

## DEFENDING SUSPECTS AT POLICE STATIONS (7<sup>TH</sup> ED)

# Errata

Please note the following changes to the version of the Police and Criminal Evidence Act 1984 in appendix 1.

A corrected version is available as a pdf on the *Defending Suspects at Police Stations* page of the LAG website at: [www.lag.org.uk](http://www.lag.org.uk).

In **s15(7)**, delete '(see section 8(1A)(a) above)'.

Add to end of heading to **s30A** 'elsewhere than at police station'.

Replace **s37(7)(b) and (c)** with:

- '(b) shall be released without charge and without bail unless the pre-conditions for bail are satisfied,
- (c) shall be released without charge and on bail if those pre-conditions are satisfied but not for the purpose mentioned in paragraph (a), or'.

Insert after **s37(8)**:

- '(8ZA) Where—
  - (a) a person is released under subsection (7)(b) or (c), and
  - (b) the custody officer makes a determination as mentioned in subsection (6A)(b), subsections (6B) and (6C) apply.'

In **s37(8A)(b)** delete '(b)' and insert '(c)'.

Replace **s42(10)–(12)** with:

- '(10) Where an officer has authorised the keeping of a person who has not been charged in detention under subsection (1) or (2) above, he shall be released from detention not later than 36 hours after the relevant time—
  - (a) without bail unless the pre-conditions for bail are satisfied, or
  - (b) on bail if those pre-conditions are satisfied, (subject to subsection (10A)).
- (10A) Subsection (10) does not apply if—
  - (a) the person has been charged with an offence, or
  - (b) the person's continued detention is authorised or otherwise permitted in accordance with section 43.
- (11) A person released under subsection (10) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release; but this subsection does not prevent an arrest under section 46A below.
- (12) Subsection (13) applies where—
  - (a) a person is released under subsection (10), and
  - (b) a custody officer determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (13) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.’

In **s44(7)** delete the first ‘released’.

Before **s45ZA** insert heading ‘*Use of live link*’.

In **s45A** heading insert ‘other’ between ‘for’ and ‘decisions’.

In **s47(1C)** delete ‘37,’.

In **s47(8)** delete ‘Repealed’ and insert ‘Not reproduced here’.

In **s54A(10)** insert ‘(9)’ after ‘subsection’.

In **s63A(1B)(d)** delete text and insert ‘the Police Service of Scotland’.

After **s65A** insert –

**‘65B Persons convicted of an offence**

- (1) For the purposes of this Part, any reference to a person who is convicted of an offence includes a reference to–
  - (a) a person who has been given a caution in respect of the offence which, at the time of the caution, the person has admitted,
  - (b) a person who has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence,
  - (c) a person who has been found not guilty of the offence by reason of insanity, or
  - (d) a person who has been found to be under a disability and to have done the act charged in respect of the offence.
- (2) This Part, so far as it relates to persons convicted of an offence, has effect despite anything in the Rehabilitation of Offenders Act 1974.
- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 of the Protection of Freedoms Act 2012.
- (4) If a person is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purposes of calculating under sections 63F, 63H and 63N whether the person has been convicted of only one offence.
- (5) See also section 65(3) (which deals with findings equivalent to those mentioned in subsection (1)(c) or (d) by courts which exercise jurisdiction under the laws of countries or territories outside England and Wales).’

In **s80(9)** delete ‘[Repealed]’ and insert ‘Section 1(d) of the Criminal Evidence Act 1898 (communications between husband and wife) and section 43(1) of the Matrimonial Causes Act 1965 (evidence as to marital intercourse) shall cease to have effect’.

Delete ‘**108–112** [Repealed.]’ and insert ‘**108–110** [Repealed.]’; ‘**111** [Not reproduced here.]’; ‘**112** [Repealed.]’.

In **s118(1)** delete ‘“British Transport Police force’ means the constables appointed under section 53 of the British Transport Commission Act 1949;’.

Insert after **Sch 2A para 1(3)**:

- ‘(4) The power under sub-paragraph (1) above may not be exercised in a case falling within section 61(5A)(b)(ii) (fingerprints destroyed where investigation interrupted) after the end of the period of six months beginning with the day on which the investigation was resumed.’.