



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 12

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **76 Police custody and security officers**

- (1) The Police (Scotland) Act 1967 (c. 77) is amended as follows.
- (2) In section 9 (civilian employees)—
  - (a) in subsection (1), the existing words from “employ” to the end become paragraph (a) and after that paragraph there is inserted the word “; or” and the following paragraph—
    - “(b) appoint for such purposes as such officers persons provided under a contract for services entered into by the authority with some other person”;
  - (b) after that subsection there is inserted—
    - “(1A) The category of persons—
      - (a) so employed or appointed; and
      - (b) in respect of each of whom there is for the time being a certificate in force, certifying that he has been approved by the chief constable for the purposes of performing functions in relation to custody and security and is accordingly authorised to perform them for the police force,shall be known as the police authority’s “police custody and security officers”.
- (1B) Without prejudice to powers or duties which a police custody and security officer may have under or by virtue of any other enactment, for the purposes of the functions which he is authorised to perform by virtue of subsection (1A)(b) above, any such officer shall have the powers mentioned in subsection (1C) below and the duties mentioned in subsection (1E) below; except that no officer provided as is

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mentioned in subsection (1)(b) above shall have those powers and duties in the premises of any court or in land connected with such premises.

(1C) The powers are—

- (a) to transfer persons in legal custody from one set of relevant premises to another;
- (b) to have custody of persons held in legal custody on court premises (whether or not such persons would otherwise be in the custody of the court) and to produce them before the court;
- (c) to have custody of persons temporarily held in legal custody in relevant premises while in the course of transfer from one set of such premises to another;
- (d) to apprehend a person who was in the custody of the officer in relevant premises or in such course of transfer but who is unlawfully at large;
- (e) to remove from relevant premises any person—
  - (i) who he has reasonable grounds to believe has committed or is committing an offence; or
  - (ii) who is causing a disturbance or nuisance;
- (f) in any place to search any person who is in legal custody or is unlawfully at large;
- (g) in relevant premises, or in any other place in which a person in his custody who is being transferred from one set of relevant premises to another is present, to search (any or all)—
  - (i) property;
  - (ii) any person who he has reasonable grounds to believe has committed or is committing an offence;
  - (iii) any person who is seeking access to a person in the officer's custody or to relevant premises;
- (h) in relevant premises, or in any other place in which a person in legal custody is or may be, to require any person who he has reasonable grounds for suspecting has committed or is committing an offence to give his name and address and either—
  - (i) to remain there with the officer until the arrival of a constable; or
  - (ii) where reasonable in all the circumstances, to go with the officer to the nearest police station,
 but only if before imposing any such requirement on a person the officer informs him of the nature of the suspected offence and of the reason for the requirement;
- (i) in fulfilment of his duties under subsection (1E)(d) below, to apprehend any person and to detain that person in custody in the premises of the court in question;
- (j) at a constable's direction, to photograph, or take relevant physical data from, any person held in legal custody; and

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- (k) to use reasonable force (which may include the use of handcuffs and other means of restraint) where and in so far as it is requisite to do so in exercising any of the other powers.

(1D) In subsection (1C) above—

“legal custody” has the meaning given by section 295 of the Criminal Procedure (Scotland) Act 1995 (c. 46);

“relevant physical data” has the meaning given by section 18(7A) of that Act; and

“relevant premises” means—

- (a) the premises of any court, prison, police station or hospital (within the meaning of the Mental Health (Scotland) Act 1984 (c. 36)); or
- (b) the premises of any other place from or to which a person may be required to be taken under that Act of 1984 or that Act of 1995,

and either (but not both) of the sets of premises mentioned in any of paragraphs (a), (c) and (g) of that subsection may be situated in a part of the British Islands outwith Scotland.

(1E) The duties are—

- (a) to attend to the well-being of persons in their custody;
- (b) to prevent the escape of such persons from their custody;
- (c) to prevent, or detect and report on, the commission or attempted commission by such persons of other unlawful acts;
- (d) to act with a view to preserving good order in the premises of any court and in land connected with such premises;
- (e) to ensure good order and discipline on the part of such persons (whether or not in the premises of any court or in land connected with such premises); and
- (f) to give effect to any order of a court.

(1F) A police custody and security officer is not to be regarded as acting in accordance with those powers and duties at any time when not readily identifiable as such an officer (whether or not by means of a uniform or badge worn).”;

- (c) in subsection (2), after the word “employed” there is inserted “, or appointed,”; and

(d) in subsection (3)—

- (i) after the word “employed” there is inserted “, or appointed,”; and
- (ii) after the words “by the authority” there is inserted “(not being police custody and security officers)”.

(3) After section 9 there is inserted—

#### **“9A Certification of police custody and security officers**

- (1) A chief constable may, on the application of any person employed or appointed by his police authority, issue in respect of that person a certificate such as is mentioned in section 9(1A)(b) of this Act.

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- (2) The chief constable shall not do so unless satisfied that the applicant—
- (a) is a fit and proper person to perform for the police force the functions of a police custody and security officer; and
  - (b) has received training to such standard as the chief constable considers appropriate for the performance of those functions.
- (3) A certificate so issued shall, subject to any suspension under paragraph (a) of subsection (4) below or revocation under paragraph (b) of that subsection, continue in force until such date or occurrence as may be specified in the certificate.
- (4) If at any time it appears to the chief constable that the person in respect of whom the certificate has been issued—
- (a) may not be a fit and proper person to perform the functions of a police custody and security officer he may suspend (pending his consideration of whether to proceed under paragraph (b) of this subsection);
  - (b) is not a fit and proper person to perform those functions he may revoke,
- the certificate and such authorisation as it confers.

### **9B False statements in relation to certification**

A person who, for the purpose of obtaining a certificate such as is mentioned in section 9(1A)(b) of this Act for himself or any other person—

- (a) makes a statement which he knows to be; or
- (b) recklessly makes a statement which is,

false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

- (4) In section 39 (liability for wrongful acts of constables)—
- (a) in subsection (1), after the words “any constable” there is inserted “or police custody and security officer”;
  - (b) in subsection (4), after the words “Police Act 1997” there is inserted “or any police custody and security officer employed or appointed by them”;
  - (c) at the end there is added—
    - “(8) This section is without prejudice to any obligation or indemnity arising by virtue of a contract entered into under section 9(1)(b) of this Act.”.
- (5) In section 41 (assaults on constables etc.)—
- (a) in subsection (1)(a), after the word “constable” where it occurs for—
    - (i) the first time there is inserted “or police custody and security officer”;
    - and
    - (ii) the second time there is inserted “or any such officer”;
  - (b) in subsection (2), after the words—
    - (i) “custody of a constable” there is inserted “or police custody and security officer”;
    - and
    - (ii) “assisting a constable” there is inserted “or any such officer”.

- (6) In section 43 (impersonation etc.)—
  - (a) in subsection (1)(a), after the word “constable” there is inserted “or police custody and security officer”; and
  - (b) in subsection (3), after the word “constables” there is inserted “or police custody and security officers”.
- (7) In section 44 (offences by constables)—
  - (a) in subsection (2), after the words “Any constable” there is inserted “or police custody and security officer”;
  - (b) in subsection (3), after the words “Any constable” there is inserted “or any such officer”; and
  - (c) in subsection (4), after the words “a constable”, in each of the two places they occur, there is inserted “or such an officer”.
- (8) In section 45 (warrant to search for police accoutrements and clothing), after the words “a constable” there is inserted “or a police custody and security officer”.
- (9) In section 51(1) (interpretation), at the appropriate place there is inserted—

““police custody and security officer” shall be construed in accordance with section 9(1A) of this Act;”.
- (10) In section 102(5) of the [Criminal Justice and Public Order Act 1994 \(c33\)](#) (compliance with warrants or orders), at the end there is added “or by a police custody and security officer in the performance of functions prescribed under section 9(1A)(b) of the Police (Scotland) Act 1967 (c. 77)”.
- (11) In section 307(1) of the 1995 Act (interpretation), in paragraph (c) of the definition of “officer of law”—
  - (a) after the word “employed” there is inserted “or appointed”;
  - (b) after the words “and who” there is inserted “either”; and
  - (c) at the end there is added “or is a police custody and security officer”.