



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART IV

#### DETENTION

##### *Detention—conditions and duration*

#### **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 provision 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.

[<sup>F1</sup>(5) A person whose release is ordered under subsection (2) must be released on bail if subsection (5A) applies.]

[<sup>F2</sup>(5A) This subsection applies if—

- (a) it appears to the custody officer—

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- (i) that there is need for further investigation of any matter in connection with which the person was detained at any time during the period of the person’s detention, or
    - (ii) that, in respect of any such matter, proceedings may be taken against the person or the person may be given a youth caution under section 66ZA of the Crime and Disorder Act 1998, and
  - (b) the pre-conditions for bail are satisfied.]
- [<sup>F3</sup>(5AA) A person whose release is ordered under subsection (2) must be released without bail if subsection (5A) does not apply.]
- [<sup>F4</sup>(5B) Subsection (5C) applies where—
- (a) a person is released under subsection (5) [<sup>F5</sup>or (5AA)], and
  - (b) the custody officer determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (5C) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (5D) Subsection (5C) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.
- (5E) In this Part “caution” includes—
- (a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;
  - (b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;
  - (c) a youth caution under section 66ZA of that Act.]
- (6) For the purposes of this Part of this Act a person arrested under [<sup>F6</sup>section 6D of the Road Traffic Act 1988][<sup>F7</sup>or section 30(2) of the Transport and Works Act 1992 (c. 42)] is arrested for an offence.
- [<sup>F8</sup>(7) For the purposes of this Part a person who—
- (a) attends a police station to answer to bail granted under section 30A,
  - (b) returns to a police station to answer to bail granted under this Part, or
  - (c) is arrested under section 30D or 46A,
- is to be treated as arrested for an offence and that offence is the offence in connection with which he was granted bail.
- [<sup>F9</sup>But this subsection is subject to section 47(6) (which provides for the calculation of certain periods, where a person has been granted bail under this Part, by reference to time when the person is in police detention only).]]
- <sup>F10</sup>[(8) Subsection (7) does not apply in relation to a person who is granted bail subject to the duty mentioned in section 47(3)(b) and who either—
- (a) attends a police station to answer to such bail, or
  - (b) is arrested under section 46A for failing to do so,
- (provision as to the treatment of such persons for the purposes of this Part being made by section 46ZA).]

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### Textual Amendments

- F1** S. 34(5) substituted (28.10.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 4 para. 3(2)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F2** S. 34(5A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 54(3)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)
- F3** S. 34(5AA) inserted (28.10.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 4 para. 3(3)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F4** S. 34(5B)-(5E) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 66(2)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 18
- F5** Words in s. 34(5B)(a) inserted (28.10.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 4 para. 3(4)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F6** Words in s. 34(6) substituted (30.3.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 107, 120, **Sch. 7 para. 12**; S.I. 2004/827, **art. 3(bb)(ii)**
- F7** Words in s. 34(6) inserted (1.4.2003) by Police Reform Act 2002 (c. 30), **ss. 53(1)**, 108(2)-(5); S.I. 2003/808, **art. 2(d)**
- F8** S. 34(7) substituted (20.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 12, 336, **Sch. 1 para. 5**; S.I. 2004/81, **art. 2(1)(2)(a)**
- F9** Words in s. 34(7) inserted (retrospectively) by Police (Detention and Bail) Act 2011 (c. 9), **s. 1(2)(3)**
- F10** S. 34(8) inserted (1.4.2007 for specified purposes, 14.11.2008 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Police and Justice Act 2006 (c. 48), **ss. 46(2)**, 53(1); S.I. 2007/709, art. 3(n) (with art. 6); S.I. 2008/2785, art. 2; S.I. 2011/2144, art. 2(1)(b); S.I. 2012/2373, art. 2(b)

### Modifications etc. (not altering text)

- C1** Ss. 8, 9, 15, 16, 17(1)(b)(2) (4), 18-20, 21, 22(1)-(4), 28, 29, 30(1)-(4)(a)(5)-(11), 31, 32(1)-(9), 34(1)-(5), 35, 36, 37, 39, 40-44, 50, 51(d), 52, 54, 55, 64(1)-(4)(5)(6), Sch. 1 applied with modifications by S.I. 1985/1800, arts. 3-11, Schs. 1, 2
- C2** S. 34(1)-(5) modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**.
- C3** S. 34(1)-(5) applied (with modifications) by Criminal Justice Act 2003 (c. 44), s. 24B(1)-(3) (as inserted (29.6.2007) by Police and Justice Act 2006 (c. 48), **ss. 18(1)**, 53 (with s. 18(2)); S.I. 2006/1614, **art. 2(e)**)
- C4** S. 34(1)-(5) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)
- C5** S. 34(1)-(5) applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)
- C6** S. 34(1)-(5E) applied (1.12.2021) by S.I. 1993/1813, **Sch. 3 para. 3(2)** (as amended by The Channel Tunnel (International Arrangements and Miscellaneous Provisions) (Amendment) Order 2021 (S.I. 2021/1196), arts. 1(2), **2(4)(a)(iv)**)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 34(1)-(5E) applied (with modifications) by [2022 c. 32 s. 107\(1\)-\(3\)](#)
- s. 34(5E) word substituted by [2022 c. 32 Sch. 11 para. 13\(a\)](#)
- s. 34(5E)(a) substituted by [2022 c. 32 Sch. 11 para. 13\(b\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 17(1)(cza) inserted by [2021 c. 17 s. 26\(9\)](#)
- s. 47A(3A) substituted by [2022 c. 35 Sch. 2 para. 7](#)
- s. 61(6BA) inserted by [2008 c. 28 s. 10\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 63(3D) inserted by [2008 c. 28 s. 10\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64(1AA) inserted by [2008 c. 28 s. 10\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64A(1B)(cb) inserted by [2022 c. 32 Sch. 11 para. 18\(a\)](#)
- Sch. 1A para. 21A added by 1995 c. 32, s. 8B(1) (as inserted) by [2006 c. 12 Sch. 3 para. 13](#)