



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV

DETENTION

Detention—conditions and duration

42 Authorisation of continued detention.

- (1) Where a police officer of the rank of superintendent or above who is responsible for the police station at which a person is detained has reasonable grounds for believing that—
 - (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
 - [^{F1}(b) an offence for which he is under arrest is an [^{F2}indictable] offence; and]
 - (c) the investigation is being conducted diligently and expeditiously,he may authorise the keeping of that person in police detention for a period expiring at or before 36 hours after the relevant time.
- (2) Where an officer such as is mentioned in subsection (1) above has authorised the keeping of a person in police detention for a period expiring less than 36 hours after the relevant time, such an officer may authorise the keeping of that person in police detention for a further period expiring not more than 36 hours after that time if the conditions specified in subsection (1) above are still satisfied when he gives the authorisation.
- (3) If it is proposed to transfer a person in police detention to another police area, the officer determining whether or not to authorise keeping him in detention under subsection (1) above shall have regard to the distance and the time the journey would take.
- (4) No authorisation under subsection (1) above shall be given in respect of any person—
 - (a) more than 24 hours after the relevant time; or

Status: Point in time view as at 07/10/2013. This version of this provision has been superseded.

Changes to legislation: Police and Criminal Evidence Act 1984, Section 42 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) before the second review of his detention under section 40 above has been carried out.
- (5) Where an officer authorises the keeping of a person in police detention under subsection (1) above, it shall be his duty—
- (a) to inform that person of the grounds for his continued detention; and
 - (b) to record the grounds in that person's custody record.
- (6) Before determining whether to authorise the keeping of a person in detention under subsection (1) or (2) above, an officer shall give—
- (a) that person; or
 - (b) any solicitor representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,
- an opportunity to make representations to him about the detention.
- (7) Subject to subsection (8) below, the person in detention or his solicitor may make representations under subsection (6) above either orally or in writing.
- (8) The officer to whom it falls to determine whether to give the authorisation may refuse to hear oral representations from the person in detention if he considers that he is unfit to make such representations by reason of his condition or behaviour.
- (9) Where—
- (a) an officer authorises the keeping of a person in detention under subsection (1) above; and
 - (b) at the time of the authorisation he has not yet exercised a right conferred on him by section 56 or 58 below,
- the officer—
- (i) shall inform him of that right;
 - (ii) shall decide whether he should be permitted to exercise it;
 - (iii) shall record the decision in his custody record; and
 - (iv) if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.
- (10) Where an officer has authorised the keeping of a person who has not been charged in detention under subsection (1) or (2) above, he shall be released from detention, either on bail or without bail, not later than 36 hours after the relevant time, unless—
- (a) he has been charged with an offence; or
 - (b) his continued detention is authorised or otherwise permitted in accordance with section 43 below.
- (11) A person released under subsection (10) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release [^{F3}; but this subsection does not prevent an arrest under section 46A below.]

Textual Amendments

- F1** S. 42(1)(b) substituted (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 7, 336](#); [S.I. 2004/81](#), [art. 2\(1\)\(2\)\(a\)](#)
- F2** Word in s. 42(1)(b) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 111, 178](#), [Sch. 7 Pt. 3 para. 43\(7\)](#); [S.I. 2005/3495](#), [art. 2\(1\)\(m\)](#)

Status: Point in time view as at 07/10/2013. This version of this provision has been superseded.

Changes to legislation: Police and Criminal Evidence Act 1984, Section 42 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F3 Words in s. 42(11) inserted (10.4.1995) by 1994 c. 33, s. 29(4)(b)(5); S.I. 1995/721, art. 2, **Sch.**

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. 42 modified (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 paras. 3(3), 4(4)(b), 5(7)(b), 6(7)(b); s. 42 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** S. 42 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)
- C4** S. 42(7) amended by S.I. 1991/2684, arts. 1, 2, 4 and Sch. 1
- C5** S. 42(7) applied (with modifications) (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), art. 1(2), **Sch. 2**

Status:

Point in time view as at 07/10/2013. This version of this provision has been superseded.

Changes to legislation:

Police and Criminal Evidence Act 1984, Section 42 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.