
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 95

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

PART 2

Police custody and police questioning

Right to interpretation assistance in police custody and during police questioning

- 3.—(1) Paragraph (2) applies where a person is—
- (a) in police custody; or
 - (b) 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.
- (2) A constable must take all reasonable steps to determine whether the person requires any interpretation assistance because the person—
- (a) does not speak English;
 - (b) does not understand English;
 - (c) has a hearing impediment; or
 - (d) has a speech impediment.
- (3) Where the constable determines that the person requires interpretation assistance, the constable must ensure that arrangements are made for the person to be provided with that assistance—
- (a) as soon as reasonably practicable after arrival at the police station or other premises or place;
 - (b) for the purpose of safeguarding the fairness of the police proceedings in accordance with the Directive.
- (4) A constable may arrange for interpretation assistance to be provided from a remote location by means of communications technology, only if the constable considers that to do so would be appropriate in the circumstances and would not prejudice the fairness of the police proceedings.

Right to translation of essential documents in police custody

- 4.—(1) Where a person is in police custody, a constable must take all reasonable steps to determine whether the person requires a translation of all essential documents (if any) because the person does not understand English.
- (2) Where the constable determines that the person requires such a translation, the constable must ensure that arrangements are made for the person to be provided with a written translation of all essential documents—
- (a) within a reasonable period of time;

- (b) for the purpose of safeguarding the fairness of the police proceedings in accordance with the Directive.
- (3) Despite paragraph (2), the person may be provided with—
 - (a) a written translation only of such part or parts of an essential document as are relevant for the purpose mentioned in that paragraph; or
 - (b) an oral translation or oral summary of an essential document, instead of a written translation, unless this would prejudice the fairness of the police proceedings.
- (4) In this regulation, “essential document” means any document relating to the person being in police custody which—
 - (a) authorises the deprivation of the person’s liberty by a constable or charges the person with having committed an offence; and
 - (b) is required by any enactment to be provided to the person in writing.

Review of a determination made under regulation 3 or 4

- 5.—(1) Paragraph (2) applies where a constable has determined—
- (a) under regulation 3(2), that a person does not require any interpretation assistance; or
 - (b) under regulation 4(1), that a person does not require a translation of all essential documents.
- (2) The person may ask for a review of the determination by an appropriate constable.
- (3) If, on reviewing the determination, an appropriate constable determines that the person requires interpretation assistance or a translation of all essential documents, the constable must give such direction as the constable considers necessary to safeguard the fairness of the police proceedings.

Complaints about interpretation assistance and translation of essential documents in police custody, etc.

- 6.—(1) A person entitled under this Part to be provided with interpretation assistance, or a translation of all essential documents, may complain to an appropriate constable if—
- (a) the person is not provided with interpretation assistance, or (as the case may be) a written translation or oral translation or oral summary of all essential documents, within a reasonable period of time; or
 - (b) the interpretation assistance or (as the case may be) any written translation or oral translation or oral summary of an essential document provided, is of insufficient quality to safeguard the fairness of the police proceedings.
- (2) On determining a complaint made under paragraph (1), an appropriate constable must give such direction as the constable considers necessary to safeguard the fairness of the police proceedings.

Information to be recorded by the police

7. A record must be made of any of the following which apply—
- (a) the fact that interpretation assistance is provided under this Part, including whether it is provided during a constable’s questioning of a person about an offence;
 - (b) the fact that an oral translation or oral summary of an essential document is provided under this Part;
 - (c) the fact that a waiver is given under regulation 15(1) by a person in police custody.