



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 2

CUSTODY: PERSON NOT OFFICIALLY ACCUSED

Keeping person in custody

11 Authorisation for keeping in custody beyond 12 hour limit

- (1) A constable may give authorisation for a person who is in police custody to be kept in custody for a continuous period of 12 hours, beginning when the 12 hour period mentioned in section 9 ends.
- (2) Authorisation may be given only by a constable who—
 - (a) is of, or above, the rank of—
 - (i) inspector, if a constable believes the person to be 18 years of age or over,
 - (ii) chief inspector, if a constable believes the person to be under 18 years of age, and
 - (b) has not been involved in the investigation in connection with which the person is in police custody.
- (3) Authorisation may be given only if—
 - (a) the person has not been held in police custody by virtue of authorisation given under this section in connection with—
 - (i) the offence in connection with which the person is in police custody, or
 - (ii) an offence arising from the same circumstances as that offence, and
 - (b) the constable is satisfied that—

Changes to legislation: *Criminal Justice (Scotland) Act 2016, Section 11 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (i) the test in section 14 will be met when the 12 hour period mentioned in section 9 ends,
 - (ii) the offence in connection with which the person is in police custody is an indictable offence, and
 - (iii) the investigation is being conducted diligently and expeditiously.
- (4) Before deciding whether or not to give authorisation the constable must—
 - (a) where practicable afford a reasonable opportunity to make verbal or written representations to—
 - (i) the person, or
 - (ii) if the person so chooses, the person's solicitor, and
 - (b) have regard to any representations made.
- (5) If authorisation is given, it is deemed to be withdrawn if the person is released from police custody before the 12 hour period mentioned in section 9 ends.
- (6) Subsection (7) applies when—
 - (a) by virtue of authorisation given under this section, a person has been held in police custody for a continuous period of 12 hours (beginning with the time at which the 12 hour period mentioned in section 9 ended), and
 - (b) during that period the person has not been charged with an offence by a constable.
- (7) The person may continue to be held in police custody only if—
 - (a) a constable charges the person with an offence, or
 - (b) the person is detained under section 28(1A) of the 1995 Act (which allows for detention in connection with a breach of bail conditions).

Commencement Information

II S. 11 in force at 25.1.2018 by [S.S.I. 2017/345](#), [art. 3](#), [sch.](#) (with [art. 4](#))

Changes to legislation:

Criminal Justice (Scotland) Act 2016, Section 11 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)