

**Changes to legislation:** Policing and Crime Act 2017, SCHEDULE 16 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 16

Section 116(3)

#### SCHEDULE TO BE INSERTED AS SCHEDULE 7B TO THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

##### Commencement Information

- I1** [Sch. 16](#) in force for specified purposes at Royal Assent, see [s. 183](#)  
**I2** [Sch. 16](#) in force at 1.3.2018 in so far as not already in force by [S.I. 2018/227](#), [reg. 2\(g\)](#)

### “SCHEDULE 7B

Section 137D

#### RIGHTS OF PERSONS ARRESTED UNDER SECTION 137A: MODIFICATIONS

##### PART 1

###### ARRESTS IN RESPECT OF OFFENCES COMMITTED IN ENGLAND AND WALES

- 1 (1) This Part sets out the modifications mentioned in section 137D(2), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in England and Wales.
- (2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.
- (3) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).
- 2 (1) Section 56 of the Police and Criminal Evidence Act 1984 (right to have someone informed when arrested) is modified as follows.
- (2) Subsection (1) is to be read as if (instead of referring to the case where a person has been arrested and is being held in custody in a police station or other premises) it referred to the case where a person has been arrested under section 137A and is being detained under section 137C.
- (3) Subsection (2)(a) does not apply.
- (4) Subsection (2)(b) is to be read as if (instead of referring to an officer of at least the rank of inspector) it referred—
- (a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, to an officer of the investigating force of at least the rank of inspector;
- (b) in relation to delay during any remaining period for which the person may be detained under section 137C, to an officer of the investigating force of a rank above that of inspector.

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- (5) Subsection (3) does not apply.
  - (6) The reference in subsection (5)(a) to an indictable offence is to be read as a reference to an offence that is an indictable offence under the law of England and Wales.
  - (7) Subsection (5A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
  - (8) Subsection (6)(b) is to be read as if (instead of referring to a person's custody record) it referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.
  - (9) Subsection (8) is to be read as if (instead of referring to a person detained at a police station or other premises) it referred to a person detained under section 137C.
- 3 (1) Section 58 of the Police and Criminal Evidence Act 1984 (access to legal advice) is modified as follows.
- (2) Subsection (1) is to be read as if (instead of referring to a person held in custody in a police station or other premises) it referred to a person detained under section 137C.
  - (3) Subsections (2) and (9)(b) are to be read as if (instead of referring to a person's custody record) they referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.
  - (4) Subsections (3) and (5) do not apply.
  - (5) Subsection (6)(a) does not apply.
  - (6) The reference in subsection (6)(b) to an officer of at least the rank of superintendent is to be read as a reference to an officer of at least that rank in the investigating force.
  - (7) The reference in subsection (8)(a) to an indictable offence is to be read as a reference to an indictable offence under the law of England and Wales.
  - (8) Subsection (8A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
- 4 (1) Section 34 of the Children and Young Persons Act 1933 (attendance at court of parent of child or young person charged with an offence, etc) is modified as follows.
- (2) Subsection (2) is to be read as if (instead of referring to the case where a child or young person is in police detention) it referred to the case where a child or young person is being detained under section 137C.
  - (3) Subsection (3) is to be read as if (in addition to the information mentioned in paragraphs (a) to (c)) it also mentioned the information set out in section 137D(1)(a) and (b).
  - (4) The reference in subsection (9) to a child's or young person's rights under section 56 of the Police and Criminal Evidence Act 1984 is to be read as a reference to that section as modified by this Schedule.

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## PART 2

### ARRESTS IN RESPECT OF OFFENCES COMMITTED IN SCOTLAND

- 5 (1) This Part sets out the modifications mentioned in section 137D(3), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in Scotland.
- (2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.
- (3) A reference to a person in police custody in any of those provisions is to be read as a reference to a person detained under section 137C.
- (4) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).
- 6 (1) Section 38 of the Criminal Justice (Scotland) Act 2016 (right to have intimation sent to other person) is modified as follows.
- (2) Subsection (6) applies as if (instead of the provision made by that subsection) it defined “an appropriate constable” as being—
- (a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;
- (b) in relation to delay during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 7 (1) Section 40 of that Act (right of under 18s to have access to another person) is modified as follows.
- (2) Subsection (5) applies as if (instead of the provision made by that subsection) it provided for a decision to refuse or restrict access to a person under subsection (1) or (2) to be taken only by—
- (a) in the case of a decision to refuse or restrict access during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;
- (b) in the case of a decision to refuse or restrict access during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 8 (1) Section 41 of that Act (social work involvement in relation to under 18s) is modified as follows.
- (2) Subsection (6) applies as if (instead of the provision made by that subsection) it provided for a decision to refuse or restrict access to a person under subsection (4)(b) to be taken only by—
- (a) in the case of a decision to refuse or restrict access during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;

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- (b) in the case of a decision to refuse or restrict access during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 9 (1) Section 42 of that Act (support for vulnerable persons) is modified as follows.
- (2) Subsection (5)(b)(ii) is to be read as if (instead of referring to a person appointed as a member of police staff under section 26(1) of the Police and Fire Reform (Scotland) Act 2012) it referred to a person who performs a function which is equivalent to a function performed at a police station in Scotland by a person appointed as a member of police staff under section 26(1) of that Act.
- 10 (1) Section 43 of that Act (right to have intimation sent to solicitor) is modified as follows.
- (2) Subsection (1) is to be read as if the list of matters of which a person has a right to have intimation sent to a solicitor—
    - (a) did not include paragraph (d), but
    - (b) did include the matters mentioned in section 137D(1)(a) and (b).
- 11 (1) Section 44 of that Act (right to consultation with solicitor) is modified as follows.
- (2) Subsection (3) applies as if (instead of the provision made by that subsection) it provided for a decision to delay the exercise of the right under subsection (1) to be taken only by—
    - (a) in the case of a delay during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;
    - (b) in the case of a delay during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 12 (1) Section 51 of that Act (duty to consider child's wellbeing) is modified as follows.
- (2) Subsection (1) is to be read as if it did not include paragraphs (a), (c) and (d).

### PART 3

#### ARRESTS IN RESPECT OF OFFENCES COMMITTED IN NORTHERN IRELAND

- 13 (1) This Part sets out the modifications mentioned in section 137D(4), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in Northern Ireland.
- (2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.
  - (3) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).
- 14 (1) Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (right to have someone informed when arrested) is modified as follows.

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- (2) Paragraph (1) is to be read as if (instead of referring to the case where a person has been arrested and is being held in custody in a police station or other premises) it referred to the case where a person has been arrested under section 137A and is being detained under section 137C.
  - (3) Paragraph (2)(a) does not apply.
  - (4) Paragraph (2)(b) is to be read as if (instead of referring to an officer of at least the rank of inspector) it referred—
    - (a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, to an officer of the investigating force of at least the rank of inspector;
    - (b) in relation to delay during any remaining period for which the person may be detained under section 137C, to an officer of the investigating force of a rank above that of inspector.
  - (5) Paragraph (3) does not apply.
  - (6) The reference in paragraph (5)(a) to an indictable offence is to be read as a reference to an offence that is an indictable offence under the law of Northern Ireland.
  - (7) Paragraph (5A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
  - (8) Paragraph (6)(b) is to be read as if (instead of referring to a person's custody record) it referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.
  - (9) Paragraph (8) is to be read as if (instead of referring to a person detained at a police station or other premises) it referred to a person detained under section 137C.
- 15 (1) Article 59 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (access to legal advice) is modified as follows.
- (2) Paragraph (1) is to be read as if (instead of referring to a person held in custody in a police station or other premises) it referred to a person detained under section 137C.
  - (3) Paragraphs (2) and (9)(b) are to be read as if (instead of referring to a person's custody record) they referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.
  - (4) Paragraphs (3) and (5) do not apply.
  - (5) Paragraph (6)(a) does not apply.
  - (6) The reference in paragraph (6)(b) to an officer of at least the rank of superintendent is to be read as a reference to an officer of at least that rank in the investigating force.
  - (7) The reference in paragraph (8)(a) to an indictable offence is to be read as a reference to an indictable offence under the law of Northern Ireland.
  - (8) Paragraph (8A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
- 16 (1) Article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (duty to inform person responsible for welfare of child in police detention) is modified as follows.

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- (2) Paragraph (1) is to be read as if (instead of referring to the case where a child is in police detention) it referred to the case where a child is being detained under section 137C.
- (3) That paragraph is also to be read as if (in addition to the information mentioned in subparagraphs (a) to (c)) it also mentioned the information set out in section 137D(1)(a) and (b).
- (4) The reference in paragraph (6) to a child's rights under Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 is to be read as a reference to that Article as modified by this Schedule.”

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

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)