

*These notes relate to the Criminal Justice (Scotland) Act 2016
(asp 1) which received Royal Assent on 13 January 2016*

CRIMINAL JUSTICE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

OVERVIEW OF THE ACT

Part 1 – Arrest and Custody

Chapter 2 – Custody: person not officially accused

Keeping person in custody

Section 7 – Authorisation for keeping in custody

32. [Section 7\(1\)](#) sets out the procedure for keeping a person in custody where the person has been not been arrested under a warrant or charged with an offence by a constable.
33. [Section 7\(2\)](#) provides that authorisation to keep the person in custody must be sought as soon as reasonably practicable after the person is arrested at a police station or arrives at a police station following arrest.
34. [Sections 7\(3\)](#) and [\(4\)](#) provide that authorisation to keep a person in custody may only be given by a constable of the rank of sergeant or above who has not been involved in the investigation in connection with which the person is in custody and if the test set out in [section 14](#) is met. [Section 7\(5\)](#) provides that if authorisation is refused then the person can continue to be held in custody only if charged with an offence or the person is detained under [section 28\(1A\)](#) of the 1995 Act. [Section 28\(1A\)](#) allows for the detention of an arrested person in connection with a breach of bail conditions.