Status: *Point in time view as at 25/07/2006.*
Changes to legislation: *Terrorism Act 2000, Part III is up to date with all changes known to be in force on or before 21 June 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)*

SCHEDULES

SCHEDULE 8

DETENTION

Modifications etc. (not altering text)

C1 Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), **art. 11(1)(b)**, Sch. 2; (as amended (31.3.2021) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021 (S.I. 2021/311), arts. 1(2), **2(7)(b)(i)**)

C1 Sch. 8 applied (with modifications) (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 25(1)(3)(4)**; S.I. 2006/1936, **art. 2**

PART III

EXTENSION OF DETENTION UNDER SECTION 41

Warrants of further detention

29 (1) **[**[F1]Each of the following—

(a) in England and Wales, a Crown Prosecutor,

(b) in Scotland, the Lord Advocate or a procurator fiscal,

(c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,

(d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,

may**]** apply to a judicial authority for the issue of a warrant of further detention under this Part.

(2) A warrant of further detention—

(a) shall authorise the further detention under section 41 of a specified person for a specified period, and

(b) shall state the time at which it is issued.

(3) **[**[F2]Subject to sub-paragraph (3A) and paragraph 36**]**, the specified period in relation to a person shall **[**[F3]be**]** the period of seven days beginning—

(a) with the time of his arrest under section 41, or

(b) if he was being detained under Schedule 7 when he was arrested under section 41, with the time when his examination under that Schedule began.

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[[F4](3A) A judicial authority may issue a warrant of further detention in relation to a person which specifies a shorter period as the period for which that person's further detention is authorised if—

(a) the application for the warrant is an application for a warrant specifying a shorter period; or

(b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the specified period to be as long as the period of seven days mentioned in sub-paragraph (3).**]**

(4) In this Part "judicial authority" means—

(a) in England and Wales, [F5]. . . a District Judge (Magistrates' Courts) who is designated for the purpose of this Part **[**[F6]by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor**]** ,

(b) in Scotland, the sheriff, and

(c) in Northern Ireland, a county court judge, or a resident magistrate who is designated for the purpose of this Part **[**[F7]by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor**]** .

[[F8](5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (4)(a).

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (4)(c)—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

Textual Amendments

F1 Words in Sch. 8 para. 29(1) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(2)** (with (12)); S.I. 2006/1936, **art. 2**

F2 Words in Sch. 8 para. 29(3) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(3)(a)** (with (12)); S.I. 2006/1936, **art. 2**

F3 Words in Sch. 8 para. 29(3) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(3)(b)** (with (12)); S.I. 2006/1936, **art. 2**

F4 Sch. 8 para. 29(3A) inserted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(4)** (with (12)); S.I. 2006/1936, **art. 2**

F5 Words in Sch. 8 para. 29(4)(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1)(3), **Sch. 8 para. 391**, **Sch. 10**; S.I. 2005/910, **art. 3(y)(bb)**

F6 Words in Sch. 8 para. 29(4)(a) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 290(2)(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(x)

F7 Words in Sch. 8 para. 29(4)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 290(2)(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(x)

F8 Sch. 8 para. 29(5)(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 290(2)(c)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(x)

Time limit

30 (1) An application for a warrant shall be made—

(a) during the period mentioned in section 41(3), or

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(b) within six hours of the end of that period.

(2) The judicial authority hearing an application made by virtue of sub-paragraph (1)(b) shall dismiss the application if he considers that it would have been reasonably practicable to make it during the period mentioned in section 41(3).

(3) For the purposes of this Schedule, an application for a warrant is made when written or oral notice of an intention to make the application is given to a judicial authority.

Notice

31 An application for a warrant may not be heard unless the person to whom it relates has been given a notice stating—

(a) that the application has been made,

(b) the time at which the application was made,

(c) the time at which it is to be heard, and

(d) the grounds upon which further detention is sought.

Grounds for extension

32 (1) A judicial authority may issue a warrant of further detention only if satisfied that—

(a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary **[**[F9]as mentioned in sub-paragraph (1A)**]** , and

(b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

[[F10](1A) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary—

(a) to obtain relevant evidence whether by questioning him or otherwise;

(b) to preserve relevant evidence; or

(c) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence.**]**

(2) In **[**[F11]this paragraph**]**"relevant evidence" means, in relation to the person to whom the application relates, evidence which—

(a) relates to his commission of an offence under any of the provisions mentioned in section 40(1)(a), or

(b) indicates that he is a person falling within section 40(1)(b).

Textual Amendments

F9 Words in Sch. 8 para. 32(1) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 24(2)** (with (6)); S.I. 2006/1936, **art. 2**

F10 Sch. 8 para. 32(1A) inserted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 24(3)** (with (6)); S.I. 2006/1936, **art. 2**

F11 Words in Sch. 8 para. 32(2) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 24(5)** (with (6)); S.I. 2006/1936, **art. 2**

Status: *Point in time view as at 25/07/2006.*
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Representation

33 (1) The person to whom an application relates shall—

(a) be given an opportunity to make oral or written representations to the judicial authority about the application, and

(b) subject to sub-paragraph (3), be entitled to be legally represented at the hearing.

(2) A judicial authority shall adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—

(a) he is not legally represented,

(b) he is entitled to be legally represented, and

(c) he wishes to be so represented.

(3) A judicial authority may exclude any of the following persons from any part of the hearing—

(a) the person to whom the application relates;

(b) anyone representing him.

[F12(4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—

(a) that the hearing of the application must be conducted, and

(b) that all representations by or on behalf of a person for the purposes of the hearing must be made,

by such means (whether a live television link or other means) falling within sub-paragraph (5) as may be specified in the direction and not in the presence (apart from by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.

(5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of his (without being present at the hearing and to the extent that they are not excluded from it under sub-paragraph (3))—

(a) to see and hear the judicial authority and the making of representations to it by other persons; and

(b) to be seen and heard by the judicial authority.

(6) If the person to whom the application relates wishes to make representations about whether a direction should be given under sub-paragraph (4), he must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.

(7) Sub-paragraph (2) applies to the hearing of representations about whether a direction should be given under sub-paragraph (4) in the case of any application as it applies to a hearing of the application.

(8) A judicial authority shall not give a direction under sub-paragraph (4) unless—

(a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within sub-paragraph (5); and

(b) that notification has not been withdrawn.

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(9) If in a case where it has power to do so a judicial authority decides not to give a direction under sub-paragraph (4), it shall state its reasons for not giving it.**]**

Textual Amendments

F12 Sch. 8 paras. 33(4)-(9) inserted (E.W.N.I.) (1.8.2001) by 2001 c. 16, **s. 75**; S.I. 2001/2223, **art. 3(d)**

Information

34 (1) The **[**[F13]person**]** who has made an application for a warrant may apply to the judicial authority for an order that specified information upon which he intends to rely be withheld from—

(a) the person to whom the application relates, and

(b) anyone representing him.

(2) Subject to sub-paragraph (3), a judicial authority may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed—

(a) evidence of an offence under any of the provisions mentioned in section 40(1)(a) would be interfered with or harmed,

(b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,

(c) the recovery of property in respect of which a forfeiture order could be made under section 23 would be hindered,

(d) the apprehension, prosecution or conviction of a person who is suspected of falling within section 40(1)(a) or (b) would be made more difficult as a result of his being alerted,

(e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,

(f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with, or

(g) a person would be interfered with or physically injured.

[[F14](3) A judicial authority may also make an order under sub-paragraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that—

(a) the detained person has benefited from his criminal conduct, and

(b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.

(3A) For the purposes of sub-paragraph (3) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 or 3 of the Proceeds of Crime Act 2002.**]**

(4) The judicial authority shall direct that the following be excluded from the hearing of the application under this paragraph—

(a) the person to whom the application for a warrant relates, and

(b) anyone representing him.

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Textual Amendments

F13 Word in Sch. 8 para. 34(1) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(5)**; S.I. 2006/1936, **art. 2**

F14 Sch. 8 para. 34(3)(3A) substituted for Sch. 8 para. 34(3) (24.3.2003 subject to certain provisions in the commencing instruments) by 2002 c. 29, s. 456, Sch. 11 para. 39(5); S.I. 2003/333, **art. 2**, Sch. (as amended by S.I. 2003/531); S.S.I. 2003/210, **art. 2**, Sch.

Adjournments

35 (1) A judicial authority may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in section 41(3).

(2) This paragraph shall not apply to an adjournment under paragraph 33(2).

Extensions of warrants

36 **[**[F15](1) Each of the following—

(a) in England and Wales, a Crown Prosecutor,

(b) in Scotland, the Lord Advocate or a procurator fiscal,

(c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,

(d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,

may**]** apply [F16]. . . for the extension or further extension of the period specified in a warrant of further detention.

[[F17](1A) The person to whom an application under sub-paragraph (1) may be made is—

(a) in the case of an application falling within sub-paragraph (1B), a judicial authority; and

(b) in any other case, a senior judge.

(1B) An application for the extension or further extension of a period falls within this sub-paragraph if—

(a) the grant of the application otherwise than in accordance with sub-paragraph (3AA)(b) would extend that period to a time that is no more than fourteen days after the relevant time; and

(b) no application has previously been made to a senior judge in respect of that period.**]**

(2) Where the period specified is extended, the warrant shall be endorsed with a note stating the new specified period.

[[F18](3) Subject to sub-paragraph (3AA), the period by which the specified period is extended or further extended shall be the period which—

(a) begins with the time specified in sub-paragraph (3A); and

(b) ends with whichever is the earlier of—

(i) the end of the period of seven days beginning with that time; and

(ii) the end of the period of 28 days beginning with the relevant time.

(3A) The time referred to in sub-paragraph (3)(a) is—

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(a) in the case of a warrant specifying a period which has not previously been extended under this paragraph, the end of the period specified in the warrant, and

(b) in any other case, the end of the period for which the period specified in the warrant was last extended under this paragraph.

(3AA) A judicial authority or senior judge may extend or further extend the period specified in a warrant by a shorter period than is required by sub-paragraph (3) if—

(a) the application for the extension is an application for an extension by a period that is shorter than is so required; or

(b) the judicial authority or senior judge is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.**]**

[[F19](3B) In this paragraph "the relevant time", in relation to a person, means—

(a) the time of his arrest under section 41, or

(b) if he was being detained under Schedule 7 when he was arrested under section 41, the time when his examination under that Schedule began.**]**

(4) Paragraphs 30(3) and 31 to 34 shall apply to an application under this paragraph as they apply to an application for a warrant of further detention**[**[F20] but, in relation to an application made by virtue of sub-paragraph (1A)(b) to a senior judge, as if—

(a) references to a judicial authority were references to a senior judge; and

(b) references to the judicial authority in question were references to the senior judge in question.**]**

(5) A judicial authority **[**[F21]or senior judge**]** may adjourn the hearing of an application under sub-paragraph (1) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.

(6) Sub-paragraph (5) shall not apply to an adjournment under paragraph 33(2).

[[F22](7) In this paragraph and paragraph 37 "senior judge" means a judge of the High Court or of the High Court of Justiciary.**]**

Textual Amendments

F15 Words in Sch. 8 para. 36(1) substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(2)** (with (12)); S.I. 2006/1936, **art. 2**

F16 Words in Sch. 8 para. 36(1) repealed (25.7.2006) by Terrorism Act 2006 (c. 11), ss. 23(6), 37, Sch. 3 (with s. 23(12)); S.I. 2006/1936, **art. 2**

F17 Sch. 8 para. 36(1A)(1B) inserted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(6)** (with (12)); S.I. 2006/1936, **art. 2**

F18 Sch. 8 para. 36(3)-(3AA) substituted for Sch. 8 para. 36(3)(3A) (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(7)** (with (12)); S.I. 2006/1936, **art. 2**

F19 Sch. 8 para. 36(3A)(3B) inserted (20.1.2004) by Criminal Justice Act 2003 (c. 44), **s. 306(4)**; S.I. 2004/81, **art. 2(2)** (with art. 2(8))

F20 Words in Sch. 8 para. 36(4) inserted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(8)** (with (12)); S.I. 2006/1936, **art. 2**

F21 Words in Sch. 8 para. 36(5) inserted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(9)** (with (12)); S.I. 2006/1936, **art. 2**

F22 Sch. 8 para. 36(7) inserted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(10)** (with (12)); S.I. 2006/1936, **art. 2**

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Modifications etc. (not altering text)

C1 S. 36 extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 1 para. 14**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

Detention - conditions

[F23 37 (1) This paragraph applies where—

(a) a person ("the detained person") is detained by virtue of a warrant issued under this Part of this Schedule; and

(b) his detention is not authorised by virtue of section 41(5) or (6) or otherwise apart from the warrant.

(2) If it at any time appears to the police officer or other person in charge of the detained person's case that any of the matters mentioned in paragraph 32(1)(a) and (b) on which the judicial authority or senior judge last authorised his further detention no longer apply, he must—

(a) if he has custody of the detained person, release him immediately; and

(b) if he does not, immediately inform the person who does have custody of the detained person that those matters no longer apply in the detained person's case.

(3) A person with custody of the detained person who is informed in accordance with this paragraph that those matters no longer apply in his case must release that person immediately.]

Textual Amendments

F23 Sch. 8 para. 37 substituted (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 23(11)** (with (12)); S.I. 2006/1936, **art. 2**

Status:
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Changes to legislation:
Terrorism Act 2000, Part III is up to date with all changes known to be in force on or before 21 June 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.