



# Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010

2010 asp 15

## *Detention*

### **3 Extension of period of detention under section 14 of 1995 Act**

- (1) In section 14 of the 1995 Act (detention and questioning at police station)—
  - (a) in subsection (2), for “Detention”, where it first occurs, substitute “Subject to section 14A, detention”, and
  - (b) in each of subsections (2), (4) and (5), for “six” substitute “12”.
- (2) After section 14 of the 1995 Act, insert—

#### **“14A Extension of period of detention under section 14**

- (1) This section applies in relation to a person who is being detained under section 14 of this Act (“the detained person”).
- (2) Before the expiry of the period of 12 hours mentioned in section 14(2), a custody review officer may, subject to subsection (4), authorise that period to be extended in relation to the detained person by a further period of 12 hours.
- (3) The further period of 12 hours starts from the time when the period of detention would have expired but for the authorisation.
- (4) A custody review officer may authorise the extension under subsection (2) in relation to the detained person only if the officer is satisfied that—
  - (a) the continued detention of the detained person is necessary to secure, obtain or preserve evidence (whether by questioning the person or otherwise) relating to an offence in connection with which the person is being detained,
  - (b) an offence in connection with which the detained person is being detained is one that is an indictable offence, and
  - (c) the investigation is being conducted diligently and expeditiously.

- (5) Where subsection (4) or (5) of section 14 applies in relation to the detained person, the references in subsection (2) of this section to the period of 12 hours mentioned in section 14(2) are to be read as references to that period as reduced in accordance with subsection (4) or, as the case may be, (5) of section 14.
- (6) Where a custody review officer authorises the extension under subsection (2), section 14 has effect in relation to the detained person as if the references in it to the period of 12 hours were references to that period as extended by virtue of the authorisation.
- (7) In this section and section 14B, “custody review officer” means a constable—
  - (a) of the rank of inspector or above, and
  - (b) who has not been involved in the investigation in connection with which the person is detained.

#### **14B Extension under section 14A: procedure**

- (1) This section applies where a custody review officer is considering whether to authorise the extension under section 14A(2) of this Act in relation to a person who is being detained under section 14 of this Act (“the detained person”).
- (2) Before deciding whether to authorise the extension, the custody review officer must give either of the following persons an opportunity to make representations—
  - (a) the detained person, or
  - (b) any solicitor representing the detained person who is available at the time the officer is considering whether to authorise the extension.
- (3) Representations may be oral or written.
- (4) The custody review officer may refuse to hear oral representations from the detained person if the officer considers that the detained person is unfit to make representations because of the person’s condition or behaviour.
- (5) Where the custody review officer decides to authorise the extension, the officer must ensure that the following persons are informed of the decision and of the grounds on which the extension is authorised—
  - (a) the detained person, and
  - (b) any solicitor representing the detained person who is available at the time the decision is made.
- (6) Subsection (7) applies where—
  - (a) the custody review officer decides to authorise the extension, and
  - (b) at the time of the decision, the detained person has not exercised rights under section 15 or 15A.
- (7) The custody review officer must—
  - (a) ensure that the detained person is informed of the person’s rights under section 15 or 15A which the person has not yet exercised, and
  - (b) decide whether there are any grounds, under section 15(1) or section 15A(7)(b) or (8) (as the case may be), for delaying the exercise of any of the rights.

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*Status: This is the original version (as it was originally enacted).*

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- (8) The custody review officer must make a written record of—
- (a) the officer's decision on whether to authorise the extension, and
  - (b) any of the following which apply—
    - (i) the grounds on which the extension is authorised,
    - (ii) the fact that the detained person and a solicitor have been informed as required under subsection (5),
    - (iii) the fact that the detained person has been informed as required under subsection (7)(a),
    - (iv) the officer's decision on the matter referred to in subsection (7)(b) and, if the decision is to delay the exercise of a right, the grounds for the decision.”.