



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART II

#### POLICE FUNCTIONS

##### *Arrest: access to solicitor*

#### **17 Right of accused to have access to solicitor.**

- (1) Where an accused has been arrested on any criminal charge, he shall be entitled immediately upon such arrest—
  - (a) to have intimation sent to a solicitor that his professional assistance is required by the accused, and informing the solicitor—
    - (i) of the place where the person is being detained;
    - (ii) whether the person is to be liberated; and
    - (iii) if the person is not to be liberated, the court to which he is to be taken and the date when he is to be so taken; and
  - (b) to be told what rights there are under—
    - (i) paragraph (a) above;
    - (ii) subsection (2) below; and
    - (iii) section 35(1) and (2) of this Act.
- (2) The accused and the solicitor shall be entitled to have a private interview before the examination or, as the case may be, first appearance.

#### **[<sup>F1</sup>17A Right of person accused of sexual offence to be told about restriction on conduct of defence: arrest**

- (1) An accused arrested on a charge of committing a sexual offence to which section 288C of this Act applies by virtue of subsection (2) of that section shall be entitled to be told, immediately upon his arrest—

*Status: Point in time view as at 04/12/2004.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Arrest: access to solicitor is up to date with all changes known to be in force on or before 12 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)*

- [<sup>F2</sup>(za) that, if he is indicted to the High Court in respect of the offence, his case at or for the purposes of the preliminary hearing may be conducted only by a lawyer;]
- (a) that, if he is tried for the offence charged, his defence [<sup>F3</sup>and any proof ordered as is mentioned in section 288C(1) of this Act] may be conducted only by a lawyer;
- (b) that it is, therefore, in his interests to get the professional assistance of a solicitor; and
- (c) that if he does not engage a solicitor for the purposes of [<sup>F4</sup>the conduct of his case at or for the purposes of the preliminary hearing (if he is indicted to the High Court in respect of the offence) or] his defence at the trial, the court will do so.
- (2) A failure to comply with subsection (1) above does not affect the validity or lawfulness of the arrest of the accused or any other element of any consequent proceedings against him.]

#### Textual Amendments

- F1** S. 17A inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), s. 3, [Sch. para. 2](#); S.S.I. 2002/443, [art. 3](#) (with art. 4(3))
- F2** S. 17A(1)(za) inserted (4.12.2004) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 25, 27(1), [Sch. para. 3\(a\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3, 4)
- F3** Words in s. 17A(1)(a) added (25.11.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 85, 89, [Sch. 4 para. 3\(2\)](#); S.S.I. 2003/475, [art. 2](#), Sch.
- F4** Words in s. 17A(1)(c) inserted (4.12.2004) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 25, 27(1), [Sch. para. 3\(b\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3, 4)

**Status:**

Point in time view as at 04/12/2004.

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Cross Heading: Arrest: access to solicitor is up to date with all changes known to be in force on or before 12 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.