

CRIMINAL JUSTICE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

OVERVIEW OF THE ACT

Part 1 – Arrest and Custody

Chapter 2 – Custody: person not officially accused

Investigative liberation

Section 18 – Modification or removal of conditions

52. [Section 18](#) enables a constable, by notice, to modify or remove any condition imposed by the police under section 16(2). A modified condition may be more or less onerous than the condition originally set. Under section 18(2) a notice about the modification or removal of a condition must be given in writing to the person who is subject to it and must specify the time from which the condition is modified or removed. Any modification or removal of a condition requires to be approved by a constable of the rank of an inspector or above. This power gives the police the flexibility to adjust conditions in light of changed circumstances.
53. [Section 18\(3\)](#) provides that a constable of the rank of inspector or above must keep under review whether or not there are reasonable grounds for suspecting that a person who is subject to a condition imposed under section 16(2) has committed a relevant offence (as defined in section 18(8)), and whether the condition imposed remains necessary and proportionate for the purpose of ensuring the proper conduct of the investigation into a relevant offence. If the inspector is no longer satisfied that there are reasonable grounds for suspecting that a person who is subject to a condition has committed a relevant offence, the person must be given notice of the removal of the condition. If no longer satisfied that a condition is necessary and proportionate, again the person must be given notice that the condition is being modified or removed.
54. [Section 18\(6\)](#) provides that any such notice must be given in writing to the person as soon as practicable. The notice must specify the time from which the condition is modified or removed and the time at which the duty to give the notice arose, i.e. the time at which the decision is made by an appropriate constable to remove or modify the condition.