

## SCHEDULE 1

### Amendments of Part 3 of the Criminal Law (Consolidation) (Scotland) Act 1995

#### **Right of suspects to have access to a solicitor**

##### **4. After section 25 insert—**

##### **“25A. Right of suspects to have access to a solicitor**

- (1) This section applies to a person (“the suspect”) who—
  - (a) is detained under section 24;
  - (b) attends voluntarily at an office of Revenue and Customs or any other premises or place for the purpose of being questioned by an officer on suspicion of having committed a Revenue and Customs offence; or
  - (c) is arrested (but not charged) by an officer in connection with a Revenue and Customs offence and is being detained at an office of Revenue and Customs or any other premises or place for the purpose of being questioned by an officer in connection with the offence.
- (2) The suspect has the right to have intimation sent to a solicitor of any or all of the following—
  - (a) the fact of the suspect’s detention, voluntary attendance or arrest (as the case may be);
  - (b) the office of Revenue and Customs or other premises or place at which the suspect is being detained or is attending; and
  - (c) that the solicitor’s professional assistance is required by the suspect.
- (3) The suspect also has a right to a private consultation with a solicitor—
  - (a) before any questioning of the suspect by an officer begins; and
  - (b) at any other time during such questioning.
- (4) Subsection (3) is subject to subsections (8) and (9).
- (5) In subsection (3) “consultation” means consultation by such means as may be appropriate in the circumstances (and may include, for example, consultation by means of telephone).
- (6) The suspect must be informed of the rights under subsections (2) and (3)—
  - (a) on arrival at the office of Revenue and Customs or other premises or place;
  - (b) in the case where the suspect is detained under section 24 after such arrival, on the suspect’s detention; and
  - (c) in the case where the suspect is arrested as mentioned in subsection (1)(c) after such arrival, on arrest;

and it is immaterial in a case to which paragraph (b) or (c) applies whether or not the suspect has previously been informed of the rights.

- (7) Where a suspect wishes to exercise the right to have intimation sent under subsection (2), the intimation must be sent by an officer—
  - (a) without delay; or
  - (b) if some delay is necessary in the interest of the investigation or the prevention of crime or the apprehension of offenders, with no more delay than is necessary.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(8) In exceptional circumstances, an officer may delay the suspect's exercise of the right under subsection (3) on any occasion so far as it is necessary in the interest of the investigation or the prevention of crime or the apprehension of offenders that the questioning of the suspect by an officer begins or continues without the suspect having exercised that right on that occasion.

(9) Subsection (3) does not apply in relation to the questioning of the suspect by an officer for the purpose of obtaining the information mentioned in section 24(8A).”