragraph insert—

“(8A) The modifications are—

- (a) the substitution of references to the person whose detention is under review for references to the person arrested;
- (b) the substitution of references to the review officer for references to the custody officer; and
- (c) in paragraph (6), the insertion after sub-paragraph (a) of—

“(aa) asleep;”.

(4) In paragraph (10) for the words from “the substitution” to the end substitute “the modifications specified in paragraph (10A)”.

(5) After that paragraph insert—

“(10A) The modifications are—

- (a) the substitution of references to the person whose detention is under review for any reference to the person arrested or to the person charged; and
- (b) in paragraph (5), the insertion after sub-paragraph (a) of—

“(aa) asleep;”.

**Use of telephone for review of detention**

**20.** After Article 41 of PACE insert—

**“Use of telephone for review under Article 41**

**41A.**—(1) A review under Article 41(1)(b) may be carried out by means of a discussion, conducted on the telephone, with one or more persons at the police station where the arrested person is held.

(2) But paragraph (1) does not apply if—

- (a) the review is of a kind authorised by regulations under Article 46A to be carried out using video conferencing facilities; and
  - (b) it is reasonably practicable to carry it out in accordance with those regulations.
- (3) Where any review is carried out under this Article by an officer who is not present at the station where the arrested person is held—
- (a) any obligation of that officer to make a record in connection with the carrying out of the review shall have effect as an obligation to cause another officer to make the record;
  - (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; and
  - (c) the requirements under Article 41(12) and (13) for—
    - (i) the arrested person, or
    - (ii) a solicitor representing him,to be given any opportunity to make representations (whether in writing or orally) to that officer 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 paragraph (4).
- (4) Representations are made in a manner authorised by this paragraph—
- (a) in a case where facilities exist for the immediate transmission of written representations to the officer carrying out the review, if they are made either—
    - (i) orally by telephone to that officer; or
    - (ii) in writing to that officer by means of those facilities; and
  - (b) in any other case, if they are made orally by telephone to that officer.
- (5) In this Article “video-conferencing facilities” has the same meaning as in Article 46A.”.

#### **Authorisation of continued detention**

- 21.**—(1) Article 43 of PACE (authorisation of continued detention) is amended as follows.
- (2) In paragraph (1)(b) for “arrestable offence” substitute “indictable offence”.

#### **Warrants of further detention**

- 22.**—(1) Article 44 of PACE (warrants of further detention) is amended as follows.
- (2) In paragraph (4)(b) for “a serious arrestable offence” substitute “an indictable offence”.

#### **Use of video conferencing facilities for decisions about detention**

- 23.** After Article 46 of PACE insert—

##### **“Use of video-conferencing facilities for decisions about detention**

**46A.**—(1) Subject to the following provisions of this Article, 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 paragraph (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, or answering to bail at, 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 Article 38, 39 or 41; and
  - (b) the function of carrying out a review under Article 41(1)(b) (review, by an officer of at least the rank of inspector, of the detention of person arrested but not charged).
- (3) Regulations under this Article shall specify the use to be made in the performance of the functions mentioned in paragraph (2) of the facilities mentioned in paragraph (1).
- (4) Regulations under this Article shall not authorise the performance of any of the functions mentioned in paragraph (2)(a) by such an officer as is mentioned in paragraph (1) unless he is a custody officer for a designated police station.
- (5) Where any functions mentioned in paragraph (2) are performed in a manner authorised by regulations under this Article—
  - (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 paragraph (2)(b) are performed in a manner authorised by regulations under this Article, the requirements under Article 41(12) and (13) 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 paragraph (7).
- (7) Representations are made in a manner authorised by this paragraph—
  - (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 Article may be made so as to have effect in relation only to the police stations specified or described in the regulations.
- (9) Any reference in this Article 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.”.

**Bail after arrest**

**24.** In Article 48 (bail after arrest) in paragraph (2) after “appointed under” insert “sub-paragraph (a) of”.