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*Changes to legislation: There are currently no known outstanding effects  
for the National Security Act 2023, Part 5. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 6

#### DETENTION UNDER SECTION 27

#### PART 5

#### REVIEW OF DETENTION UNDER SECTION 27

##### *Requirement*

- 29 (1) A person's detention must be periodically reviewed by a review officer.
- (2) The first review must be carried out as soon as is reasonably practicable after the time of the person's arrest.
- (3) Subsequent reviews must be carried out at intervals of not more than 12 hours.
- This is subject to [paragraph 30](#).
- (4) A person's detention may not be reviewed after a warrant has been issued under Part 6 of [this Schedule](#) extending the detention period.

##### **Commencement Information**

- I1** Sch. 6 para. 29 not in force at Royal Assent, see 100(1)
- I2** [Sch. 6 para. 29](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

##### *Postponement*

- 30 (1) A review may be postponed if, at the latest time at which it may be carried out in accordance with [paragraph 29](#)—
- (a) the detained person is being questioned by a constable and the review officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,
- (b) no review officer is readily available, or
- (c) it is not practicable for any other reason to carry out the review.
- (2) Where a review is postponed it must be carried out as soon as is reasonably practicable.
- (3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review is to be treated as if it were carried out at the latest time at which it could have been carried out in accordance with [paragraph 29](#).

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**Commencement Information**

- I3** Sch. 6 para. 30 not in force at Royal Assent, see 100(1)  
**I4** Sch. 6 para. 30 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

*Grounds for continued detention*

- 31 (1) A review officer may authorise a person’s continued detention only if satisfied that it is necessary—
- (a) to obtain relevant evidence, whether by questioning the person or otherwise,
  - (b) to preserve relevant evidence,
  - (c) pending the result of an examination or analysis of any relevant evidence,
  - (d) pending the result of any examination or analysis which is being carried out, or which is to be carried out, with a view to obtaining relevant evidence,
  - (e) pending a decision whether to apply to the Secretary of State for a deportation notice to be served on the person,
  - (f) pending the making of an application to the Secretary of State for a deportation notice to be served on the person,
  - (g) pending consideration by the Secretary of State of whether to serve a deportation notice on the person, or
  - (h) pending a decision as to whether the person should be charged with an offence.
- (2) The review officer may not authorise continued detention by virtue of [sub-paragraph \(1\)\(a\) to \(d\)](#) unless satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (3) The review officer may not authorise continued detention by virtue of [sub-paragraph \(1\)\(e\) to \(h\)](#) unless satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.
- (4) In [this paragraph](#) “relevant evidence” means evidence which relates to the detained person’s involvement in foreign power threat activity.
- (5) In [sub-paragraph \(1\)](#) “deportation notice” means notice of a decision to make a deportation order under the Immigration Act 1971.

**Commencement Information**

- I5** Sch. 6 para. 31 not in force at Royal Assent, see 100(1)  
**I6** Sch. 6 para. 31 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

*Review officer*

- 32 (1) The review officer must be an officer who has not been directly involved in the investigation in connection with which the person is detained.
- (2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer must be an officer of at least the rank of inspector.

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- (3) In the case of any other review, the review officer must be an officer of at least the rank of superintendent.

**Commencement Information**

- I7** Sch. 6 para. 32 not in force at Royal Assent, see 100(1)  
**I8** Sch. 6 para. 32 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

- 33 (1) [This paragraph](#) applies where—
- (a) the review officer is of a rank lower than superintendent,
  - (b) an officer of higher rank than the review officer gives directions relating to the detained person, and
  - (c) those directions are at variance with the performance by the review officer of a duty imposed on the review officer under [this Schedule](#).
- (2) The review officer must refer the matter at once to an officer of at least the rank of superintendent.

**Commencement Information**

- I9** Sch. 6 para. 33 not in force at Royal Assent, see 100(1)  
**I10** Sch. 6 para. 33 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

**Commencement Information**

- I7** Sch. 6 para. 32 not in force at Royal Assent, see 100(1)  
**I8** Sch. 6 para. 32 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)  
**I9** Sch. 6 para. 33 not in force at Royal Assent, see 100(1)  
**I10** Sch. 6 para. 33 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

*Representations*

- 34 (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 person is unfit to make representations because of the person's condition or behaviour.

**Commencement Information**

- I11** Sch. 6 para. 34 not in force at Royal Assent, see 100(1)  
**I12** Sch. 6 para. 34 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

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### Rights

- 35 (1) A review officer who authorises continued detention must inform the detained person—
- (a) of any rights under [paragraphs 6 and 7](#) which the person has not yet exercised, and
  - (b) of any delay to the exercise of any of the person’s rights which has been authorised in accordance with [paragraph 9](#).
- (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, the review officer must—
- (a) consider whether the reason or reasons for which the delay was authorised continue to apply, and
  - (b) if, in the review officer’s opinion, the reason or reasons have ceased to apply, inform the officer who authorised the delay of that opinion (unless the delay was authorised by the review officer).
- (3) In the application of [this paragraph](#) to Scotland, for the references to [paragraphs 6, 7 and 9](#) substitute references to [paragraph 15](#).
- (4) Article 8(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 ([S.I. 1998/1504 \(N.I. 9\)](#)) (requirement to bring an accused person before the court after arrest) does not apply in relation to a detained person.

#### Commencement Information

**I13** Sch. 6 para. 35 not in force at Royal Assent, see 100(1)

**I14** Sch. 6 para. 35 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

### Record

- 36 (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 grounds upon which continued detention is authorised,
  - (b) the reason for postponing the review,
  - (c) the fact that the detained person has been informed as required under [paragraph 35\(1\)](#),
  - (d) the officer’s conclusion on the matter considered under [paragraph 35\(2\)\(a\)](#),
  - (e) the fact that the officer has taken action under [paragraph 35\(2\)\(b\)](#), and
  - (f) the fact that the detained person is being detained by virtue of [section 27\(6\) or \(7\)](#).
- (2) The review officer must—
- (a) make the record in the presence of the detained person, and
  - (b) inform the detained person at that time whether the review officer is authorising continued detention, and if so, of the grounds for such authorisation.
- (3) [Sub-paragraph \(2\)](#) does not apply where, at the time when the record is made, the detained person is—
- (a) incapable of understanding what is said to them,

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- (b) violent or likely to become violent, or
- (c) in urgent need of medical attention.

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**Commencement Information**

**I15** Sch. 6 para. 36 not in force at Royal Assent, see 100(1)

**I16** Sch. 6 para. 36 in force at 20.12.2023 by [S.I. 2023/1272](#), **reg. 2(a)**

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