



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART IV

#### DETENTION

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

#### **43 Warrants of further detention.**

- (1) Where, on an application on oath made by a constable and supported by an information, a magistrates' 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 <sup>F1</sup>an indictable offence]; and
  - (c) the investigation is being conducted diligently and expeditiously.

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- (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.
- (13) If it is proposed to transfer a person in police detention to a police area other than that in which he is detained when the application for a warrant of further detention is made, the court hearing the application shall have regard to the distance and the time the journey would take.
- (14) Any information submitted in support of an application under this section shall state—

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- (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 <sup>[F2]</sup>—
- <sup>[F3]</sup>(a) on bail, if the pre-conditions for bail are satisfied, or
  - (b) without bail, if those pre-conditions are not satisfied.]]
- (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 <sup>[F4]</sup>, unless the person is charged, be released from police detention upon or before the expiry of the warrant—
- <sup>[F5]</sup>(a) on bail, if the pre-conditions for bail are satisfied, or
  - (b) without bail, if those pre-conditions are not satisfied.]]
- (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 <sup>[F6]</sup>, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before] his release<sup>[F7]</sup>; but this subsection does not prevent an arrest under section 46A below.]
- <sup>[F8]</sup>(20) Subsection (21) applies where—
- (a) a person is released under subsection (15) or (18), and
  - (b) a 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.
- (21) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (22) Subsection (21) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.]

#### Textual Amendments

- F1** Words in s. 43(4)(b) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 178, [Sch. 7 Pt. 3 para. 43\(8\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)

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- F2** Words in s. 43(15) substituted (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. 57(2)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)
- F3** S. 43(15)(a)(b) substituted (28.10.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 4 para. 10(2)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F4** Words in s. 43(18) substituted (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. 57(3)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12 (with reg. 5)
- F5** S. 43(18)(a)(b) substituted (28.10.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 4 para. 10(3)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F6** Words in s. 43(19) substituted (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. 65(5)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 17 (with reg. 5)
- F7** Words in s. 43(19) inserted (10.4.1995) by 1994 c. 33, **s. 29(4)(b)(5)**; S.I. 1995/721, art. 2, **Sch.**
- F8** S. 43(20)-(22) 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. 67(4)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 18

#### 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. 43 modified (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 paras. 4(4)(b), 5(7)(b), **6(7)(b)**; s. 43 modified by the said S.I. 1993/1813, art. 6, Sch. 3 paras. 4, 5, 6 as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, Sch. 3 paras. 5, 6, 7
- C3** S. 43 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)
- C4** S. 43 applied (with modifications) (30.4.2017) by The Police and Criminal Evidence Act 1984 (Application to Labour Abuse Prevention Officers) Regulations 2017 (S.I. 2017/520), regs. 1, 2, 3(s), **Sch.**
- C5** S. 43(1)–(12)(14)–(19) 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)

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**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](#)