



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV

DETENTION

Detention—conditions and duration

42 Authorisation of continued detention.

- (1) Where a police officer of the rank of superintendent or above who is responsible for the police station at which a person is detained has reasonable grounds for believing that—
 - (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
 - [^{F1}(b) an offence for which he is under arrest is an [^{F2}indictable] offence; and]
 - (c) the investigation is being conducted diligently and expeditiously,he may authorise the keeping of that person in police detention for a period expiring at or before 36 hours after the relevant time.
- (2) Where an officer such as is mentioned in subsection (1) above has authorised the keeping of a person in police detention for a period expiring less than 36 hours after the relevant time, such an officer may authorise the keeping of that person in police detention for a further period expiring not more than 36 hours after that time if the conditions specified in subsection (1) above are still satisfied when he gives the authorisation.
- (3) If it is proposed to transfer a person in police detention to another police area, the officer determining whether or not to authorise keeping him in detention under subsection (1) above shall have regard to the distance and the time the journey would take.
- (4) No authorisation under subsection (1) above shall be given in respect of any person—
 - (a) more than 24 hours after the relevant time; or

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- (b) before the second review of his detention under section 40 above has been carried out.
- (5) Where an officer authorises the keeping of a person in police detention under subsection (1) above, it shall be his duty—
- (a) to inform that person of the grounds for his continued detention; and
 - (b) to record the grounds in that person's custody record.
- (6) Before determining whether to authorise the keeping of a person in detention under subsection (1) or (2) above, an officer shall give—
- (a) that person; or
 - (b) any solicitor representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,
- an opportunity to make representations to him about the detention.
- (7) Subject to subsection (8) below, the person in detention or his solicitor may make representations under subsection (6) above either orally or in writing.
- (8) The officer to whom it falls to determine whether to give the authorisation may refuse to hear oral representations from the person in detention if he considers that he is unfit to make such representations by reason of his condition or behaviour.
- (9) Where—
- (a) an officer authorises the keeping of a person in detention under subsection (1) above; and
 - (b) at the time of the authorisation he has not yet exercised a right conferred on him by section 56 or 58 below,
- the officer—
- (i) shall inform him of that right;
 - (ii) shall decide whether he should be permitted to exercise it;
 - (iii) shall record the decision in his custody record; and
 - (iv) if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.
- (10) Where an officer has authorised the keeping of a person who has not been charged in detention under subsection (1) or (2) above, he shall be released from detention^[F3], either on bail or without bail], not later than 36 hours after the relevant time^[F4], unless—
- ^[F4]—
- (a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied,
- (subject to subsection (10A))].
- ^[F5](10A) Subsection (10) does not apply if—
- (a) the person has been charged with an offence, or
 - (b) the person's continued detention is authorised or otherwise permitted in accordance with section 43.]
- (11) A person released under subsection (10) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless ^[F6]new evidence justifying a further arrest has come to light since^[F6], since the person's release, new evidence has come to light or an examination or analysis of existing evidence has

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been made which could not reasonably have been made before] his release^{F7}; but this subsection does not prevent an arrest under section 46A below.]

[^{F8}(12) Subsection (13) applies where—

- (a) a person is released under subsection (10), and
- (b) a custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(13) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.]

Textual Amendments

- F1** S. 42(1)(b) substituted (20.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 7, 336; S.I. 2004/81, art. 2(1)(2)(a)
- F2** Word in s. 42(1)(b) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, Sch. 7 Pt. 3 para. 43(7); S.I. 2005/3495, art. 2(1)(m)
- F3** Words in s. 42(10) omitted (31.1.2017 for specified purposes) by virtue of Policing and Crime Act 2017 (c. 3), ss. 56(3)(a), 183(1)(5)(e)
- F4** Words in s. 42(10) 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. 56(3)(b), 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)
- F5** S. 42(10A) inserted (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. 56(4), 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)
- F6** Words in s. 42(11) 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. 65(4), 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 17 (with reg. 5)
- F7** Words in s. 42(11) inserted (10.4.1995) by 1994 c. 33, s. 29(4)(b)(5); S.I. 1995/721, art. 2, Sch.
- F8** S. 42(12)-(14) inserted (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. 67(3), 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 18

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. 42 modified (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 paras. 3(3), 4(4)(b), 5(7)(b), 6(7)(b); s. 42 modified by the said S.I. 1993/1813, art. 6, Sch. 3 paras. 4, 5, 6 as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, Sch. 3 paras. 5, 6, 7
- C3** S. 42 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)
- C4** S. 42(1)(2) applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), Sch. 1 (with art. 3(2), (3), 4–19, Sch. 2)

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- C5** S. 42(4)-(11) applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, **Sch. 2**)
- C6** S. 42(7) amended by [S.I. 1991/2684](#), **arts. 1, 2, 4** and **Sch. 1**
- C7** S. 42(7) applied (with modifications) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), art. 1(2), **Sch. 2**

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