

SCHEDULES

SCHEDULE 21

POWERS OF IMMIGRATION OFFICERS: FURTHER PROVISION

PART 2

MODIFICATION OF APPLIED ENACTMENTS

Criminal Justice and Public Order Act 1994

43 (1) This paragraph has effect in relation to the application of section 138 of the 1994 Act to immigration officers.

(2) Subsection (1B) is to be treated as if it provided as follows—

“(1B) Where a person is arrested under subsection (2) of the principal section but not charged in connection with an offence, subsections (2) to (9) of section 25A of the Criminal Law (Consolidation) (Scotland) Act 1995 (right of suspects to have access to a solicitor) apply with the following modifications—

- (a) omit the references to “other premises or place” in subsections (2) and (6);
- (b) the right under subsection (2) arises when the person is arrested;
- (c) subsection (6) is to be read as requiring that the person be informed of the rights under section 25A(2) and (3) on being arrested.”.

(3) In subsection (2), the references to the 1995 Act and to section 14(1) of that Act are to be treated as references to the Criminal Law (Consolidation) (Scotland) Act 1995 (the “consolidation Act”) and to section 24(1) of that Act.

(4) Subsection (2A) is to be treated as if provided as follows—

“(2A) Those provisions are—

- (a) section 24(2) to (8A) (detention and questioning at police station);
- (b) sections 24A and 24B (extension of period of detention under section 24B);
- (c) section 25 (right to have someone informed when detained);
- (d) section 25A(2) to (9) (right of access to solicitor).”.

(5) In subsection (6) the reference to the 1995 Act is to be treated as a reference to the consolidation Act.

(6) In subsection (7)—

- (a) the reference to section 14 is to be treated as a reference to section 24 of the consolidation Act;

Status: This is the original version (as it was originally enacted).

- (b) the reference to subsections (6) and (9) of section 14 is to be treated as a reference to subsections (5) and (8) of section 24.

(7) In subsection (8)—

- (a) the reference to section 15 is to be treated as a reference to section 25 of the consolidation Act;
- (b) paragraph (a) is to be treated as if it provided as follows—
 - “(a) in subsection (1)—
 - (i) the words “other premises or place” (in both places) are to be treated as if they referred to a police station;
 - (ii) the reference in paragraph (a) to other premises is to be treated as a reference to a police station;
 - (iii) paragraph (b) does not apply;
 - (iv) the references in paragraph (c)(i) and (iii) to the right under subsection (1)(b) are to be treated as references to the right under section 25(1) to have someone informed when detained;
 - (v) the references in paragraph (c)(ii) to subsection (1)(b) is to be treated as a reference to section 25(1);
 - (vi) the reference in paragraph (c)(iii) to subsection (2) is to be treated as a reference to the words in section 25(1) beginning “and the person shall be informed”;
 - (vii) the reference to subsection (4) is to be treated as a reference to section 25(2).”.

(8) In subsection (9)—

- (a) the reference to section 15A is to be treated as a reference to section 25A;
- (b) paragraph (a) is to be treated as if it provided as follows—
 - “(a) the words “other premises or place” in subsections (2) and (6) are to be treated as referring to a police station;”;
- (c) in paragraph (b)(iii) the reference to section 15A(2) and (3) is to be treated as a reference to section 25A(2) and (3).