
Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Paragraph 41. (See end of Document for details)

SCHEDULES

SCHEDULE 6

DETENTION UNDER SECTION 27

PART 6

EXTENSION OF DETENTION UNDER SECTION 27

Representation

- 41 (1) The person to whom an application relates—
- (a) must be given an opportunity to make oral or written representations to the judicial authority about the application, and
 - (b) subject to [sub-paragraph \(3\)](#), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—
- (a) the person is not legally represented,
 - (b) the person is entitled to be legally represented, and
 - (c) the person wishes to be so represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing—
- (a) the person to whom the application relates;
 - (b) anyone representing that person.
- (4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—
- (a) that the hearing of the application must be conducted, and
 - (b) that all representations by or on behalf of a person for the purposes of the hearing must be made,
- by such means (whether a live television link or other means) falling within [sub-paragraph \(5\)](#) as may be specified in the direction and not in the presence (apart from by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.
- (5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of that person (without being present at the hearing and to the extent that they are not excluded from it under [sub-paragraph \(3\)](#))—
- (a) to see and hear the judicial authority and the making of representations to it by other persons, and

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- (b) to be seen and heard by the judicial authority.
- (6) If the person to whom the application relates wishes to make representations about whether a direction should be given under [sub-paragraph \(4\)](#), the person must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.
- (7) [Sub-paragraph \(2\)](#) applies to the hearing of representations about whether a direction should be given under [sub-paragraph \(4\)](#) in the case of any application as it applies to a hearing of the application.
- (8) A judicial authority may not give a direction under [sub-paragraph \(4\)](#) unless—
- (a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within [sub-paragraph \(5\)](#), and
- (b) that notification has not been withdrawn.
- (9) If in a case where it has power to do so a judicial authority decides not to give a direction under [sub-paragraph \(4\)](#), it shall state its reasons for not giving it.

Commencement Information

- I1** Sch. 6 para. 41 not in force at Royal Assent, see 100(1)
- I2** [Sch. 6 para. 41](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

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