



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART V

CHILDREN AND YOUNG PERSONS

43 Arrangements where children arrested

- (1) Where a person who is apparently a child is apprehended, with or without warrant, and cannot be brought forthwith before a sheriff, a police officer of the rank of inspector or above or the officer in charge of the police station to which he is brought, shall inquire into the case, and, subject to subsection (3) below, shall liberate him on a written undertaking being entered into by him or his parent or guardian that he will attend at the hearing of the charge.
- (2) An undertaking mentioned in subsection (1) above shall be signed by the child or, as the case may be, the parent or guardian and shall be certified by the officer mentioned in that subsection.
- (3) A person shall not be liberated under subsection (1) where—
 - (a) the charge is one of homicide or other grave crime;
 - (b) it is necessary in his interest to remove him from association with any reputed criminal or prostitute; or
 - (c) the officer has reason to believe that his liberation would defeat the ends of justice.
- (4) Where a person who is apparently a child having been apprehended is not liberated as mentioned in subsection (1) above, the police officer referred to in that subsection shall cause him to be kept in a place of safety other than a police station until he can be brought before a sheriff unless the officer certifies—
 - (a) that it is impracticable to do so;
 - (b) that he is of so unruly a character that he cannot safely be so detained; or
 - (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him,and the certificate shall be produced to the court before which he is brought.

Status: This is the original version (as it was originally enacted).

- (5) Where a person who is apparently a child has not been liberated as mentioned in subsection (1) above but has been kept under subsection (4) above, and it is decided not to proceed with the charge against him, a constable shall so inform the Principal Reporter.
- (6) Any person, who without reasonable excuse is in breach of an undertaking entered into by him under subsection (1) above after having been given due notice of the time and place of the diet, shall be guilty of an offence, and liable on summary conviction in addition to any other penalty which it is competent for the court to impose on him, to a fine not exceeding level 3 on the standard scale.
- (7) In any proceedings relating to an offence under this section, a writing, purporting to be such an undertaking as is mentioned in subsection (1) above and bearing to be signed and certified, shall be sufficient evidence of the undertaking given by the accused.