

SCHEDULES

SCHEDULE 9

PORT AND BORDER CONTROLS

Review of detention under Schedule 7

- 7 (1) The Terrorism Act 2000 is amended as follows.
- (2) In paragraph 6(3) of Schedule 7 (provisions of Schedule 8 applying to detention under Schedule 7)—
- (a) for “Part I” there is substituted “Parts 1 and 1A”;
 - (b) after “treatment” there is inserted “and review of detention”.
- (3) In Schedule 8, after Part 1 there is inserted—

“PART 1A

REVIEW OF DETENTION UNDER SCHEDULE 7

20K General requirements

- (1) A person’s detention under Schedule 7 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 person’s detention under that Schedule.
- (3) Subsequent reviews must be carried out at intervals of not more than two hours.
- (4) The review officer may authorise a person’s continued detention under Schedule 7 only if satisfied that it is necessary for the purposes of exercising a power under paragraph 2 or 3 of that Schedule.
- (5) If on a review under this paragraph the review officer does not authorise a person’s continued detention, the person 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 detained person under paragraph 2 or 3 of Schedule 7.
- (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

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- (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.
- (8) The Secretary of State must under paragraph 6 of Schedule 14 issue a code of practice about reviews under this Part of this Schedule.
- (9) The code of practice must include provision about training to be undertaken by persons who are to act as review officers.

20L Representations

- (1) Before determining whether to authorise a person's continued detention, a review officer must give either of the following persons an opportunity to make representations about the detention—
 - (a) the detained person, or
 - (b) a solicitor representing the detained person who is available at the time of the review.
- (2) Representations may be oral or written.
- (3) A review officer may refuse to hear oral representations from the detained person if the officer considers that the detained person is unfit to make representations because of the detained person's condition or behaviour.

20M Rights

- (1) Where a review officer authorises continued detention the officer must inform the detained person—
 - (a) of any of the detained person's rights under paragraphs 6 and 7 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 8, of the fact that it is being delayed.
- (2) Where a review of a person's detention is being carried out at a time when the person's exercise of a right under paragraph 6 or 7 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).
- (3) In the application of this paragraph to Scotland, for the references to paragraphs 6, 7 and 8 substitute references to paragraph 16.

20N Record

- (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 2 or 3 of Schedule 7,
 - (b) the fact that the detained person has been informed as required under paragraph 20M(1),

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- (c) the officer's conclusion on the matter considered under paragraph 20M(2)(a), and
 - (d) the fact that the officer has taken action under paragraph 20M(2)(b).
- (2) The review officer must inform the detained person 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 2 or 3 of Schedule 7.
- (3) Sub-paragraph (2) does not apply where the detained person is—
- (a) incapable of understanding what is said,
 - (b) violent or likely to become violent, or
 - (c) in urgent need of medical attention.”