

Status: Point in time view as at 13/08/2020.

Changes to legislation: Terrorism Act 2000, Paragraph 17 is up to date with all changes known to be in force on or before 13 August 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)

SCHEDULES

SCHEDULE 8 **U.K.**

DETENTION

Modifications etc. (not altering text)

- C1** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 11\(1\)\(b\)](#), Sch. 2; (as amended (31.3.2021) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2021 \(S.I. 2021/311\)](#), arts. 1(2), [2\(7\)\(b\)\(i\)](#))
- C1** Sch. 8 applied (with modifications) (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), [s. 25\(1\)\(3\)\(4\)](#); S.I. 2006/1936, [art. 2](#)

PART I **U.K.**

TREATMENT OF PERSONS DETAINED UNDER SECTION 41 OR SCHEDULE 7

Rights: Scotland

- 17 ^{F1}(1) This paragraph applies where a detained person exercises the right under paragraph 16(6) to consult a solicitor.
- (2) A police officer not below the rank of superintendent may, if it appears to the officer to be necessary on one of the grounds mentioned in sub-paragraph (3), direct that the right—
- (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
- (b) may instead be exercised by consulting a different solicitor of the detained person's choosing.
- (2A) A direction under this paragraph may be given before or after a detained person's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).]
- (3) The grounds mentioned in paragraph 16(4) and (7) and in sub-paragraph ^{F2}(2)] are—
- (a) that it is in the interests of the investigation or prevention of crime;
- (b) that it is in the interests of the apprehension, prosecution or conviction of offenders;
- (c) that it will further the recovery of property obtained as a result of the commission of an offence or in respect of which a forfeiture order could be made under section 23 ^{F3}or 23A];

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- (d) that it will further the operation of [^{F4}Part 2 or 3 of the Proceeds of Crime Act 2002] or the ^{M1}Proceeds of Crime (Northern Ireland) Order 1996 (confiscation of the proceeds of an offence).
- [^{F5}(4) This sub-paragraph applies where an officer mentioned in paragraph 16(4) or (7) has reasonable grounds for believing that—
- (a) the detained person has benefited from his criminal conduct, and
 - (b) the recovery of the value of the property constituting the benefit will be hindered by—
 - (i) informing the named person of the detained person’s detention (in the case of an authorisation under paragraph 16(4)), or
 - (ii) the exercise of the entitlement under paragraph 16(6) (in the case of an authorisation under paragraph 16(7)).
- (4A) For the purposes of sub-paragraph (4) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.]
- (5) Where delay is authorised in the exercising of any of the rights mentioned in paragraph 16(1) and (6)—
- (a) if the authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable,
 - (b) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and
 - (c) the reason shall be recorded as soon as is reasonably practicable.

Textual Amendments

- F1** Sch. 8 para. 17(1)-(2A) substituted for Sch. 8 para. 17(1)(2) (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 17(6)(a), 27(2)(a); S.I. 2020/792, reg. 2(b)
- F2** Word in Sch. 8 para. 17(3) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 17(6)(b), 27(2)(a); S.I. 2020/792, reg. 2(b)
- F3** Words in Sch. 8 para. 17(3)(c) inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), Sch. 3 para. 6 (with s. 101(2)); S.I. 2009/1256, art. 2(c)
- F4** Words in Sch. 8 para. 17(3)(d) substituted (24.3.2003 subject to certain provisions in the commencing instruments) by 2002 c. 29, s. 456, Sch. 11 para. 39(3); S.I. 2003/333, art. 2, Sch. (as amended by S.I. 2003/531); S.S.I. 2003/210, art. 2, Sch.
- F5** Sch. 8 para. 17(4)(4A) substituted for Sch. 8 para. 17(4) (24.3.2003 subject to certain provisions in the commencing instruments) by 2002 c. 29, s. 456, Sch. 11 para. 39(4); S.I. 2003/333, art. 2, Sch. (as amended by S.I. 2003/531); S.S.I. 2003/210, art. 2, Sch.

Modifications etc. (not altering text)

- C1** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), s. 5(8)

Marginal Citations

- M1** S.I. 1996/1299 (N.I.9).

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