



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV **E+W**

DETENTION

Detention—conditions and duration

[^{F1}40A Use of telephone for review under s. 40 **E+W**

- [^{F2}(1) A review under section 40(1)(b) may be carried out by means of a discussion, conducted by telephone, with one or more persons at the police station where the arrested person is held.
- (2) But subsection (1) does not apply if—
- (a) the review is of a kind authorised by regulations under section 45A to be carried out using [^{F3}a live link]; and
 - (b) it is reasonably practicable to carry it out in accordance with those regulations.]
- (3) Where any review is carried out under this section 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 section 40(12) and (13) above 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 subsection (4) below.

Status: Point in time view as at 03/04/2017.

Changes to legislation: Police and Criminal Evidence Act 1984, Section 40A is up to date with all changes known to be in force on or before 24 June 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)

- (4) 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 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 section “[^{F4}live link]” has the same meaning as in section 45A below.]

Textual Amendments

- F1** S. 40A inserted (1.10.2001) by 2001 c. 16, s. 72(3); S.I. 2001/3150, art. 2(a)
- F2** S. 40A(1)(2) substituted (20.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 6, 336; S.I. 2004/81, art. 2(1)(2)(a)
- F3** Words in s. 40A(2)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss., 74(5)(a), 183(5)(e); S.I. 2017/399, reg. 2, Sch. para. 23
- F4** Words in s. 40A(5) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss., 75(5)(b), 183(5)(e); S.I. 2017/399, reg. 2, Sch. para. 24

Modifications etc. (not altering text)

- C1** S. 40A(1) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), Sch. 2 (with arts. 13-31)
- C2** S. 40A(3)(4) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), Sch. 2 (with arts. 13-31)

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