



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Detention and questioning

13 Powers relating to suspects and potential witnesses.

- (1) Where a constable has reasonable grounds for suspecting that a person has committed or is committing an offence at any place, he may require—
- that person, if the constable finds him at that place or at any place where the constable is entitled to be, to give [^{F1}the information mentioned in subsection (1A) below] and may ask him for an explanation of the circumstances which have given rise to the constable's suspicion;
 - any other person whom the constable finds at that place or at any place where the constable is entitled to be and who the constable believes has information relating to the offence, to give [^{F2}the information mentioned in subsection (1A) below].

[^{F3}(1A) That information is—

- the person's name;
 - the person's address;
 - the person's date of birth;
 - the person's place of birth (in such detail as the constable considers necessary or expedient for the purpose of establishing the person's identity); and
 - the person's nationality.]
- (2) The constable may require the person mentioned in paragraph (a) of subsection (1) above to remain with him while he (either or both)—
- subject to subsection (3) below, verifies any [^{F4}information mentioned in subsection (1A) above] given by the person;
 - notes any explanation proffered by the person.

Status: Point in time view as at 16/08/2013.

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- (3) The constable shall exercise his power under paragraph (a) of subsection (2) above only where it appears to him that such verification can be obtained quickly.
- (4) A constable may use reasonable force to ensure that the person mentioned in paragraph (a) of subsection (1) above remains with him.
- (5) A constable shall inform a person, when making a requirement of that person under—
- (a) paragraph (a) of subsection (1) above, of his suspicion and of the general nature of the offence which he suspects that the person has committed or is committing;
 - (b) paragraph (b) of subsection (1) above, of his suspicion, of the general nature of the offence which he suspects has been or is being committed and that the reason for the requirement is that he believes the person has information relating to the offence;
 - (c) subsection (2) above, why the person is being required to remain with him;
 - (d) either of the said subsections, that failure to comply with the requirement may constitute an offence.
- (6) A person mentioned in—
- (a) paragraph (a) of subsection (1) above who having been required—
 - (i) under that subsection to give [^{F5}the information mentioned in subsection (1A) above] ; or
 - (ii) under subsection (2) above to remain with a constable, fails, without reasonable excuse, to do so, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale;
 - (b) paragraph (b) of the said subsection (1) who having been required under that subsection to give [^{F6}the information mentioned in subsection (1A) above] fails, without reasonable excuse, to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (7) A constable may arrest without warrant any person who he has reasonable grounds for suspecting has committed an offence under subsection (6) above.

Textual Amendments

- F1** Words in s. 13(1)(a)(b) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(2\), 104; S.S.I. 2006/432, art. 2\(e\)](#)
- F2** Words in s. 13(1)(a)(b) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(2\), 104; S.S.I. 2006/432, art. 2\(e\)](#)
- F3** S. 13(1A) inserted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(3\), 104; S.S.I. 2006/432, art. 2\(e\)](#)
- F4** Words in s. 13(2)(a) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(4\), 104; S.S.I. 2006/432, art. 2\(e\)](#)
- F5** Words in s. 13(6)(a)(i)(b) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(5\), 104; S.S.I. 2006/432, art. 2\(e\)](#)
- F6** Words in s. 13(6)(a)(i)(b) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(5\), 104; S.S.I. 2006/432, art. 2\(e\)](#)

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14 Detention and questioning at police station.

- (1) Where a constable has reasonable grounds for suspecting that a person has committed or is committing an offence punishable by imprisonment, the constable may, for the purpose of facilitating the carrying out of investigations—
 - (a) into the offence; and
 - (b) as to whether criminal proceedings should be instigated against the person, detain that person and take him as quickly as is reasonably practicable to a police station or other premises and may thereafter for that purpose take him to any other place and, subject to the following provisions of this section, the detention may continue at the police station or, as the case may be, the other premises or place.
- (2) [^{F7}Subject to section 14A, detention] under subsection (1) above shall be terminated not more than [^{F8}12] hours after it begins or (if earlier)—
 - (a) when the person is arrested;
 - (b) when he is detained in pursuance of any other enactment; or
 - (c) where there are no longer such grounds as are mentioned in the said subsection (1),and when a person has been detained under subsection (1) above, he shall be informed immediately upon the termination of his detention in accordance with this subsection that his detention has been terminated.
- (3) Where a person has been released at the termination of a period of detention under subsection (1) above he shall not thereafter be detained, under that subsection, on the same grounds or on any grounds arising out of the same circumstances.
- (4) Subject to subsection (5) below, where a person has previously been detained in pursuance of any other enactment, and is detained under subsection (1) above on the same grounds or on grounds arising from the same circumstances as those which led to his earlier detention, the period of [^{F8}12] hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention.
- (5) Subsection (4) above shall not apply in relation to detention under section 41(3) of the ^{M1}Prisons (Scotland) Act 1989 (detention in relation to introduction etc. into prison of prohibited article), but where a person was detained under section 41(3) immediately prior to his detention under subsection (1) above the period of [^{F8}12] hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention.
- (6) At the time when a constable detains a person under subsection (1) above, he shall inform the person of his suspicion, of the general nature of the offence which he suspects has been or is being committed and of the reason for the detention; and there shall be recorded—
 - (a) the place where detention begins and the police station or other premises to which the person is taken;
 - (b) any other place to which the person is, during the detention, thereafter taken;
 - (c) the general nature of the suspected offence;
 - (d) the time when detention under subsection (1) above begins and the time of the person's arrival at the police station or other premises;
 - (e) the time when the person is informed of his rights in terms of subsection (9) below and of [^{F9}sections 15(1)(b) and 15A(2) and (3)] of this Act and the identity of the constable so informing him;

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- (f) where the person requests such intimation to be sent as is specified in section 15(1)(b) [^{F10}or 15A(2)] of this Act, the time when such request is—
 - (i) made;
 - (ii) complied with; and
 - (g) the time of the person's release from detention or, where instead of being released he is arrested in respect of the alleged offence, the time of such arrest.
- (7) Where a person is detained under subsection (1) above, a constable may—
- (a) without prejudice to any relevant rule of law as regards the admissibility in evidence of any answer given, put questions to him in relation to the suspected offence;
 - (b) exercise the same powers of search as are available following an arrest.
- (8) A constable may use reasonable force in exercising any power conferred by subsection (1), or by paragraph (b) of subsection (7), above.
- (9) A person detained under subsection (1) above shall be under no obligation to answer any question other than to give [^{F11}the information mentioned in subsection (10) below], and a constable shall so inform him both on so detaining him and on arrival at the police station or other premises.
- [^{F12}(10) That information is—
- (a) the person's name;
 - (b) the person's address;
 - (c) the person's date of birth;
 - (d) the person's place of birth (in such detail as a constable considers necessary or expedient for the purpose of establishing the person's identity); and
 - (e) the person's nationality.]

Textual Amendments

- F7** Words in s. 14(2) substituted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\), ss. 3\(1\)\(a\)](#), 9 (with s. 4)
- F8** Words in s. 14(2)(4)(5) substituted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\), ss. 3\(1\)\(b\)](#), 9 (with s. 4)
- F9** Words in s. 14(6)(e) substituted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\), ss. 1\(2\)\(a\)](#), 9 (with s. 4)
- F10** Words in s. 14(6)(f) inserted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\), ss. 1\(2\)\(b\)](#), 9 (with s. 4)
- F11** Words in s. 14(9) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(6\)\(a\)](#), 104; [S.S.I. 2006/432, art. 2\(e\)](#)
- F12** S. 14(10) substituted (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 81\(6\)\(b\)](#), 104; [S.S.I. 2006/432, art. 2\(e\)](#)

Modifications etc. (not altering text)

- C1** S. 14(2)-(10) applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), Sch. 2 para. 2(3)(4) (with art. 6(2)))

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Marginal Citations

M1 1989 c.45.

[^{F13}14A Extension of period of detention under section 14

- (1) This section applies in relation to a person who is being detained under section 14 of this Act (“the detained person”).
- (2) Before the expiry of the period of 12 hours mentioned in section 14(2), a custody review officer may, subject to subsection (4), authorise that period to be extended in relation to the detained person by a further period of 12 hours.
- (3) The further period of 12 hours starts from the time when the period of detention would have expired but for the authorisation.
- (4) A custody review officer may authorise the extension under subsection (2) in relation to the detained person only if the officer is satisfied that—
 - (a) the continued detention of the detained person is necessary to secure, obtain or preserve evidence (whether by questioning the person or otherwise) relating to an offence in connection with which the person is being detained,
 - (b) an offence in connection with which the detained person is being detained is one that is an indictable offence, and
 - (c) the investigation is being conducted diligently and expeditiously.
- (5) Where subsection (4) or (5) of section 14 applies in relation to the detained person, the references in subsection (2) of this section to the period of 12 hours mentioned in section 14(2) are to be read as references to that period as reduced in accordance with subsection (4) or, as the case may be, (5) of section 14.
- (6) Where a custody review officer authorises the extension under subsection (2), section 14 has effect in relation to the detained person as if the references in it to the period of 12 hours were references to that period as extended by virtue of the authorisation.
- (7) In this section and section 14B, “custody review officer” means a constable—
 - (a) of the rank of inspector or above, and
 - (b) who has not been involved in the investigation in connection with which the person is detained.

Textual Amendments

F13 Ss. 14A, 14B inserted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\)](#), ss. 3(2), 9 (with s. 4)

Modifications etc. (not altering text)

C2 Ss. 14A, 14B applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), Sch. 2 para. 2(3)(4) (with art. 6(2)))

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14B Extension under section 14A: procedure

- (1) This section applies where a custody review officer is considering whether to authorise the extension under section 14A(2) of this Act in relation to a person who is being detained under section 14 of this Act (“the detained person”).
- (2) Before deciding whether to authorise the extension, the custody review officer must give either of the following persons an opportunity to make representations—
 - (a) the detained person, or
 - (b) any solicitor representing the detained person who is available at the time the officer is considering whether to authorise the extension.
- (3) Representations may be oral or written.
- (4) The custody review officer may refuse to hear oral representations from the detained person if the officer considers that the detained person is unfit to make representations because of the person's condition or behaviour.
- (5) Where the custody review officer decides to authorise the extension, the officer must ensure that the following persons are informed of the decision and of the grounds on which the extension is authorised—
 - (a) the detained person, and
 - (b) any solicitor representing the detained person who is available at the time the decision is made.
- (6) Subsection (7) applies where—
 - (a) the custody review officer decides to authorise the extension, and
 - (b) at the time of the decision, the detained person has not exercised rights under section 15 or 15A.
- (7) The custody review officer must—
 - (a) ensure that the detained person is informed of the person's rights under section 15 or 15A which the person has not yet exercised, and
 - (b) decide whether there are any grounds, under section 15(1) or section 15A(7)(b) or (8) (as the case may be), for delaying the exercise of any of the rights.
- (8) The custody review officer must make a written record of—
 - (a) the officer's decision on whether to authorise the extension, and
 - (b) any of the following which apply—
 - (i) the grounds on which the extension is authorised,
 - (ii) the fact that the detained person and a solicitor have been informed as required under subsection (5),
 - (iii) the fact that the detained person has been informed as required under subsection (7)(a),
 - (iv) the officer's decision on the matter referred to in subsection (7)(b) and, if the decision is to delay the exercise of a right, the grounds for the decision.]

Textual Amendments

F13 Ss. 14A, 14B inserted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\)](#), ss. 3(2), 9 (with s. 4)

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Modifications etc. (not altering text)

- C2** Ss. 14A, 14B applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), Sch. 2 para. 2(3)(4) (with art. 6(2)))

15 [^{F14}**Right of persons arrested or detained to have intimation sent to another person**]

- (1) Without prejudice to [^{F15}sections 15A and 17] of this Act, a person who, not being a person in respect of whose custody or detention subsection (4) below applies—
- (a) has been arrested and is in custody in a police station or other premises, shall be entitled to have intimation of his custody and of the place where he is being held sent to a person reasonably named by him;
 - (b) is being detained under section 14 of this Act and has been taken to a police station or other premises or place, shall be entitled to have intimation of his detention and of the police station or other premises or place sent to a ^{F16} . . . person reasonably named by him,
- without delay or, where some delay is necessary in the interest of the investigation or the prevention of crime or the apprehension of offenders, with no more delay than is so necessary.
- (2) A person shall be informed of his entitlement under subsection (1) above—
- (a) on arrival at the police station or other premises; or
 - (b) where he is not arrested, or as the case may be detained, until after such arrival, on such arrest or detention.
- (3) Where the person mentioned in paragraph (a) of subsection (1) above requests such intimation to be sent as is specified in that paragraph there shall be recorded the time when such request is—
- (a) made;
 - (b) complied with.
- (4) Without prejudice to the said [^{F17}sections 15A and 17], a constable shall, where a person who has been arrested and is in such custody as is mentioned in paragraph (a) of subsection (1) above or who is being detained as is mentioned in paragraph (b) of that subsection appears to him to be a child, send without delay such intimation as is mentioned in the said paragraph (a), or as the case may be paragraph (b), to that person's parent if known; and the parent—
- (a) in a case where there is reasonable cause to suspect that he has been involved in the alleged offence in respect of which the person has been arrested or detained, may; and
 - (b) in any other case shall,
- be permitted access to the person.
- (5) The nature and extent of any access permitted under subsection (4) above shall be subject to any restriction essential for the furtherance of the investigation or the well-being of the person.
- (6) In subsection (4) above —
- (a) “child” means a person under 16 years of age; and

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(b) “parent” includes guardian and any person who has the ^{F18}care] of a child.

Textual Amendments

- F14** Words in s. 15 title substituted (30.10.2010) by virtue of [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\)](#), **ss. 1(3)(c)**, 9 (with s. 4)
- F15** Words in s. 15(1) substituted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\)](#), **ss. 1(3)(a)(i)**, 9 (with s. 4)
- F16** Words in s. 15(1)(b) repealed (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\)](#), **ss. 1(3)(a)(ii)**, 9 (with s. 4)
- F17** Words in s. 15(4) substituted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\)](#), **ss. 1(3)(b)**, 9 (with s. 4)
- F18** Word in s. 15(6)(b) substituted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(2)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)

Modifications etc. (not altering text)

- C3** S. 15 applied (with modifications) by 1994 c. 33, s. 138(1A) (as inserted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), **Sch. 2 para. 2(2)** (with art. 6(2)))
- C4** S. 15(1)-(3) applied (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 116(4)**, 263; S.S.I. 2005/604, **art. 2** (subject to arts. 3, 4)
- C5** S. 15(1)(2) applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), **Sch. 2 para. 2(3)(4)** (with art. 6(2)))
- C6** S. 15(4) applied (19.2.2001) by 2000 c. 11, ss. 41, 53, **Sch. 7 para. 6**, **Sch. 8 para. 18(2)(b)**; S.I. 2001/421, **art. 2**
- C7** S. 15(4)-(6) applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), **Sch. 2 para. 2(3)(4)** (with art. 6(2)))

^{F19}15A Right of suspects to have access to a solicitor

- (1) This section applies to a person (“the suspect”) who—
- (a) is detained under section 14 of this Act,
 - (b) attends voluntarily at a police station or other premises or place for the purpose of being questioned by a constable on suspicion of having committed an offence, or
 - (c) is—
 - (i) arrested (but not charged) in connection with an offence, and
 - (ii) being detained at a police station or other premises or place for the purpose of being questioned by a constable in connection with the offence.
- (2) The suspect has the right to have intimation sent to a solicitor of any or all of the following—
- (a) the fact of the suspect's—
 - (i) detention,
 - (ii) attendance at the police station or other premises or place, or
 - (iii) arrest,

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- (as the case may be),
- (b) the police station or other premises or place where the suspect is being detained or is attending, and
 - (c) that the solicitor's professional assistance is required by the suspect.
- (3) The suspect also has the right to have a private consultation with a solicitor—
- (a) before any questioning of the suspect by a constable begins, and
 - (b) at any other time during such questioning.
- (4) Subsection (3) is subject to subsections (8) and (9).
- (5) In subsection (3), “consultation” means consultation by such means as may be appropriate in the circumstances, and includes, for example, consultation by means of telephone.
- (6) The suspect must be informed of the rights under subsections (2) and (3)—
- (a) on arrival at the police station or other premises or place, and
 - (b) in the case where the suspect is detained as mentioned in subsection (1)(a), or arrested as mentioned in subsection (1)(c), after such arrival, on detention or arrest (whether or not, in either case, the suspect has previously been informed of the rights by virtue of this subsection).
- (7) Where the suspect wishes to exercise a right to have intimation sent under subsection (2), the intimation must be sent by a constable—
- (a) without delay, or
 - (b) if some delay is necessary in the interest of the investigation or the prevention of crime or the apprehension of offenders, with no more delay than is necessary.
- (8) In exceptional circumstances, a constable may delay the suspect's exercise of the right under subsection (3) so far as it is necessary in the interest of the investigation or the prevention of crime or the apprehension of offenders that the questioning of the suspect by a constable begins or continues without the suspect having had a private consultation with a solicitor.
- (9) Subsection (3) does not apply in relation to the questioning of the suspect by a constable for the purpose of obtaining the information mentioned in section 14(10) of this Act.]

Textual Amendments

- F19** S. 15A inserted (30.10.2010) by [Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(asp 15\), ss. 1\(4\), 9](#) (with s. 4)

Modifications etc. (not altering text)

- C8** S. 15A(2)-(9) applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), Sch. 2 para. 2(3)(4) (with art. 6(2)))
- C9** S. 15A(2)-(9) applied (with modifications) by 1994 c. 33, s. 138(1B) (as inserted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), art. 1(2), **Sch. 2 para. 2(2)** (with art. 6(2)))

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16 Drunken persons: power to take to designated place.

- (1) Where a constable has power to arrest a person without a warrant for any offence and the constable has reasonable grounds for suspecting that that person is drunk, the constable may, if he thinks fit, take him to any place designated by the Secretary of State for the purposes of this section as a place suitable for the care of drunken persons.
- (2) A person shall not by virtue of this section be liable to be detained in any such place as is mentioned in subsection (1) above, but the exercise in his case of the power conferred by this section shall not preclude his being charged with any offence.

Status:

Point in time view as at 16/08/2013.

Changes to legislation:

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