



Northern Ireland (Emergency Provisions) Act 1991

1991 CHAPTER 24

PART VI

PERSONS IN POLICE CUSTODY UNDER TERRORISM PROVISIONS

43 The terrorism provisions and police custody

- (1) In this Part of this Act “the terrorism provisions” means section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 and any provision of Schedule 2 or 5 to that Act conferring a power of arrest or detention.
- (2) A person is held in police custody for the purposes of this Part of this Act if he is detained at a police station or is detained elsewhere in the charge of a constable except that a person who is at a court after being charged with an offence is not held in police custody for the purposes of section 44 below.

44 Right to have someone informed of detention under terrorism provisions

- (1) A person who is detained under the terrorism provisions and is being held in police custody shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or is likely to take an interest in his welfare told that he is being detained under those provisions and where he is being held in police custody.
- (2) A person shall be informed of the right conferred on him by subsection (1) above as soon as practicable after he has become a person to whom that subsection applies.
- (3) A request made by a person under subsection (1) above, and the time at which it is made, shall be recorded in writing.
- (4) If a person makes such a request, it must be complied with as soon as is practicable except to the extent that any delay is permitted by this section.
- (5) Any delay in complying with such a request is only permitted if—

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- (a) it is authorised by an officer of at least the rank of superintendent; and
 - (b) it does not extend beyond the end of the period referred to in subsection (6) below.
- (6) That period is—
- (a) except where paragraph (b) below applies, the period of forty-eight hours beginning with the time when the detained person was first detained under the terrorism provisions;
 - (b) where the detained person was, prior to the time when he was first so detained, being examined in accordance with paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989, the period of forty-eight hours beginning with the time when he was first so examined.
- (7) An officer may give an authorisation under subsection (5) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (8) An officer may only authorise a delay in complying with a request under subsection (1) above where he has reasonable grounds for believing that telling the person named in the request of the detention of the detained person—
- (a) will lead to interference with or harm to evidence connected with a scheduled offence or interference with or physical injury to any person; or
 - (b) will lead to the alerting of any person suspected of having committed such an offence but not yet arrested for it; or
 - (c) will hinder the recovery of any property obtained as a result of such an offence; or
 - (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
 - (e) by alerting any person, will make it more difficult—
 - (i) to prevent an act of terrorism; or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.
- (9) If any delay is authorised, then, as soon as is practicable—
- (a) the detained person shall be told the reason for authorising it; and
 - (b) the reason shall be recorded in writing.
- (10) Any authorisation under subsection (5) above shall cease to have effect once the reason for giving it ceases to subsist.
- (11) The right conferred by subsection (1) above may be exercised by a person to whom that subsection applies on each occasion when he is transferred from one place to another; and this section applies to each subsequent occasion on which that right is so exercised as it applies to the first such occasion.
- (12) Subsection (11) above shall not be construed as prejudicing the operation of a request by a person to whom subsection (1) above applies which was made, but not complied with, before he was transferred.

45 Right of access to legal advice

- (1) A person who is detained under the terrorism provisions and is being held in police custody shall be entitled, if he so requests, to consult a solicitor privately.

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- (2) A person shall be informed of the right conferred on him by subsection (1) above as soon as practicable after he has become a person to whom that subsection applies.
- (3) A request made by a person under subsection (1) above, and the time at which it is made, shall be recorded in writing unless it is made by him while at a court after being charged with an offence.
- (4) If a person makes such a request, he must be permitted to consult a solicitor as soon as is practicable except to the extent that any delay is permitted by this section.
- (5) Any delay in complying with a request under subsection (1) above is only permitted if—
 - (a) it is authorised by an officer of at least the rank of superintendent; and
 - (b) it does not extend beyond the relevant time.
- (6) In subsection (5) above “the relevant time” means—
 - (a) where the request is the first request made by the detained person under subsection (1) above, the end of the period referred to in section 44(6) above; or
 - (b) where the request follows an earlier request made by the detained person under that subsection in pursuance of which he has consulted a solicitor, the end of the period of forty-eight hours beginning with the time when that consultation began.
- (7) An officer may give an authorisation under subsection (5) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (8) An officer may only authorise a delay in complying with a request under subsection (1) above where he has reasonable grounds for believing that the exercise of the right conferred by that subsection at the time when the detained person desires to exercise it—
 - (a) will lead to interference with or harm to evidence connected with a scheduled offence or interference with or physical injury to any person; or
 - (b) will lead to the alerting of any person suspected of having committed such an offence but not yet arrested for it; or
 - (c) will hinder the recovery of any property obtained as a result of such an offence; or
 - (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
 - (e) by alerting any person, will make it more difficult—
 - (i) to prevent an act of terrorism; or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.
- (9) If any delay is authorised, then, as soon as is practicable—
 - (a) the detained person shall be told the reason for authorising it; and
 - (b) the reason shall be recorded in writing.
- (10) If an officer of at least the rank of Assistant Chief Constable has reasonable grounds for believing that, unless he gives a direction under subsection (11) below, the exercise by a person of the right conferred by subsection (1) above will have any of

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the consequences specified in subsection (8) above, he may give a direction under subsection (11) below.

- (11) A direction under this subsection is a direction that a person desiring to exercise the right conferred by subsection (1) above may only consult a solicitor in the sight and hearing of a qualified officer of the uniformed branch of the Royal Ulster Constabulary.
- (12) An officer is qualified for the purposes of subsection (11) above if—
- (a) he is of at least the rank of inspector; and
 - (b) in the opinion of the officer giving the direction, he has no connection with the case.
- (13) Any authorisation under subsection (5) above or direction under subsection (11) above shall cease to have effect once the reason for giving it ceases to subsist.

46 Fingerprinting

Article 61(1) to (8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (fingerprinting) shall apply to the taking of a person's fingerprints by a constable under section 15(9) of the Prevention of Terrorism (Temporary Provisions) Act 1989 as if for Article 61(4) there were substituted—

- “(4) An officer may only give an authorisation if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 applies; or
 - (b) whether he is subject to an exclusion order under that Act;
- or if the officer has reasonable grounds for suspecting that person's involvement in an offence under any of the provisions mentioned in subsection (1)(a) of that section and for believing that his fingerprints will tend to confirm or disprove his involvement.”