
STATUTORY INSTRUMENTS

2011 No. 1739

**The Criminal Procedure (Legal Assistance,
Detention and Appeals) (Scotland) Act 2010
(Consequential Provisions) Order 2011**

Amendment of provisions relating to cross-border arrest and detention by officers of Revenue and Customs

7.—(1) In section 87 of the Finance Act 2007⁽¹⁾ (cross-border exercise of powers by officers of Revenue and Customs), for subsection (3) substitute—

“(3) In the application of section 138⁽²⁾ to an officer of Revenue and Customs—

(a) subsection (1B) shall be treated as if it provided as follows—

“(1B) Where a person is arrested under subsection (2) of the principal section but not charged in connection with an offence, subsections (2) to (9) of section 25A of the Criminal Law (Consolidation) (Scotland) Act 1995 (right of suspects to have access to a solicitor) apply with the following modifications—

- (a) omit the references to “other premises or place” in subsections (2) and (6);
- (b) the right under subsection (2) arises when the person is arrested;
- (c) the reference in subsection (2)(b) to the office of Revenue and Customs where the person is being detained is to be read as a reference to the police station to which the person is to be taken; and
- (d) subsection (6) is to be read as requiring that the person be informed of the rights under section 25A(2) and (3) on being arrested.”;

(b) in subsection (2), the references to the 1995 Act and to section 14(1) of that Act are to be treated as references to the Criminal Law (Consolidation) (Scotland) Act 1995 (“the Consolidation Act”) and to section 24(1) of that Act;

(c) subsection (2A) is to be treated as if it provided as follows—

“(2A) Those provisions are—

- (a) section 24(2) to (8A)⁽³⁾ (detention and questioning at office of Revenue and Customs);
- (b) sections 24A and 24B (extension of period of detention under section 24);
- (c) section 25 (right to have someone informed when detained);
- (d) section 25A(2) to (9) (right of access to solicitor).”;

⁽¹⁾ 2007 c. 11.

⁽²⁾ Section 138 of the Criminal Justice and Public Order Act 1994 (c.33) is amended by paragraph 2 of Schedule 2 to this Order.

⁽³⁾ Subsection 24(4) of the 1995 Consolidation Act was amended by the Crime and Disorder Act 1998 (c.37), section 110. Subsections 24(5) and (8) were amended by the Finance Act 2007 (c.11), Schedule 23, paragraphs 4(b) and (c). Subsection 24(8A) was inserted by the Finance Act 2007 (c.11), Schedule 23, paragraph 4(d).

- (d) in subsection (6) the reference to the 1995 Act is to be treated as a reference to the Consolidation Act;
- (e) in subsection (7)—
 - (i) the reference to section 14 is to be treated as a reference to section 24 of the Consolidation Act; and
 - (ii) the reference to subsections (6) and (9) of section 14 is to be treated as a reference to subsections (5) and (8) of section 24;
- (f) in subsection (8)—
 - (i) the reference to section 15 is to be treated as a reference to section 25 of the Consolidation Act;
 - (ii) paragraph (a) is to be treated as if it provided as follows—
 - “(a) in subsection (1)—
 - (i) the words “other premises or place” (in both places) are to be treated as if they referred to a police station;
 - (ii) the reference in paragraph (a) to other premises is to be treated as a reference to a police station;”;
 - (iii) paragraph (b) does not apply;
 - (iv) the references in paragraph (c)(i) and (iii) to the right under subsection (1) (b) are to be treated as references to the right under section 25(1) to have someone informed when detained;
 - (v) the reference in paragraph (c)(ii) to subsection (1)(b) is to be treated as a reference to section 25(1);
 - (vi) the reference in paragraph (c)(iii) to subsection (2) is to be treated as a reference to the words in section 25(1) beginning “and the person shall be informed”;
 - (vii) the reference to subsection (4) is to be treated as a reference to section 25(2); and
- (g) in subsection (9)—
 - (i) the reference to section 15A(4) is to be treated as a reference to section 25A;
 - (ii) paragraph (a) is to be treated as if it provided as follows—
 - “(a) the words “other premises or place” in subsections (2) and (6) are to be treated as referring to a police station;”;
 - (iii) in paragraph (b)(iii) the reference to section 15A(2) and (3) is to be treated as a reference to section 25A(2) and (3).”.

(2) The amendment made by paragraph (1) does not affect the operation of sections 136 to 139 of the Criminal Justice and Public Order Act 1994 (as they apply to officers of Revenue and Customs by virtue of section 87 of the Finance Act 1987 as it has effect immediately before the time at which this Order comes into force) in relation to a person arrested or detained under section 137(2) of that Act (as it applies to such officers) where the arrest occurred or the period of detention began before that time.

(4) Section 15A of the Criminal Procedure (Scotland) Act 1995 (c. 46) was inserted by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15), section 1(4).