

SCHEDULE 2

Article 6(1)

Amendments of Part 10 of the Criminal Justice and Public Order Act 1994

1. In section 137 of the Criminal Justice and Public Order Act 1994(1) (cross-border powers of arrest and detention), in subsection (8)—

- (a) in paragraph (b), after “Scotland” insert “, but subject to the modifications in subsections (1A) and (1B) of section 138”;
- (b) in paragraph (c), for “subsection (6)” substitute “subsections (6) to (9)”.

2.—(1) Section 138 of that Act (cross-border powers of arrest etc. – supplementary provisions) is amended as follows.

(2) After subsection (1) insert—

“(1A) Where a person is arrested under subsection (2) of the principal section, section 15 of the Criminal Procedure (Scotland) Act 1995(2) (“the 1995 Act”) (right of persons arrested or detained to have intimation sent to another person) applies with the following modifications—

- (a) in subsections (1)(a) and (2), omit the reference to “other premises”;
- (b) the right under subsection (1)(a) arises when the person is arrested;
- (c) the reference in subsection (1)(a) to the place where the person is being held is to be read as a reference to the police station to which the person is to be taken;
- (d) subsection (2) is to be read as requiring that the person be informed of the right under subsection (1)(a) on being arrested; and
- (e) the rights and duties under subsection (4) arise when the person is arrested.

(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 15A of the 1995 Act(3) (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 police station 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 15A(2) and (3) on being arrested.”

(3) For subsection (2) substitute—

“(2) Where a person is detained under subsection (2) of the principal section, the provisions of the 1995 Act listed in subsection (2A) below apply as they apply to detention under section 14(1) of that Act, but with the modifications mentioned in subsections (6) to (9) below.

(1) 1994 c. 33.

(2) The title of section 15 of the Criminal Procedure (Scotland) Act 1995 (c.46) (“the 1995 Procedure Act”) was amended by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15), section 1(3)(c). Subsections 15(1) and (4) were amended by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15), section 1(3)(a) and (b). Subsection 15 (6)(b) was amended by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 21(2).

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (2A) Those provisions are—
- (a) section 14(2) to (10)(4) (detention and questioning at police station);
 - (b) sections 14A and 14B (extension of period of detention under section 14);
 - (c) section 15(1), (2) and (4) to (6) (right of persons arrested or detained to have intimation sent to another person);
 - (d) section 15A(2) to (9) (right of suspects to have access to a solicitor);
 - (e) section 18(5) (prints, samples etc. in criminal investigations).”.
- (4) For subsection (6) substitute—
- “(6) The modifications of the 1995 Act referred to in subsection (2) above are as follows.
- (7) In section 14—
- (a) the reference in subsection (2) to detention being terminated not more than 12 hours after it begins is to be read as a reference to its being terminated not more than 12 hours after the person’s arrival at the police station to which the person is taken under subsection (7)(c) or (e) of the principal section;
 - (b) in subsections (6) and (9), omit the references to “other premises”.
- (8) In section 15—
- (a) in subsection (1)(b), omit the references to “other premises or place”;
 - (b) in subsection (2), omit the reference to “other premises”;
 - (c) where the police station to which the person is to be taken is in Scotland—
 - (i) the right under subsection (1)(b) arises when the person is detained;
 - (ii) the reference in subsection (1)(b) to the police station 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;
 - (iii) subsection (2) is to be read as requiring that the person be informed of the right under subsection (1)(b) on being detained; and
 - (iv) the rights and duties under subsection (4) arise when the person is detained.
- (9) In section 15A—
- (a) omit the references to “other premises or place” in subsections (2) and (6);
 - (b) where the police station to which the person is to be taken is in Scotland—
 - (i) the right under subsection (2) arises when the person is detained;
 - (ii) the reference in subsection (2)(b) to the police station 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

(4) Subsection 14(2) of the 1995 Procedure Act was amended by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15), section 3(1). Subsection 14(6) was amended by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15), section 1(2). Subsection 14(9) was amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 81(6)(a). Subsection 14(10) was inserted by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 81(6)(b).

(5) Subsection 18(2) of the 1995 Procedure Act was amended by the Crime and Punishment (Scotland) Act 1997 (c.48), section 47(1)(a). Subsection 18(3) was amended by the Crime and Disorder Act 1998 (c.37), Schedule 8, paragraph 117(a); the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 83(1); and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 77(2)(a). Subsection 18(4) was amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), Schedule 6(1), paragraph 4(2). Subsection 18(6)(d) was repealed by the Criminal Justice (Scotland) Act 2003 (asp 7), section 55(2)(a). Subsection 18(6A) was inserted by the Criminal Justice (Scotland) Act 2003 (asp 7), section 55(2)(b). Subsection 18(7) was repealed by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 3, paragraph 1. Subsections 18(7A) and (7B) were inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 47(1)(d). Subsection 18(8)(c) was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), Schedule 7, paragraph 30.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(iii) subsection (6) is to be read as requiring that the person be informed of the rights under section 15A(2) and (3) on being detained.”.