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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 95**

**The Right to Interpretation and Translation in  
Criminal Proceedings (Scotland) Regulations 2014**

**PART 1**

Introductory

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 and come into force on 19th May 2014.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“appropriate constable” means a constable who—

- (a) is of the rank of inspector or above; and
- (b) has not been involved in the investigation in connection with which a person is in police custody or is attending voluntarily at a police station or other premises or place for the purpose of being questioned by a constable;

“communications technology” includes video conference, telephone and the internet;

“constable” means a constable of the Police Service of Scotland as defined by section 99(1) of the Police and Fire Reform (Scotland) Act 2012<sup>(1)</sup>;

“enactment” means any enactment, whenever passed or made, comprised in—

- (a) an Act of Parliament;
- (b) an Act of the Scottish Parliament; or
- (c) an instrument made under any such Act;

“essential document” has the meaning given by—

- (a) regulation 4(4), for the purposes of Parts 2 and 4 in so far as Part 4 applies to a person who is in police custody; or
- (b) regulation 9(4), for the purposes of Parts 3 and 4 in so far as Part 4 applies to a person who is the subject of criminal proceedings;

“interpretation assistance” means—

- (a) in relation to a person who does not speak or understand English, an oral translation of—
  - (i) the police proceedings or criminal proceedings into the person’s native language or any other language which the person speaks or understands; and

- (ii) any communication by the person into English; or
  - (b) in relation to a person who has a hearing or speech impediment, such appropriate assistance as the person requires to be able to understand the police proceedings or criminal proceedings and communicate effectively;
- “oral translation or oral summary” means a translation or summary provided orally in a person’s native language or any other language which the person understands;
- “police proceedings” means proceedings for dealing with—
- (a) a person in police custody; or
  - (b) a person attending voluntarily at a police station or other premises or place for the purpose of being questioned by a constable about an offence which the constable has reasonable grounds to suspect the person of committing;
- “prosecutor” has the meaning given by section 307(1) of the Criminal Procedure (Scotland) Act 1995(2);
- “the Directive” means Directive 2010/64/EU of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings(3);
- “written translation” means a translation provided, in writing, in a person’s native language or any other language which the person understands.
- (2) For the purposes of these Regulations, a person is in police custody if—
- (a) the person is being detained under section 14 of the Criminal Procedure (Scotland) Act 1995(4) and has been taken to a police station or other premises or place; or
  - (b) the person has been arrested by a constable in connection with an offence, under any enactment (other than the Extradition Act 2003(5)) or rule of law whatsoever, and is in custody in a police station or other premises.
- (3) In these Regulations, any reference to criminal proceedings—
- (a) means court proceedings for dealing with any of the following:—
    - (i) a person accused of committing an offence;
    - (ii) a person convicted of, or found to have committed, an offence (including proceedings in respect of a sentence, a disposal or an order);
    - (iii) an appeal or procedural application in connection with the proceedings mentioned in sub-paragraph (i) or (ii);
  - (b) does not include proceedings for dealing with a person under the Extradition Act 2003.

(2) 1995 c.46. There are amendments to section 307(1) which are not relevant to these Regulations.

(3) OJ L 280, 26.10.2010, p.1.

(4) Section 14 was amended by section 81(6) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) and sections 1(2) and 3(1) of the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15).

(5) 2003 c.41.