

## SCHEDULES

### SCHEDULE 3

#### BORDER SECURITY

#### PART 3

##### REVIEW OF DETENTION

###### *General requirements*

- 52 (1) The detention of a person (“the detainee”) under Part 1 of this Schedule must be periodically reviewed by a review officer.
- (2) The first review must be carried out before the end of the period of one hour beginning with the detainee’s detention under that Part.
- (3) Subsequent reviews must be carried out at intervals of not more than two hours.
- (4) The review officer may authorise a detainee’s continued detention under Part 1 of this Schedule only if satisfied that it is necessary for the purposes of exercising a power under paragraph 1 or 2.
- (5) If on a review under this paragraph the review officer does not authorise a detainee’s continued detention, the detainee must be released (unless detained under another power).
- (6) In this Part of this Schedule “review officer” means a senior officer who has not been directly involved in questioning the detainee under paragraph 1 or 2.
- (7) “Senior officer” means—
- (a) where the examining officer is a constable, a constable of a higher rank than the examining officer,
  - (b) where the examining officer is an immigration officer, an immigration officer of a higher grade than the examining officer, and
  - (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.

###### *Representations*

- 53 (1) Before determining whether to authorise a detainee’s continued detention, a review officer must give either of the following persons an opportunity to make representations about the detention—
- (a) the detainee, or
  - (b) a solicitor representing the detainee who is available at the time of the review.
- (2) Representations may be oral or written.

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*Status: This is the original version (as it was originally enacted).*

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- (3) A review officer may refuse to hear oral representations from the detainee if the officer considers that the detainee is unfit to make representations because of the detainee's condition or behaviour.

### *Rights*

- 54 (1) Where a review officer authorises continued detention the officer must inform the detainee—
- (a) of any of the detainee's rights under paragraph 29 or 30 (in the case of a detainee in England, Wales or Northern Ireland), or paragraph 37 (in the case of a detainee in Scotland), which have not yet been exercised, and
  - (b) if the exercise of any of those rights is being delayed in accordance with the provisions of paragraph 31 or 37, of the fact that it is being delayed.
- (2) Where a review of a detainee's detention is being carried out at a time when the detainee's exercise of a right under paragraph 29 or 30 (in the case of a detainee in England, Wales or Northern Ireland), or paragraph 37 (in the case of a detainee in Scotland), is being delayed—
- (a) the review officer must consider whether the reason or reasons for which the delay was authorised continue to subsist, and
  - (b) if in the review officer's opinion the reason or reasons have ceased to subsist, the review officer must inform the officer who authorised the delay of that opinion (unless the review officer was that officer).

### *Record*

- 55 (1) A review officer carrying out a review must make a written record of the outcome of the review and of any of the following which apply—
- (a) the fact that the officer is satisfied that continued detention is necessary for the purposes of exercising a power under paragraph 1 or 2,
  - (b) the fact that the detainee has been informed as required under paragraph 54(1),
  - (c) the officer's conclusion on the matter considered under paragraph 54(2)(a), and
  - (d) the fact that the officer has taken action under paragraph 54(2)(b).
- (2) The review officer must inform the detainee whether the officer is authorising continued detention, and if so that the officer is satisfied that continued detention is necessary for the purposes of exercising a power under paragraph 1 or 2.
- (3) Sub-paragraph (2) does not apply where the detainee is—
- (a) incapable of understanding what is said,
  - (b) violent or likely to become violent, or
  - (c) in urgent need of medical attention.