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*Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Paragraph 16. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 6

#### DETENTION UNDER SECTION 27

#### PART 3

##### RIGHTS OF PERSONS DETAINED UNDER SECTION 27: SCOTLAND

- 16 (1) Where a person exercises the right under [paragraph 15\(6\)](#) to consult a solicitor, a police officer of at least 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—
- (a) the person may not consult the solicitor who attends for the purpose of the consultation, or who would so attend but for the giving of the direction, but
  - (b) the person may consult a different solicitor of the person's choosing.
- (2) 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 15\(4\)](#) and [\(7\)](#) and in [sub-paragraph \(1\)](#) 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 an indictable offence;
  - (d) that it will further the operation of Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (confiscation of the proceeds of an offence).
- (4) This sub-paragraph applies where an officer mentioned in [paragraph 15\(4\)](#) or [\(7\)](#) has reasonable grounds for believing that—
- (a) the detained person has benefited from their 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 15\(4\)](#)), or
    - (ii) the exercise of the entitlement under [paragraph 15\(6\)](#) (in the case of an authorisation under [paragraph 15\(7\)](#)).
- (5) For the purposes of [sub-paragraph \(4\)](#), whether the detained person has benefited from their criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.
- (6) Where delay is authorised in the exercising of any of the rights mentioned in [paragraph 15\(1\)](#) and [\(6\)](#)—

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- (a) if the authorisation is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable,
- (b) the detained person must be told the reason for the delay as soon as is reasonably practicable, and
- (c) the reason must be recorded as soon as is reasonably practicable.

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**Commencement Information**

- I1** Sch. 6 para. 16 not in force at Royal Assent, see 100(1)
- I2** Sch. 6 para. 16 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

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