

## SCHEDULES

### SCHEDULE 3

#### BORDER SECURITY

#### PART 2

#### DETENTION

*Rights: Scotland*

- 40 (1) Paragraphs 37 to 39 have effect in relation to a detainee in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.
- (2) But where the detainee appears to a constable to be a child—
- (a) the other person named by the detainee in pursuance of paragraph 37(1) must be the detainee’s parent,
  - (b) intimation is to be made under paragraph 37(1) whether the detainee requests that it be made or not, and
  - (c) section 40 of the Criminal Justice (Scotland) Act 2016 (right of under 18s to have access to other person) applies as if the detainee were a person in police custody for the purposes of that section.
- (3) In relation to a detainee who is detained at a place other than a police station, sub-paragraph (2) applies as if references to a constable included an examining officer.
- (4) For the purposes of sub-paragraph (2)—
- “child” means a person under 16 years of age;
  - “parent” includes guardian and any person who has the care of the child.