



# Terrorism Act 2006

## 2006 CHAPTER 11

### PART 2

#### MISCELLANEOUS PROVISIONS

##### *Detention of terrorist suspects*

#### **23 Extension of period of detention of terrorist suspects**

- (1) Schedule 8 to the Terrorism Act 2000 (c. 11) (detention of terrorist suspects) is amended as follows.
- (2) In sub-paragraph (1) of each of paragraphs 29 and 36 (applications by a superintendent or above for a warrant extending detention or for the extension of the period of such a warrant), for the words from the beginning to “may” substitute—
  - “(1) Each of the following—
  - (a) in England and Wales, a Crown Prosecutor,
  - (b) in Scotland, the Lord Advocate or a procurator fiscal,
  - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
  - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,may”.
- (3) In sub-paragraph (3) of paragraph 29 (period of extension to end no later than 7 days after arrest)—
  - (a) for “Subject to paragraph 36(3A)” substitute “Subject to sub-paragraph (3A) and paragraph 36”; and
  - (b) for “end not later than the end of” substitute “be”.
- (4) After that sub-paragraph insert—

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- “(3A) A judicial authority may issue a warrant of further detention in relation to a person which specifies a shorter period as the period for which that person’s further detention is authorised if—
- (a) the application for the warrant is an application for a warrant specifying a shorter period; or
  - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the specified period to be as long as the period of seven days mentioned in sub-paragraph (3).”
- (5) In paragraph 34(1) (persons who can apply for information to be withheld from person to whom application for a warrant relates) for “officer” substitute “person”.
- (6) In paragraph 36 (applications for extension or further extension), omit the words “to a judicial authority” in sub-paragraph (1), and after that sub-paragraph insert—
- “(1A) The person to whom an application under sub-paragraph (1) may be made is—
- (a) in the case of an application falling within sub-paragraph (1B), a judicial authority; and
  - (b) in any other case, a senior judge.
- (1B) An application for the extension or further extension of a period falls within this sub-paragraph if—
- (a) the grant of the application otherwise than in accordance with sub-paragraph (3AA)(b) would extend that period to a time that is no more than fourteen days after the relevant time; and
  - (b) no application has previously been made to a senior judge in respect of that period.”
- (7) For sub-paragraphs (3) and (3A) of that paragraph (period for which warrants may be extended) substitute—
- “(3) Subject to sub-paragraph (3AA), the period by which the specified period is extended or further extended shall be the period which—
- (a) begins with the time specified in sub-paragraph (3A); and
  - (b) ends with whichever is the earlier of—
    - (i) the end of the period of seven days beginning with that time; and
    - (ii) the end of the period of 28 days beginning with the relevant time.
- (3A) The time referred to in sub-paragraph (3)(a) is—
- (a) in the case of a warrant specifying a period which has not previously been extended under this paragraph, the end of the period specified in the warrant, and
  - (b) in any other case, the end of the period for which the period specified in the warrant was last extended under this paragraph.
- (3AA) A judicial authority or senior judge may extend or further extend the period specified in a warrant by a shorter period than is required by sub-paragraph (3) if—
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required; or

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- (b) the judicial authority or senior judge is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.”
- (8) In sub-paragraph (4) of that paragraph (application of paragraphs 30(3), and 31 to 34), at the end insert “but, in relation to an application made by virtue of sub-paragraph (1A)(b) to a senior judge, as if—
  - (a) references to a judicial authority were references to a senior judge; and
  - (b) references to the judicial authority in question were references to the senior judge in question.”
- (9) In sub-paragraph (5) of that paragraph, after “authority” insert “or senior judge”.
- (10) After sub-paragraph (6) of that paragraph insert—

“(7) In this paragraph and paragraph 37 ‘senior judge’ means a judge of the High Court or of the High Court of Justiciary.”
- (11) For paragraph 37 (release of detained person) substitute—

“37 (1) This paragraph applies where—
  - (a) a person (‘the detained person’) is detained by virtue of a warrant issued under this Part of this Schedule; and
  - (b) his detention is not authorised by virtue of section 41(5) or (6) or otherwise apart from the warrant.

(2) If it at any time appears to the police officer or other person in charge of the detained person’s case that any of the matters mentioned in paragraph 32(1)(a) and (b) on which the judicial authority or senior judge last authorised his further detention no longer apply, he must—
  - (a) if he has custody of the detained person, release him immediately; and
  - (b) if he does not, immediately inform the person who does have custody of the detained person that those matters no longer apply in the detained person’s case.

(3) A person with custody of the detained person who is informed in accordance with this paragraph that those matters no longer apply in his case must release that person immediately.”
- (12) This section does not apply in a case in which—
  - (a) the arrest of the person detained under section 41 of the Terrorism Act 2000 (c. 11) took place before the commencement of this section; or
  - (b) his examination under Schedule 7 to that Act began before the commencement of this section.

## 24 Grounds for extending detention

- (1) In Schedule 8 to the Terrorism Act 2000, in paragraph 23(1) (grounds on which a review officer may authorise continued detention), after paragraph (b) insert—

“(ba) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence;”.

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- (2) In sub-paragraph (1) of paragraph 32 of that Schedule (grounds on which a judicial authority may authorise further detention), for the words from “to obtain” to “preserve relevant evidence” substitute “as mentioned in sub-paragraph (1A)”.
- (3) After that sub-paragraph insert—
- “(1A) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary—
- (a) to obtain relevant evidence whether by questioning him or otherwise;
- (b) to preserve relevant evidence; or
- (c) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence.”
- (4) In paragraph 23(4) (meaning of “relevant evidence”), for “sub-paragraph (1)(a) and (b)” substitute “this paragraph”.
- (5) In paragraph 32(2) (meaning of “relevant evidence”), for “sub-paragraph (1)” substitute “this paragraph”.
- (6) This section does not apply in a case in which—
- (a) the arrest of the person detained under section 41 of the Terrorism Act 2000 took place before the commencement of this section; or
- (b) his examination under Schedule 7 to that Act began before the commencement of this section.

## **25 Expiry or renewal of extended maximum detention period**

- (1) This section applies to any time which—
- (a) is more than one year after the commencement of section 23; and
- (b) does not fall within a period in relation to which this section is disapplied by an order under subsection (2).
- (2) The Secretary of State may by order made by statutory instrument disapply this section in relation to any period of not more than one year beginning with the coming into force of the order.
- (3) Schedule 8 to the Terrorism Act 2000 (c. 11) has effect in relation to any further extension under paragraph 36 of that Schedule for a period beginning at a time to which this section applies—
- (a) as if in sub-paragraph (3)(b) of that paragraph, for “28 days” there were substituted “14 days”; and
- (b) as if that paragraph and paragraph 37 of that Schedule had effect with the further consequential modifications set out in subsection (4).
- (4) The further consequential modifications are—
- (a) the substitution of the words “a judicial authority” for paragraphs (a) and (b) of sub-paragraph (1A) of paragraph 36;
- (b) the omission of sub-paragraphs (1B) and (7) of that paragraph;
- (c) the omission of the words “or senior judge” wherever occurring in sub-paragraphs (3AA) and (5) of that paragraph and in paragraph 37(2); and

- (d) the omission of the words from “but” onwards in paragraph 36(4).
- (5) Where at a time to which this section applies—
- (a) a person is being detained by virtue of a further extension under paragraph 36 of Schedule 8 to the Terrorism Act 2000,
  - (b) his further detention was authorised (at a time to which this section did not apply) for a period ending more than 14 days after the relevant time, and
  - (c) that 14 days has expired,
- the person with custody of that individual must release him immediately.
- (6) The Secretary of State must not make an order containing (with or without other provision) any provision disapplying this section in relation to any period unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (7) In this section “the relevant time” has the same meaning as in paragraph 36 of Schedule 8 to the Terrorism Act 2000.