Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 7

GENERAL

Code of practice about investigative functions

57 Code of practice about investigative functions

(1) The Lord Advocate must issue a code of practice on—

(a) the questioning, and recording of questioning, of persons suspected of committing offences, and

(b) the conduct of identification procedures involving such persons.

(2) The Lord Advocate—

(a) must keep the code of practice issued under subsection (1) under review,

(b) may from time to time revise the code of practice.

(3) The code of practice is to apply to the functions exercisable by or on behalf of—

(a) the Police Service of Scotland,

(b) such other bodies as are specified in the code (being bodies responsible for reporting offences to the procurator fiscal).

(4) Before issuing the code of practice, the Lord Advocate must consult publicly on a draft of the code.

(5) When preparing a draft of the code of practice for public consultation, the Lord Advocate must consult—

(a) the Lord Justice General,

(b) the Faculty of Advocates,

(c) the Law Society of Scotland,

Changes to legislation: *Criminal Justice (Scotland) Act 2016, Section 57 is up to date with all changes known to be in force on or before 21 August 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*

(d) the Scottish Police Authority,

(e) the chief constable of the Police Service of Scotland,

(f) the Scottish Human Rights Commission,

(g) the Commissioner for Children and Young People in Scotland, [F1]...

[[F2](ga) any body which the Lord Advocate intends to specify in the code under subsection (3)(b) and (where relevant) the Secretary of State, and**]**

(h) such other persons as the Lord Advocate considers appropriate.

(6) The Lord Advocate must lay before the Scottish Parliament a copy of the code of practice issued under this section.

(7) A court or tribunal in civil or criminal proceedings must take the code of practice into account when determining any question arising in the proceedings to which the code is relevant.

(8) Breach of the code of practice does not of itself give rise to grounds for any legal claim whatsoever.

(9) Subsections (3) to (8) apply to a revised code of practice under subsection (2)(b) as they apply to the code of practice issued under subsection (1).

Textual Amendments

F1 Word in s. 57(5)(g) omitted (17.1.2018) by virtue of The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), arts. 2(1)(b), **10(4)(a)** (with art. 10(3))

F2 S. 57(5)(ga) inserted (17.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), arts. 2(1)(b), **10(4)(b)** (with art. 10(3))

Modifications etc. (not altering text)

C1 S. 57 applied (with modifications) (25.1.2018) by The Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016) Order 2017 (S.S.I. 2017/465), arts. 1**4**

Commencement Information

I1 S. 57 in force at 25.1.2018 by S.S.I. 2017/345, art. 3, **sch.**

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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)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 38(7)(a) words renumbered as s. 38(7)(a) by 2024 asp 5 s. 15(6)(a)
– s. 38(7)(b) and word inserted by 2024 asp 5 s. 15(6)(b)
– s. 41(1A) inserted by 2024 asp 5 s. 15(7)(b)