

SCHEDULES

SCHEDULE 6

DETENTION UNDER SECTION 27

PART 2

RIGHTS OF PERSONS DETAINED UNDER SECTION 27: ENGLAND, WALES AND NORTHERN IRELAND

Right to have named person informed of detention

- 6 (1) Subject to [paragraph 9](#), a person detained under [section 27](#) at a place in England, Wales or Northern Ireland is entitled, if the person so requests, to have one named person informed as soon as is reasonably practicable that the person is being detained there.
- (2) The person named must be—
- (a) a friend of the detained person,
 - (b) a relative of the detained person, or
 - (c) a person who is known to the detained person or who is likely to take an interest in the detained person's welfare.
- (3) A detained person must be informed of the right under [this paragraph](#) on first being detained.
- (4) Where a detained person is transferred from one place to another, the person is entitled to exercise the right under [this paragraph](#) in respect of the place to which the person is transferred.

Right to consult a solicitor

- 7 (1) Subject to [paragraph 9](#), a person detained under [section 27](#) in England, Wales or Northern Ireland is entitled, if the person so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time.
- (2) Where a request is made under [sub-paragraph \(1\)](#), a record must be made of the request and the time at which it was made.
- (3) A detained person must be informed of the right under [this paragraph](#) on first being detained.
- 8 (1) Where a person exercises the right under [paragraph 7](#) to consult a solicitor, a police officer of at least the rank of superintendent may 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.

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- (2) A direction under [this paragraph](#) may be given before or after a 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) An officer may give a direction under [this paragraph](#) only if the officer has reasonable grounds for believing that—
- (a) unless the direction is given, the person’s consultation with the solicitor will have any of the consequences specified in [sub-paragraph \(4\)](#), or
 - (b) the person has benefited from their criminal conduct and that, unless the direction is given, the person’s consultation with the solicitor will hinder the recovery of the value of the property constituting the benefit.
- (4) Those consequences are—
- (a) interference with or harm to evidence of an indictable offence,
 - (b) interference with or physical injury to any person,
 - (c) the alerting of persons who are suspected of having committed an indictable offence but who have not been arrested for it,
 - (d) the hindering of the recovery of property obtained as a result of an indictable offence,
 - (e) interference with the gathering of information about a person’s involvement in foreign power threat activity,
 - (f) making it more difficult, by the alerting of a person, to prevent foreign power threat activity, and
 - (g) making it more difficult, by the alerting of a person, to secure a person’s apprehension, prosecution or conviction in connection with the person’s involvement in foreign power threat activity.
- (5) For the purposes of [sub-paragraph \(3\)\(b\)](#), the question whether a person has benefited from their criminal conduct is to be decided in accordance with Part 2 or 4 of the Proceeds of Crime Act 2002.

Delay in exercise of rights

- 9 (1) A police officer of at least the rank of superintendent may authorise a delay—
- (a) in informing the person named by a detained person under [paragraph 6](#);
 - (b) in permitting a detained person to consult a solicitor under [paragraph 7](#).
- (2) But the detained person must be permitted to exercise the rights under [paragraphs 6 and 7](#) before the end of the period mentioned in [section 27\(3\)](#).
- (3) An officer may authorise a delay under [sub-paragraph \(1\)](#) only if the officer has reasonable grounds for believing—
- (a) in the case of an authorisation under [sub-paragraph \(1\)\(a\)](#), that informing the named person of the detained person’s detention will have any of the consequences specified in [paragraph 8\(4\)](#), or
 - (b) in the case of an authorisation under [sub-paragraph \(1\)\(b\)](#), that the exercise of the right under [paragraph 7](#) at the time when the detained person desires to exercise it will have any of the consequences specified in [paragraph 8\(4\)](#).
- (4) An officer may also authorise a delay under [sub-paragraph \(1\)](#) if the officer has reasonable grounds for believing that—
- (a) the detained person has benefited from their criminal conduct, and

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- (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 [sub-paragraph \(1\)\(a\)](#)), or
 - (ii) the detained person’s consultation with a solicitor (in the case of an authorisation under [sub-paragraph \(1\)\(b\)](#)).
- (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 2 or 4 of the Proceeds of Crime Act 2002.
- (6) Where an officer authorises a delay under [sub-paragraph \(1\)](#) orally, the officer must confirm it in writing as soon as is reasonably practicable.
- (7) Where an officer authorises a delay under [sub-paragraph \(1\)](#)—
 - (a) the detained person must be told the reason for the delay as soon as is reasonably practicable, and
 - (b) the reason must be recorded as soon as is reasonably practicable.
- (8) Where the reason for authorising delay no longer applies, there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under [sub-paragraph \(1\)](#).

Taking of intimate and non-intimate samples

- 10 (1) [This paragraph](#) applies where a person is detained under [section 27](#) in England, Wales or Northern Ireland.
- (2) Fingerprints may be taken from the detained person only if they are taken by a constable—
 - (a) with the appropriate consent given in writing, or
 - (b) without that consent under [sub-paragraph \(4\)](#).
- (3) A non-intimate sample may be taken from the detained person only if it is taken by a constable—
 - (a) with the appropriate consent given in writing, or
 - (b) without that consent under [sub-paragraph \(4\)](#).
- (4) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if—
 - (a) the person is detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken (but see [sub-paragraphs \(6\) and \(7\)](#)), or
 - (b) the person has been convicted of a recordable offence and, where a non-intimate sample is to be taken, the person was convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland).
- (5) An intimate sample may be taken from the detained person only if—
 - (a) the person is detained at a police station,
 - (b) the appropriate consent is given in writing,
 - (c) a police officer of at least the rank of superintendent authorises the sample to be taken (but see [sub-paragraph \(6\)](#)), and

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- (d) subject to [paragraph 13\(2\)](#) and [\(3\)](#), the sample is taken by a constable.
- (6) An officer may give an authorisation under [sub-paragraph \(4\)\(a\)](#) or [\(5\)\(c\)](#) only if—
 - (a) the officer reasonably suspects that the detained person has been involved in foreign power threat activity, and
 - (b) the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove the person’s involvement.
- (7) An officer may also give an authorisation under [sub-paragraph \(4\)\(a\)](#) for the taking of fingerprints if—
 - (a) the officer is satisfied that the detained person’s fingerprints will help determine the person’s identity, and
 - (b) the person has refused to identify themselves or the officer has reasonable grounds for suspecting that the person is not who they claim to be.
- (8) In [this paragraph](#) references to determining a person’s identity include showing that the detained person is not a particular person.
- (9) If an authorisation under [sub-paragraph \(4\)\(a\)](#) or [\(5\)\(c\)](#) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.
- 11 (1) Before fingerprints or a sample are taken from a detained person under [paragraph 10](#), the person must be informed—
 - (a) that the fingerprints or sample may be used for the purposes of—
 - (i) a relevant search (within the meaning given by [paragraph 19\(6\)](#)),
 - (ii) section 63A(1) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), or
 - (iii) Article 63A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)) (checking of fingerprints and samples), and
 - (b) where the fingerprints or sample are to be taken under [paragraph 10\(2\)\(a\)](#), [\(3\)\(a\)](#) or [\(4\)\(b\)](#), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a person on an authorisation given under [paragraph 10\(4\)\(a\)](#) or [\(5\)\(c\)](#), the person must be informed—
 - (a) that the authorisation has been given,
 - (b) of the grounds upon which it has been given, and
 - (c) where relevant, of the nature of the offence in which the person is suspected of having been involved.
- (3) After fingerprints or a sample are taken under [paragraph 10](#), any of the following which apply must be recorded as soon as reasonably practicable—
 - (a) the fact that the person has been informed in accordance with [sub-paragraphs \(1\)](#) and [\(2\)](#),
 - (b) the reason referred to in [sub-paragraph \(1\)\(b\)](#),
 - (c) the authorisation given under [paragraph 10\(4\)\(a\)](#) or [\(5\)\(c\)](#),
 - (d) the grounds on which that authorisation has been given, and
 - (e) the fact that the appropriate consent has been given.
- 12 (1) [This paragraph](#) applies where—
 - (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a detained person under [paragraph 10](#),

- (b) those samples have proved insufficient, and
 - (c) the person has been released from detention.
 - (2) An intimate sample may be taken from the person if—
 - (a) the appropriate consent is given in writing,
 - (b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
 - (c) subject to [paragraph 13\(2\)](#) and [\(3\)](#), the sample is taken by a constable.
 - (3) [Paragraphs 10\(6\)](#) and [\(9\)](#) and [11](#) apply in relation to the taking of an intimate sample under [this paragraph](#) as if references to a detained person are references to a person who was detained under [section 27](#) when the non-intimate samples mentioned in [sub-paragraph \(1\)\(a\)](#) were taken.
- 13 (1) Where appropriate written consent to the taking of an intimate sample from a person under [paragraph 10](#) or [12](#) is refused without good cause, in any proceedings against that person for an offence—
 - (a) the court, in determining whether to commit the person for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and
 - (b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.
- (2) An intimate sample other than a sample of urine or a dental impression may be taken under [paragraph 10](#) or [12](#) only by a registered medical practitioner acting on the authority of a constable.
- (3) An intimate sample which is a dental impression may be taken under [paragraph 10](#) or [12](#) only by a registered dentist acting on the authority of a constable.
- (4) Where a sample of hair other than pubic hair is to be taken under [paragraph 10](#), the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- 14 (1) In the application of [paragraphs 10](#) to [13](#) in relation to a person detained in England or Wales, the following expressions have the meaning given by section 65 of the Police and Criminal Evidence Act 1984—
 - (a) “appropriate consent”,
 - (b) “fingerprints”,
 - (c) “insufficient”,
 - (d) “intimate sample”,
 - (e) “non-intimate sample”,
 - (f) “registered dentist”, and
 - (g) “sufficient”.
- (2) In the application of section 65(2A) of the Police and Criminal Evidence Act 1984 for the purposes of [sub-paragraph \(1\)](#) of [this paragraph](#), the reference to the destruction of a sample under section 63R of that Act is a reference to the destruction of a sample under [paragraph 25](#) of [this Schedule](#).
- (3) In the application of [paragraphs 10](#) to [13](#) in relation to a person detained in Northern Ireland, the expressions listed in [sub-paragraph \(1\)](#) have the meaning given by

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Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)).

- (4) In [paragraph 10](#) “recordable offence”—
- (a) in relation to a person detained in England or Wales, has the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
 - (b) in relation to a person detained in Northern Ireland, has the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)).