
*Changes to legislation: There are currently no known outstanding effects
for the National Security Act 2023, Part 6. (See end of Document for details)*

SCHEDULES

SCHEDULE 6

DETENTION UNDER SECTION 27

PART 6

EXTENSION OF DETENTION UNDER SECTION 27

Warrants of further detention

- 37 (1) Each of the following—
- (a) in England and Wales, a Crown Prosecutor,
 - (b) in Scotland, the Lord Advocate or a procurator fiscal,
 - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
 - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
- may apply to a judicial authority for the issue of a warrant of further detention in relation to a person.
- (2) A warrant of further detention is a warrant—
- (a) authorising the further detention under [section 27](#) of a person for the specified period, and
 - (b) stating the time at which it is issued.
- (3) Subject to [sub-paragraph \(4\)](#) and [paragraph 44](#), the specified period in relation to a person is the period of 7 days beginning with the time of the person’s arrest under [section 27](#).
- (4) A judicial authority may issue a warrant of further detention in relation to a person which specifies a shorter period as the period for which the person’s further detention is authorised if—
- (a) the application for the warrant is an application for a warrant specifying a shorter period, or
 - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the specified period to be as long as the period of 7 days mentioned in [sub-paragraph \(3\)](#).
- (5) In [this Part](#) “judicial authority” means—
- (a) in England and Wales, a District Judge (Magistrates’ Courts) who is designated for the purpose of [this Part](#) by the Lord Chief Justice of England and Wales,
 - (b) in Scotland, a sheriff, and

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- (c) in Northern Ireland, a district judge (magistrates' courts) in Northern Ireland who is designated for the purpose of [this Part](#) by the Lord Chief Justice of Northern Ireland.
- (6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the functions under [sub-paragraph \(5\)\(a\)](#).
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise the functions under [sub-paragraph \(5\)\(c\)](#)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).

Commencement Information

- I1** Sch. 6 para. 37 not in force at Royal Assent, see 100(1)
I2 [Sch. 6 para. 37](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

Time limit

- 38 (1) An application for a warrant must be made—
- (a) during the period mentioned in [section 27\(3\)](#), or
 - (b) within 6 hours of the end of that period.
- (2) The judicial authority hearing an application made by virtue of [sub-paragraph \(1\)\(b\)](#) must dismiss the application if it considers that it would have been reasonably practicable to make it during the period mentioned in [section 27\(3\)](#).
- (3) For the purposes of [this Schedule](#), an application for a warrant is made when written or oral notice of an intention to make the application is given to a judicial authority.

Commencement Information

- I3** Sch. 6 para. 38 not in force at Royal Assent, see 100(1)
I4 [Sch. 6 para. 38](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

Notice

- 39 An application for a warrant of further detention may not be heard unless the person to whom it relates has been given a notice stating—
- (a) that the application has been made,
 - (b) the time at which the application was made,
 - (c) the time at which it is to be heard, and
 - (d) the grounds upon which further detention is sought.

Commencement Information

- I5** Sch. 6 para. 39 not in force at Royal Assent, see 100(1)
I6 [Sch. 6 para. 39](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

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Grounds for extension

- 40 (1) A judicial authority may issue a warrant of further detention only if satisfied that—
- (a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary as mentioned in [sub-paragraph \(2\)](#), and
 - (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (2) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary—
- (a) to obtain relevant evidence whether by questioning the person or otherwise,
 - (b) to preserve relevant evidence,
 - (c) pending the result of an examination or analysis of any relevant evidence, or
 - (d) pending the examination or analysis of anything which is being carried out, or is to be carried out, with a view to obtaining relevant evidence.
- (3) In [this paragraph](#) “relevant evidence” means, in relation to the person to whom the application relates, evidence which relates to the person’s involvement in foreign power threat activity.

Commencement Information

- I7** Sch. 6 para. 40 not in force at Royal Assent, see 100(1)
I8 Sch. 6 para. 40 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(a\)](#)

Representation

- 41 (1) The person to whom an application relates—
- (a) must be given an opportunity to make oral or written representations to the judicial authority about the application, and
 - (b) subject to [sub-paragraph \(3\)](#), is entitled to be legally represented at the hearing.
- (2) A judicial authority must adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—
- (a) the person is not legally represented,
 - (b) the person is entitled to be legally represented, and
 - (c) the person wishes to be so represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing—
- (a) the person to whom the application relates;
 - (b) anyone representing that person.
- (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,

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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 that person (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 \(4\)](#), the person 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 may 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.

Commencement Information

I9 Sch. 6 para. 41 not in force at Royal Assent, see 100(1)

I10 Sch. 6 para. 41 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(a\)](#)

Information

- 42 (1) A person who has made an application for a warrant may apply to the judicial authority for an order that specified information upon which the person intends to rely be withheld from—
- (a) the person to whom the application relates, and
 - (b) anyone representing the person.
- (2) Subject to [sub-paragraph \(3\)](#), a judicial authority may make an order under [sub-paragraph \(1\)](#) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed—
- (a) evidence of an offence under any of the provisions mentioned in [section 33\(3\)\(a\)](#) would be interfered with or harmed,
 - (b) evidence of an offence under [section 18](#) would be interfered with or harmed,

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- (c) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
 - (d) the apprehension, prosecution or conviction of a person who is suspected of being involved in foreign power threat activity would be made more difficult as a result of the person being alerted,
 - (e) the prevention of foreign power threat activity would be made more difficult as a result of a person being alerted,
 - (f) the gathering of information about the commission, preparation or instigation of foreign power threat activity would be interfered with, or
 - (g) a person would be interfered with or physically injured.
- (3) A judicial authority may also make an order under [sub-paragraph \(1\)](#) in relation to specified information if satisfied that there are reasonable grounds for believing that—
- (a) the detained person has benefited from their criminal conduct, and
 - (b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.
- (4) For the purposes of [sub-paragraph \(3\)](#) the question whether a person has benefited from their criminal conduct is to be decided in accordance with Part 2, 3 or 4 of the Proceeds of Crime Act 2002.
- (5) The judicial authority may direct that the following be excluded from the hearing of the application under [this paragraph](#)—
- (a) the person to whom the application for a warrant relates, and
 - (b) anyone representing that person.

Commencement Information

I11 Sch. 6 para. 42 not in force at Royal Assent, see 100(1)

I12 [Sch. 6 para. 42](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

Adjournments

- 43 (1) A judicial authority may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in [section 27\(3\)](#).
- (2) [This paragraph](#) does not apply to an adjournment under [paragraph 41\(2\)](#).

Commencement Information

I13 Sch. 6 para. 43 not in force at Royal Assent, see 100(1)

I14 [Sch. 6 para. 43](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

Extensions of warrants

- 44 (1) Each of the following—
- (a) in England and Wales, a Crown Prosecutor,
 - (b) in Scotland, the Lord Advocate or a procurator fiscal,

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- (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
(d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
may apply for the extension or further extension of the period specified in a warrant of further detention.
- (2) The person to whom an application under [sub-paragraph \(1\)](#) may be made is a judicial authority.
- (3) Where the period specified is extended, the warrant must be endorsed with a note stating the new specified period.
- (4) Subject to [sub-paragraph \(6\)](#), the period by which the specified period is extended or further extended is the period which—
- (a) begins with the time specified in [sub-paragraph \(5\)](#), and
 - (b) ends with whichever is the earlier of—
 - (i) the end of the period of 7 days beginning with that time, and
 - (ii) the end of the period of 14 days beginning with the time of the arrest of the person to which the warrant relates.
- (5) The time referred to in [sub-paragraph \(4\)\(a\)](#) is—
- (a) in the case of a warrant specifying a period which has not previously been extended under [this paragraph](#), the end of the period specified in the warrant, and
 - (b) in any other case, the end of the period for which the period specified in the warrant was last extended under [this paragraph](#).
- (6) A judicial authority may extend or further extend the period specified in a warrant by a shorter period than is required by [sub-paragraph \(4\)](#) if—
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required, or
 - (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.
- (7) [Paragraphs 38\(3\)](#) and [39](#) to [42](#) apply to an application under [this paragraph](#) as they apply to an application for a warrant of further detention.
- (8) A judicial authority may adjourn the hearing of an application under [sub-paragraph \(1\)](#) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.
- (9) [Sub-paragraph \(8\)](#) does not apply to an adjournment under [paragraph 41\(2\)](#).

Commencement Information

I15 Sch. 6 para. 44 not in force at Royal Assent, see 100(1)

I16 Sch. 6 para. 44 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(a\)](#)

Detention - conditions

- 45 (1) [This paragraph](#) applies where—

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- (a) a person is detained by virtue of a warrant issued under [this Part](#) of [this Schedule](#), and
 - (b) the detention is not authorised by virtue of [section 27\(6\)](#) or [\(7\)](#) or otherwise apart from the warrant.
- (2) If, at any time, it appears to the police officer or other person in charge of the detained person's case ("the officer in charge") that any of the matters mentioned in [paragraph 40\(1\)\(a\)](#) and [\(b\)](#) on which the judicial authority last authorised the person's further detention no longer apply, the officer in charge must—
- (a) if the officer in charge has custody of the detained person, release the person immediately, and
 - (b) if the officer in charge does not, immediately inform the person who does have custody of the detained person that those matters no longer apply in the detained person's case.
- (3) A person with custody of the detained person who is informed in accordance with [this paragraph](#) that those matters no longer apply must release the detained person immediately.

Commencement Information

117 Sch. 6 para. 45 not in force at Royal Assent, see 100(1)

118 Sch. 6 para. 45 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

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