



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV

DETENTION

Detention—conditions and duration

38 Duties of custody officer after charge.

- (1) Where a person arrested for an offence otherwise than under a warrant endorsed for bail is charged with an offence, the custody officer shall order his release from police detention, either on bail or without bail, unless—
- (a) If the person arrested is not an arrested juvenile—
 - (i) his name or address cannot be ascertained or the custody officer has reasonable grounds for doubting whether a name or address furnished by him as his name or address is his real name or address;
 - (ii) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection or to prevent him from causing physical injury to any other person or from causing loss of or damage to property; or
 - (iii) the custody officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer to bail or that his detention is necessary to prevent him from interfering with the administration of justice or with the investigation of offences or of a particular offence;
 - (b) if he is an arrested juvenile—
 - (i) any of the requirements of paragraph (a) above is satisfied; or
 - (ii) the custody officer has reasonable grounds for believing that he ought to be detained in his own interests.
- (2) If the release of a person arrested is not required by subsection (1) above, the custody officer may authorise him to be kept in police detention.

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: Police and Criminal Evidence Act 1984, Section 38 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where a custody officer authorises a person who has been charged to be kept in police detention, he shall, as soon as practicable, make a written record of the grounds for the detention.
- (4) Subject to subsection (5) below, the written record shall be made in the presence of the person charged who shall at that time be informed by the custody officer of the grounds for his detention.
- (5) Subsection (4) above shall not apply where the person charged is, at the time when the written record is made—
- (a) incapable of understanding what is said to him;
 - (b) violent or likely to become violent; or
 - (c) in urgent need of medical attention.
- (6) Where a custody officer authorises an arrested juvenile to be kept in police detention under subsection (1) above, the custody officer shall, unless he certifies that it is impracticable to do so, [^{F1}make arrangements for the arrested juvenile to be taken into the care of a local authority and detained by the authority; and it shall be lawful to detain him in pursuance of the arrangements][^{F1}secure that the arrested juvenile is moved to local authority accommodation].
- [^{F2}(6A) In this section “local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989).
- (6B) Where an arrested juvenile is moved to local authority accommodation under subsection (6) above, it shall be lawful for any person acting on behalf of the authority to detain him.]
- (7) A certificate made under subsection (6) above in respect of an arrested juvenile shall be produced to the court before which he is first brought thereafter.
- (8) In this Part of this Act “local authority” has the same meaning as in the [^{F3M1}Children and Young Persons Act 1969][^{F3}Children Act 1989].

Textual Amendments

- F1** Words commencing “secure that” substituted (*prosp.*) for words commencing “make arrangements” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(5), **Sch. 13 para. 53(1)**
- F2** S. 38(6A)(6B) added (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(5), **Sch. 13 para. 53(2)**
- F3** Words “Children Act 1989” substituted (*prosp.*) for words “Children and Young Persons Act 1969” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(5), **Sch. 13 para. 53(3)**

Marginal Citations

- M1** 1969 c. 54.

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