



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 3

#### POLICE AND CRIMINAL EVIDENCE AND THE TERRORISM ACT

##### *Detention and arrest*

#### **73 Use of video and telephone links for decisions about detention**

- (1) The 1984 Act shall be amended as follows.
- (2) After section 40 there shall be inserted—

##### **“40A Use of telephone for review under s. 40**

- (1) This section applies, notwithstanding anything in section 40 above, where in the case of a person who has been arrested but not charged—
  - (a) it is not reasonably practicable for an officer of at least the rank of inspector to be present in the police station where that person is held to carry out any review of that person’s detention that is required by subsection (1)(b) of that section; and
  - (b) the review is not one which regulations under section 45A below authorise to be carried out using video-conferencing facilities, or is one which it is not reasonably practicable, in the circumstances, to carry out using any such facilities.
- (2) The review may be carried out by an officer of at least the rank of inspector who has access to a means of communication by telephone to persons in the police station where the arrested person is held.
- (3) Where any review is carried out under this section by an officer who is not present at the station where the arrested person is held—

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- (a) any obligation of that officer to make a record in connection with the carrying out of the review shall have effect as an obligation to cause another officer to make the record;
  - (b) any requirement for the record to be made in the presence of the arrested person shall apply to the making of that record by that other officer; and
  - (c) the requirements under section 40(12) and (13) above for—
    - (i) the arrested person, or
    - (ii) a solicitor representing him,
 to be given any opportunity to make representations (whether in writing or orally) to that officer shall have effect as a requirement for that person, or such a solicitor, to be given an opportunity to make representations in a manner authorised by subsection (4) below.
- (4) Representations are made in a manner authorised by this subsection—
- (a) in a case where facilities exist for the immediate transmission of written representations to the officer carrying out the review, if they are made either—
    - (i) orally by telephone to that officer; or
    - (ii) in writing to that officer by means of those facilities;
 and
  - (b) in any other case, if they are made orally by telephone to that officer.
- (5) In this section “video-conferencing facilities” has the same meaning as in section 45A below.”
- (3) After section 45 there shall be inserted—

**“45A Use of video-conferencing facilities for decisions about detention**

- (1) Subject to the following provisions of this section, the Secretary of State may by regulations provide that, in the case of an arrested person who is held in a police station, some or all of the functions mentioned in subsection (2) may be performed (notwithstanding anything in the preceding provisions of this Part) by an officer who—
- (a) is not present in that police station; but
  - (b) has access to the use of video-conferencing facilities that enable him to communicate with persons in that station.
- (2) Those functions are—
- (a) the functions in relation to an arrested person taken to a police station that is not a designated police station which, in the case of an arrested person taken to a station that is a designated police station, are functions of a custody officer under section 37, 38 or 40 above; and
  - (b) the function of carrying out a review under section 40(1)(b) above (review, by an officer of at least the rank of inspector, of the detention of person arrested but not charged).
- (3) Regulations under this section shall specify the use to be made in the performance of the functions mentioned in subsection (2) above of the facilities mentioned in subsection (1) above.

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- (4) Regulations under this section shall not authorise the performance of any of the functions mentioned in subsection (2)(a) above by such an officer as is mentioned in subsection (1) above unless he is a custody officer for a designated police station.
- (5) Where any functions mentioned in subsection (2) above are performed in a manner authorised by regulations under this section—
- (a) any obligation of the officer performing those functions to make a record in connection with the performance of those functions shall have effect as an obligation to cause another officer to make the record; and
  - (b) any requirement for the record to be made in the presence of the arrested person shall apply to the making of that record by that other officer.
- (6) Where the functions mentioned in subsection (2)(b) are performed in a manner authorised by regulations under this section, the requirements under section 40(12) and (13) above for—
- (a) the arrested person, or
  - (b) a solicitor representing him,
- to be given any opportunity to make representations (whether in writing or orally) to the person performing those functions shall have effect as a requirement for that person, or such a solicitor, to be given an opportunity to make representations in a manner authorised by subsection (7) below.
- (7) Representations are made in a manner authorised by this subsection—
- (a) in a case where facilities exist for the immediate transmission of written representations to the officer performing the functions, if they are made either—
    - (i) orally to that officer by means of the video-conferencing facilities used by him for performing those functions; or
    - (ii) in writing to that officer by means of the facilities available for the immediate transmission of the representations;
  - and
  - (b) in any other case if they are made orally to that officer by means of the video-conferencing facilities used by him for performing the functions.
- (8) Regulations under this section may make different provision for different cases and may be made so as to have effect in relation only to the police stations specified or described in the regulations.
- (9) Regulations under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Any reference in this section to video-conferencing facilities, in relation to any functions, is a reference to any facilities (whether a live television link or other facilities) by means of which the functions may be performed with the officer performing them, the person in relation to whom they are performed and any legal representative of that person all able to both see and to hear each other.”

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#### **74 Authorisation for delay in notifying arrest**

In section 56(2)(b) of the 1984 Act (authorisation by a constable of at least the rank of superintendent for a delay in allowing an arrested person to notify someone of his arrest and detention), for “superintendent” there shall be substituted “inspector”.

#### **75 Use of video links for proceedings about Terrorism Act detention**

In paragraph 33 of Schedule 8 to the Terrorism Act 2000 (c. 11) (representation at a hearing for a warrant of further detention or for the extension or further extension of the period specified in such a warrant), after sub-paragraph (3) there shall be inserted—

“(4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—

- (a) that the hearing of the application must be conducted, and
- (b) that all representations by or on behalf of a person for the purposes of the hearing must be made,

by such means (whether a live television link or other means) falling within sub-paragraph (5) as may be specified in the direction and not in the presence (apart from by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.

(5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of his (without being present at the hearing and to the extent that they are not excluded from it under sub-paragraph (3))—

- (a) to see and hear the judicial authority and the making of representations to it by other persons; and
- (b) to be seen and heard by the judicial authority.

(6) If the person to whom the application relates wishes to make representations about whether a direction should be given under sub-paragraph (4), he must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.

(7) Sub-paragraph (2) applies to the hearing of representations about whether a direction should be given under sub-paragraph (4) in the case of any application as it applies to a hearing of the application.

(8) A judicial authority shall not give a direction under sub-paragraph (4) unless—

- (a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within sub-paragraph (5); and
- (b) that notification has not been withdrawn.

(9) If in a case where it has power to do so a judicial authority decides not to give a direction under sub-paragraph (4), it shall state its reasons for not giving it.”

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