



# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 1 **S**

#### ARREST AND CUSTODY

### CHAPTER 6 **S**

#### POLICE POWERS AND DUTIES

##### *Duties of police*

#### **50** Duty not to detain unnecessarily **S**

A constable must take every precaution to ensure that a person is not unreasonably or unnecessarily held in police custody.

##### **Commencement Information**

**II** S. 50 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

#### **51** Duty to consider child's wellbeing **S**

- (1) Subsection (2) applies when a constable is deciding whether to—
  - (a) arrest a child,
  - (b) hold a child in police custody,
  - (c) interview a child about an offence which the constable has reasonable grounds to suspect the child of committing, or
  - (d) charge a child with committing an offence.
- (2) In taking the decision, the constable must treat the need to safeguard and promote the wellbeing of the child as a primary consideration.
- (3) For the purposes of this section, a child is a person who is under 18 years of age.

*Changes to legislation: Criminal Justice (Scotland) Act 2016, Cross Heading: Duties of police is up to date with all changes known to be in force on or before 22 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*

**Modifications etc. (not altering text)**

- C1** S. 51 applied (with modifications) by 1994 c. 33, s. 137D(3)(c), Sch. 7B Pt. 2 (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017](#) (c. 3), s. 116(1)(3), 183(1)(5)(e), [Sch. 16](#); S.I. 2018/227, art. 2(f))

**Commencement Information**

- I2** S. 51 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

**52 Duties in relation to children in custody** **S**

- (1) A child who is in police custody at a police station is, so far as practicable, to be prevented from associating with any adult who is officially accused of committing an offence other than an adult to whom subsection (2) applies.
- (2) This subsection applies to an adult if a constable believes that it may be detrimental to the wellbeing of the child mentioned in subsection (1) to prevent the child and adult from associating with one another.
- (3) For the purposes of this section—
  - “child” means person who is under 18 years of age,
  - “adult” means person who is 18 years of age or over.

**Modifications etc. (not altering text)**

- C2** S. 52 applied (with modifications) by 1994 c. 33, s. 137D(3)(d), Sch. 7B Pt. 2 (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017](#) (c. 3), s. 116(1)(3), 183(1)(5)(e), [Sch. 16](#); S.I. 2018/227, art. 2(f))

**Commencement Information**

- I3** S. 52 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

**53 Duty to inform Principal Reporter if child not being prosecuted** **S**

- (1) Subsections (2) and (3) apply if—
  - (a) a person is being kept in a place of safety in accordance with section 22(2) when it is decided not to prosecute the person for any relevant offence, and
  - (b) a constable has reasonable grounds for suspecting that the person has committed a relevant offence.
- (2) The Principal Reporter must be informed, as soon as reasonably practicable, that the person is being kept in a place of safety under subsection (3).
- (3) The person must be kept in a place of safety under this subsection until the Principal Reporter makes a direction under section 65(2) of the Children's Hearings (Scotland) Act 2011.
- (4) An offence is a “relevant offence” for the purpose of subsection (1) if—
  - (a) it is the offence with which the person was officially accused, leading to the person being kept in the place of safety in accordance with section 22(2), or

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(b) it is an offence arising from the same circumstances as the offence mentioned in paragraph (a).

(5) In this section, “place of safety” has the meaning given in section 202(1) of the Children's Hearings (Scotland) Act 2011.

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**Commencement Information**

**I4** S. 53 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

**Changes to legislation:**

Criminal Justice (Scotland) Act 2016, Cross Heading: Duties of police is up to date with all changes known to be in force on or before 22 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.

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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\(a\)](#)