

**Changes to legislation:** There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Rights: England, Wales and Northern Ireland. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

#### BORDER SECURITY

##### Modifications etc. (not altering text)

- C1** Sch. 3 modified (30.9.2020 immediately after the amendments by S.I. 2020/915, art. 5 come into force) by [The Channel Tunnel \(Arrangements with the Kingdom of the Netherlands\) Order 2020 \(S.I. 2020/916\)](#), arts. 1(3), **6**
- C1** Sch. 3 modified by [S.I. 1994/1405](#), **art. 7** (as amended (coming into force in accordance with art. 1(3) of the amending S.I.) by [The Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2020 \(S.I. 2020/915\)](#), arts. 1(3), **11**)
- C1** [Sch. 3](#) modified by [S.I. 1993/1813](#), **Sch. 4 para. 7** (as inserted (12.2.2019 for specified purposes; 13.8.2020 in so far as not already in force) by [Counter Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(1)(g), [Sch. 3 para. 63\(1\)](#) (with s. 25(9), **Sch. 3 para. 63(2)**); [S.I. 2020/792](#), **reg. 2(g)**)

### PART 2

#### DETENTION

##### *Rights: England, Wales and Northern Ireland*

- 29 (1) Subject to paragraph 32, a detainee who is detained at a place in England, Wales or Northern Ireland is entitled, if the detainee so requests, to have one named person informed as soon as is reasonably practicable that the detainee is being detained there.
- (2) The person named must be—
- (a) a friend of the detainee,
  - (b) a relative, or
  - (c) a person who is known to the detainee or who is likely to take an interest in the detainee's welfare.
- (3) Where a detainee is transferred from one place to another, the detainee is to be entitled to exercise the right under this paragraph in respect of the place to which the detainee is transferred.
- (4) A detainee must be informed of the right under this paragraph on first being detained.

##### Commencement Information

- I1** Sch. 3 para. 29 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I2** Sch. 3 para. 29 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

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- 30 (1) Subject to paragraphs 32 and 33, a detainee who is detained in England, Wales or Northern Ireland is entitled, if the detainee so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time.
- (2) Where a request is made under sub-paragraph (1), the request and the time at which it was made must be recorded.
- (3) A detainee must be informed of the right under this paragraph on first being detained.

**Commencement Information**

- I3** Sch. 3 para. 30 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I4** Sch. 3 para. 30 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 31 (1) This paragraph applies where a detainee makes a request to consult a solicitor.
- (2) The examining officer may not question the detainee under paragraph 1 or 2 until the detainee has consulted a solicitor (or no longer wishes to do so).
- (3) Sub-paragraph (2) does not apply if the examining officer reasonably believes that postponing the questioning until then would be likely to prejudice determination of the relevant matters.
- (4) The powers conferred by paragraph 8 (search powers where a person is questioned under paragraph 1) may be used when questioning is postponed because of sub-paragraph (2).
- (5) The detainee is entitled to consult a solicitor in person.
- (6) Sub-paragraph (5) does not apply if the examining officer reasonably believes that the time it would take to consult a solicitor in person would be likely to prejudice determination of the relevant matters.
- (7) In that case the examining officer may require any consultation to take place in another way.
- (8) In this paragraph “the relevant matters” means the matters the examining officer seeks to determine under paragraph 1 or 2.

**Commencement Information**

- I5** Sch. 3 para. 31 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I6** Sch. 3 para. 31 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 32 (1) A police officer of at least the rank of superintendent may authorise a delay—
- (a) in informing the person named by a detainee under paragraph 29;
- (b) in permitting a detainee to consult a solicitor under paragraph 30.
- (2) An officer may give an authorisation under sub-paragraph (1) only if the officer has reasonable grounds for believing—
- (a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detainee's detention will have any of the consequences specified in sub-paragraph (3), or

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- (b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 30 at the time when the detainee desires to exercise it will have any of the consequences specified in sub-paragraph (3).
- (3) Those consequences are—
  - (a) interference with or harm to evidence of an indictable offence,
  - (b) interference with or physical injury to any person,
  - (c) the alerting of persons who are suspected of having committed an indictable offence but who have not been arrested for it,
  - (d) the hindering of the recovery of property obtained as a result of an indictable offence, or
  - (e) interference with the gathering of information about the commission, preparation or instigation of acts carried out in connection with a person's engagement in hostile activity.
- (4) If an authorisation under sub-paragraph (1) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.
- (5) Where an authorisation under sub-paragraph (1) is given—
  - (a) the detainee is to be told the reason for the delay as soon as is reasonably practicable, and
  - (b) the reason is to be recorded as soon as is reasonably practicable.
- (6) Where the reason for authorising delay ceases to subsist there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).

#### Commencement Information

**17** Sch. 3 para. 32 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**18** Sch. 3 para. 32 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 33
- (1) This paragraph applies where a detainee exercises the right under paragraph 30 to consult a solicitor.
  - (2) A police officer of at least the rank of superintendent may direct that the right—
    - (a) may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but
    - (b) may instead be exercised by consulting a different solicitor of the detainee's choosing.
  - (3) A direction under this paragraph may be given before or after a detainee's consultation with a solicitor has started (and if given after it has started the right to further consult that solicitor ceases on the giving of the direction).
  - (4) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing—
    - (a) that, unless the direction is given, the exercise of the right by the detainee will have any of the consequences specified in paragraph 32(3), or
    - (b) that the detainee has benefited from the detainee's criminal conduct and that, unless the direction is given, the exercise of the right by the detainee will hinder the recovery of the value of the property constituting the benefit.

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- (5) For the purposes of sub-paragraph (4) the question whether a person has benefited from the person's criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.

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**Commencement Information**

**I9** Sch. 3 para. 33 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)

**I10** Sch. 3 para. 33 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

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