

POLICE AND CRIMINAL EVIDENCE ACT 1984

PART IV DETENTION

34. Limitations on police detention

(1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part of this Act.

(2) Subject to subsection (3) below, if at any time a custody officer -

(a) becomes aware, in relation to any person in police detention, that the grounds for the detention of that person have ceased to apply; and

(b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part of this Act,
it shall be the duty of the custody officer, subject to subsection (4) below, to order his immediate release from custody.

(3) No person in police detention shall be released except on the authority of a custody officer at the police station where his detention was authorised or, if it was authorised at more than one station, a custody officer at the station where it was last authorised.

(4) A person who appears to the custody officer to have been unlawfully at large when he was arrested is not to be released under subsection (2) above.

(5) A person whose release is ordered under subsection (2) above shall be released without bail unless it appears to the custody officer -

(a) that there is need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or

(b) that proceedings may be taken against him in respect of any such matter,
and, if it so appears, he shall be released on bail.

(6) For the purposes of this Part of this Act a person arrested under section 6(5) of the Road Traffic Act 1988 is arrested for an offence.

(7) For the purposes of this Part of this Act a person who returns to a police station to answer to bail or is arrested under section 46A below shall be treated as arrested for an offence and the offence in connection with which he was granted bail shall be deemed to be that offence.

36. Custody officers at police stations

(1) One or more custody officers shall be appointed for each designated police station.

(3) No officer may be appointed a custody officer unless he is of at least the rank of sergeant.

(4) An officer of any rank may perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.

(5) Subject to the following provisions of this section and to section 39(2) below, none of the functions of a custody officer in relation to a person shall be performed by an officer who at the time when the function falls to be performed is involved in the investigation of an offence for which that person is in police detention at that time.

37. Duties of custody officer before charge

- (1) Where
 - (a) a person is arrested for an offence
 - (i) without a warrant; or
 - (ii) under a warrant not endorsed for bail, or
 - (b) a person returns to a police station to answer to bail,the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.
- (2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released either on bail or without bail, unless the custody officer has reasonable grounds for believing that his detention without being charged 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.
- (3) If the custody officer has reasonable grounds for so believing, he may authorise the person arrested to be kept in police detention.
- (4) Where a custody officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.
- (5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.
- (6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made
 - (a) incapable of understanding what is said to him;
 - (b) violent or likely to become violent; or
 - (c) in urgent need of medical attention.
- (7) Subject to section 41(7) below, if the custody officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested
 - (a) shall be charged; or
 - (b) shall be released without charge, either on bail or without bail.
- (9) If the person arrested is not in a fit state to be dealt with under subsection (7) above, he may be kept in police detention until he is.
- (10) The duty imposed on the custody officer under subsection (1) above shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

39. Responsibilities in relation to persons detained

- (1) Subject to subsections (2) and (4) below, it shall be the duty of the custody officer at a police station to ensure
 - (a) that all persons in police detention at that station are treated in accordance with this Act and any code of practice issued under it and relating to the treatment of persons in police detention; and
 - (b) that all matters relating to such persons which are required by this Act or by such codes of practice to be recorded are recorded in the custody records relating to such persons.

40. Review of police detention

(1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with the following provisions of this section

- (a) in the case of a person who has been arrested and charged, by the custody officer; and
- (b) in the case of a person who has been arrested but not charged, by an officer of at least the rank of inspector who has not been directly involved in the investigation.

(2) The officer to whom it falls to carry out a review is referred to in this section as a 'review officer'.

(3) Subject to subsection (4) below

- (a) the first review shall be not later than six hours after the detention was first authorised;
- (b) the second review shall be not later than nine hours after the first;
- (c) subsequent reviews shall be at intervals of not more than nine hours

(12) Before determining whether to authorise a person's continued detention the review officer shall give

- (a) that person (unless he is asleep); or
- (b) any solicitor representing him who is available at the time of the review, an opportunity to make representations to him about the detention.

41. Limits on period of detention without charge

(1) Subject to the following provisions of this section and to sections 42 and 43 below, a person shall not be kept in police detention for more than 24 hours without being charged.

(2) The time from which the period of detention of a person is to be calculated (in this Act referred to as 'the relevant time')

- (a) in the case of a person to whom this paragraph applies, shall be
 - (i) the time at which that person arrives at the relevant police station; or
 - (ii) the time 24 hours after the time of that person's arrest, whichever is the earlier;
- (b) in the case of a person arrested outside England and Wales, shall be
 - (i) the time at which that person arrives at the first police station to which he is taken in the police area in England or Wales in which the offence for which he was arrested is being investigated; or
 - (ii) the time 24 hours after the time of that person's entry into England and Wales, whichever is the earlier;
- (c) in the case of a person who
 - (i) attends voluntarily at a police station; or
 - (ii) accompanies a constable to a police station without having been arrested, and is arrested at the police station, the time of his arrest;
- (d) in any other case, except where subsection (5) below applies, shall be the time at which the person arrested arrives at the first police station to which he is taken after his arrest.

(7) Subject to subsection (8) below, a person who at the expiry of 24 hours after the relevant time is in police detention and has not been charged shall be released at that time either on bail or without bail.

(8) Subsection (7) above does not apply to a person whose detention for more than 24 hours after the relevant time has been authorised or is otherwise permitted in accordance with section 42 or 43 below.

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;

(b) an offence for which he is under arrest is a serious arrestable 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

(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.

(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.

43. Warrants of further detention

(1) Where, on an application on oath made by a constable and supported by an information, a magistrate's court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.

(2) A court may not hear an application for a warrant of further detention unless the person to whom the application relates-

- (a) has been furnished with a copy of the information; and
- (b) has been brought before the court for the hearing.

(3) The person to whom the application relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented-

- (a) the court shall adjourn the hearing to enable him to obtain representation; and
- (b) he may be kept in police detention during the adjournment.

(4) A person's further detention is only justified for the purposes of this section or section 44 below if-

- (a) his detention 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;
- (b) an offence for which he is under arrest is a serious arrestable offence; and
- (c) the investigation is being conducted diligently and expeditiously.

(5) Subject to subsection (7) below, an application for a warrant of further detention may be made-

- (a) at any time before the expiry of 36 hours after the relevant time; or
- (b) in a case where-
 - (i) it is not practicable for the magistrates' court to which the application will be made to sit at the expiry of 36 hours after the relevant time; but
 - (ii) the court will sit during the 6 hours following the end of that period, at any time before the expiry of the said 6 hours.

(6) In a case to which subsection (5)(b) above applies-

- (a) the person to whom the application relates may be kept in police detention until the application is heard; and
- (b) the custody officer shall make a note in that person's custody record-
 - (i) of the fact that he was kept in police detention for more than 36 hours after the relevant time; and
 - (ii) of the reason why he was so kept.

(7) If-

- (a) an application for a warrant of further detention is made after the expiry of 36 hours after the relevant time; and
- (b) it appears to the magistrates' court that it would have been reasonable for the police to make it before the expiry of that period, the court shall dismiss the application.

(8) Where on an application such as is mentioned in subsection (1) above a magistrates' court is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it shall be its duty-

- (a) to refuse the application; or

- (b) to adjourn the hearing of it until a time not later than 36 hours after the relevant time.
- (9) The person to whom the application relates may be kept in police detention during the adjournment.
- (10) A warrant of further detention shall-
- (a) state the time at which it is issued;
 - (b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.
- (11) Subject to subsection (12) below, the period stated in a warrant of further detention shall be such period as the magistrates' court thinks fit, having regard to the evidence before it.
- (12) The period shall not be longer than 36 hours.
- (14) Any information submitted in support of an application under this section shall state-
- (a) the nature of the offence for which the person to whom the application relates has been arrested;
 - (b) the general nature of the evidence on which that person was arrested;
 - (c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed by them;
 - (d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further inquiries.
- (15) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (16) below, released, either on bail or without bail.
- (16) A person need not be released under subsection (15) above-
- (a) before the expiry of 24 hours after the relevant time; or
 - (b) before the expiry of any longer period for which his continued detention is or has been authorised under section 42 above.
- (17) Where an application under this section is refused, no further application shall be made under this section in respect of the person to whom the refusal relates, unless supported by evidence which has come to light since the refusal.
- (18) Where a warrant of further detention is issued, the person to whom it relates shall be released from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.
- (19) A person released under subsection (18) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence if justifying a further arrest has come to light since his release.

44. Extension of warrants of further detention

- (1) On an application on oath made by a constable and supported by an information a magistrates' court may extend a warrant of further detention issued under section 43 above if it is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.
- (2) Subject to subsection (3) below, the period for which a warrant of further detention may be extended shall be such period as the court thinks fit, having regard to the evidence before it.

- (3) The period shall not-
 - (a) be longer than 36 hours; or
 - (b) end later than 96 hours after the relevant time.

(4) Where a warrant of further detention has been extended under subsection (1) above, or further extended under this subsection, for a period ending before 96 hours after the relevant time, on an application such as is mentioned in that subsection a magistrates' court may further extend the warrant if it is satisfied as there mentioned; and subsections (2) and (3) above apply to such further extensions as they apply to extensions under subsection (1) above.

(5) A warrant of further detention shall, if extended or further extended under this section, be endorsed with a note of the period of the extension.

(6) Subsections (2), (3), and (14) of section 43 above shall apply to an application made under this section as they apply to an application made under that section.

46. Detention after charge

- (1) Where a person –
 - (a) is charged with an offence; and
 - (b) after being charged –
 - (i) is kept in police detention; or
 - (ii) or is detained by a local authority in pursuance of arrangements made under s38(6) above,

he shall be brought before a magistrates' court in accordance with the provisions of this section.

(2) If he is to be brought before a magistrates' court for the petty sessions area in which the police station at which he was charged is situated, he shall be brought before such a court as soon as is practicable and in any event not later than the first sitting after he is charged with the offence.

(3) If no magistrates' court for that area is due to sit either on the day on which he is charged or on the next day, the custody officer for the police station at which he was charged shall inform the clerk to the justices for the area that there is a person in the area to whom subsection (2) above applies.