

*These notes relate to the Age of Criminal Responsibility (Scotland)
Act 2019 (asp 7) which received Royal Assent on 11 June 2019*

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) ACT 2019

EXPLANATORY NOTES

PART 4: POLICE INVESTIGATORY AND OTHER POWERS

Chapter 1: Emergency place of safety

Changes made by the Act: impact on pre-existing law of change in age of criminal responsibility

91. Once section 1 of the Act comes into force, the power described above will not be available in relation to eight to 11 year olds, as children in this age group will no longer be able to commit an offence, and so can't be arrested on suspicion of committing an offence. This puts them into the same position as children under eight are currently in.
92. Depending on the precise circumstances, it may be possible for a constable to remove a child who is behaving (or is likely to behave) in a way that is causing or risks causing significant harm to another person to a place of safety using the power conferred by section 56 of the 2011 Act, but this does depend on the police constable being satisfied that the child him or herself is at risk of harm. Other powers will also persist (for example, the common law power to take a child home (on the basis of the child's agreement)).