Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV

DETENTION

Detention—conditions and duration

37 Duties of custody officer before charge.

(1) Where—

(a) a person is arrested for an offence—

(i) without a warrant; or

(ii) under a warrant not endorsed for bail, [F1]. . .

(b) . . . . . .

the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.

(2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released**[**[F2]—

(a) without bail unless the pre-conditions for bail are satisfied, or

(b) on bail if those pre-conditions are satisfied,

(subject to subsection (3))**]**.

(3) If the custody officer has reasonable grounds for **[**[F3]believing that the person's detention without being charged is necessary to secure or preserve evidence relating to an offence for which the person is under arrest or to obtain such evidence by questioning the person**]**, he may authorise the person arrested to be kept in police detention.

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(4) Where a custody officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.

(6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made—
- (a) incapable of understanding what is said to him;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

[[F4](6A) Subsection (6B) applies where—
- (a) a person is released under subsection (2), and
- (b) the custody officer determines that—
  - (i) there is not sufficient evidence to charge the person with an offence, or
  - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6B) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(6C) Subsection (6B) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.**]**

(7) Subject to section 41(7) below, if the custody officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested—
- **[**[F5](a) **[**[F6] shall be—
  - (i) released without charge and on bail, or
  - (ii) kept in police detention,

  for the purpose**]** of enabling the Director of Public Prosecutions to make a decision under section 37B below,
- **[**[F7](b) shall be released without charge and without bail unless the pre-conditions for bail are satisfied,
- (c) shall be released without charge and on bail if those pre-conditions are satisfied but not for the purpose mentioned in paragraph (a), or**]**
- (d) shall be charged.**]**

[[F8](7A) The decision as to how a person is to be dealt with under subsection (7) above shall be that of the custody officer.

(7B) Where a person is **[**[F9]dealt with under subsection (7)(a)**]** above, it shall be the duty of the custody officer to inform him that he is being released **[**[F10], or (as the case may be) detained,**]** to enable the Director of Public Prosecutions to make a decision under section 37B below.**]**

(8) Where—
- (a) a person is released under subsection (7)(b) **[**[F11]or (c)**]** above; and

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(b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken,

it shall be the duty of the custody officer so to inform him.

[[F12](8ZA) Where—

(a) a person is released under subsection (7)(b) or (c), and

(b) the custody officer makes a determination as mentioned in subsection (6A)(b),

subsections (6B) and (6C) apply.**]**

[[F13](8A) Subsection (8B) applies if the offence for which the person is arrested is one in relation to which a sample could be taken under section 63B below and the custody officer—

(a) is required in pursuance of subsection (2) above to release the person arrested and decides to release him on bail, or

(b) decides in pursuance of subsection (7)(a) or **[**[F14](c)**]** above to release the person without charge and on bail.

(8B) The detention of the person may be continued to enable a sample to be taken under section 63B, but this subsection does not permit a person to be detained for a period of more than 24 hours after the relevant time.**]**

(9) If the person arrested is not in a fit state to be dealt with under subsection (7) above, he may be kept in police detention until he is.

(10) The duty imposed on the custody officer under subsection (1) above shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

[F15](11) . . . . . .

[F15](12) . . . . . .

[F15](13) . . . . . .

[F15](14) . . . . . .

(15) In this Part of this Act—

"arrested juvenile" means a person arrested with or without a warrant who appears to be **[**[F16] under the age of 18 **]**[F17] . . .;

"endorsed for bail" means endorsed with a direction for bail in accordance with section 117(2) of the [M1]Magistrates' Courts Act 1980.

Textual Amendments

F1 S. 37(1)(b) and the word "or" preceeding it repealed (10.4.1995) by 1994 c. 33, ss. 29(4)(a)(5), 168(3), **Sch.11**; S.I. 1995/721, art. 2, **Sch.** AppendixB

F2 Words in s. 37(2) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 54(5)**, 183(1), (5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)

F3 Words in s. 37(3) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 54(6)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)

F4 S. 37(6A)-(6C) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 66(4)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 18

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F5 S. 37(7)(a)-(d) substituted for s. 37(7)(a)(b) (29.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 28, 336, **Sch. 2 para. 2(2)**; S.I. 2004/81, **art. 4(1)(2)(c)**

F6 Words in s. 37(7)(a) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), **ss. 11**, 53; S.I. 2006/3364, **art. 2(c)**

F7 S. 37(7)(b)(c) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 54(7)**, 183(1), (5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)

F8 S. 37(7A)(7B) inserted (29.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 28, 336, **Sch. 2 para. 2(3)**; S.I. 2004/81, **art. 4(1)(2)(c)**

F9 Words in s. 37(7B) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 52, 53, **Sch. 14 para. 9(a)**; S.I. 2006/3364, **art. 2(j)(k)** (as amended by S.I. 2007/29, art. 2)

F10 Words in s. 37(7B) inserted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 52, 53, **Sch. 14 para. 9(b)**; S.I. 2006/3364, **art. 2(j)(k)** (as amended by S.I. 2007/29, art. 2)

F11 Words in s. 37(8)(a) inserted (29.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 28, 336, **Sch. 2 para. 2(4)**; S.I. 2004/81, **art. 4(1)(2)(c)**

F12 S. 37(8ZA) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 66(5)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 18

F13 S. 37(8A)(8B) inserted (1.12.2005) by Drugs Act 2005 (c. 17), ss. 23, 24, **Sch. 1 para. 2**; S.I. 2005/3053, **art. 2(1)(f)**

F14 Word in s. 37(8A)(b) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 54(8)**, 183(1), (5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)

F15 S. 37(11)-(14) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53), s. 72, 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**.

F16 Words in s. 37(15) substituted (26.10.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 42**, 95(1); S.I. 2015/1778, art. 3(a)

F17 Words in s. 37(15) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Modifications etc. (not altering text)

C1 Ss. 8, 9, 15, 16, 17(1)(*b*(2) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(*a*)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(*d*), 52, 54, 55, 64(1)–(4)(5)(6), Sch. 1 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, **2**

C2 S. 37 modified (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 paras. 3(3), 4(4)(a), 5(7)(a), **6(7)(a)**; s. 37 modified by the said S.I. 1993/1813, art. 6, Sch. 3 paras. 4, 5, **6** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, Sch. 3 paras. 5, 6, **7**

C3 Ss. 37-37B modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1) {Sch. 4 para. 30}; S.I. 2005/1126, **art. 2(2)(h)**
Ss. 37-37B modified (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 40**, 178; S.I. 2006/378, **art. 4(1)**, Sch. para. 6 (subject to art. 4(2)-(7))

C4 Ss. 37-37B modified (21.7.2009) by Borders, Citizenship and Immigration Act 2009 (c. 11), **s. 31(4)** (with s. 36(4))

C5 S. 37 applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

C6 S. 37(1)-(8) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)

C7 S. 37(4)-(6) applied (with modifications) by Criminal Justice Act 2003 (c. 44), s. 24B(1)-(3) (as inserted by Police and Justice Act 2006 (c. 48), **ss. 18(1)**, 53 (with s. 18(2)); S.I. 2007/1614, **art. 2(e)**)

C8 S. 37(9)(10) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)

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Marginal Citations

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