

# CRIMINAL JUSTICE (SCOTLAND) ACT 2016

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## EXPLANATORY NOTES

### OVERVIEW OF THE ACT

#### **Part 1 – Arrest and Custody**

#### *Chapter 4 – Police interview*

#### **Rights of suspects**

#### *Section 31 – Information to be given before interview*

85. [Section 31](#) applies to a person who is either in police custody (defined in section 64) or has voluntarily attended a police station, or other place, for the purpose of being interviewed by the police.
86. It requires a constable to inform a person suspected of committing an offence of their rights at the most one hour before any interview commences. These rights are:
- the right to be informed of the general nature of that offence,
  - the right not to say anything other than to provide the person's name, address, date of birth, place of birth and nationality;
  - the right to have a solicitor present during any interview; and
  - if the person is being held in police custody, the rights detailed in Chapter 5, namely: the right to have another person informed that the person is in custody, the right to have a solicitor informed that the person is in custody and the person's right of access to a solicitor whilst in custody.
87. Subsection (3) provides that if a person has already exercised their right to have another person or solicitor informed of their custody, then the police are not required to inform the person of these rights a second time.
88. For the purpose of this section, a constable is not to be regarded as interviewing a person about an offence merely by asking for the person's name, address, date of birth, place of birth and nationality. As such, a constable does not have to inform the person of their rights, as detailed at subsection (2), before asking the person for these details.
89. Subsection (5) provides that, if a person is being interviewed as authorised by section 35 of the Act (which permits the court to authorise a constable to question someone who has been officially accused of an offence), the person must be told before the start of the interview about any conditions attached by the court when authorising the questioning. This will always include a specified period of time for which questioning is authorised, and may also include conditions imposed by the court to ensure that allowing the questioning is not unfair.