

SCHEDULES

SCHEDULE 3

BORDER SECURITY

PART 2

DETENTION

Rights: England, Wales and Northern Ireland

- 33 (1) This paragraph applies where a detainee exercises the right under paragraph 30 to consult a solicitor.
- (2) A police officer of at least the rank of superintendent may 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 detainee's choosing.
- (3) A direction under this paragraph may be given before or after a detainee'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).
- (4) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing—
- (a) that, unless the direction is given, the exercise of the right by the detainee will have any of the consequences specified in paragraph 32(3), or
 - (b) that the detainee has benefited from the detainee's criminal conduct and that, unless the direction is given, the exercise of the right by the detainee will hinder the recovery of the value of the property constituting the benefit.
- (5) For the purposes of sub-paragraph (4) the question whether a person has benefited from the person's criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.