



Criminal Justice (Scotland) Act 2016

2016 asp 1

CRIMINAL JUSTICE (SCOTLAND) ACT 2016

PART 1

ARREST AND CUSTODY

CHAPTER 1

ARREST BY POLICE

Arrest without warrant

- 1 Power of a constable
- 2 Exercise of the power

Procedure following arrest

- 3 Information to be given on arrest
- 4 Arrested person to be taken to police station
- 5 Information to be given at police station
- 6 Information to be recorded by police

CHAPTER 2

CUSTODY: PERSON NOT OFFICIALLY ACCUSED

Keeping person in custody

- 7 Authorisation for keeping in custody
- 8 Information to be given on authorisation
- 9 12 hour limit: general rule
- 10 12 hour limit: previous period
- 11 Authorisation for keeping in custody beyond 12 hour limit
- 12 Information to be given on authorisation under section 11
- 13 Custody review
- 14 Test for sections 7, 11 and 13

15 Medical treatment

Investigative liberation

- 16 Release on conditions
- 17 Conditions ceasing to apply
- 18 Modification or removal of conditions
- 19 Review of conditions

CHAPTER 3**CUSTODY: PERSON OFFICIALLY ACCUSED***Person to be brought before court*

- 20 Information to be given if sexual offence
- 21 Person to be brought before court
- 22 Under 18s to be kept in place of safety prior to court
- 23 Notice to parent that under 18 to be brought before court
- 24 Notice to local authority that under 18 to be brought before court

Police liberation

- 25 Liberation by police
- 26 Release on undertaking
- 27 Modification of undertaking
- 28 Rescission of undertaking
- 29 Expiry of undertaking
- 30 Review of undertaking

CHAPTER 4**POLICE INTERVIEW***Rights of suspects*

- 31 Information to be given before interview
- 32 Right to have solicitor present
- 33 Consent to interview without solicitor

Person not officially accused

- 34 Questioning following arrest

Person officially accused

- 35 Authorisation for questioning
- 36 Authorisation: further provision
- 37 Arrest to facilitate questioning

CHAPTER 5**RIGHTS OF SUSPECTS IN POLICE CUSTODY**

Intimation and access to another person

- 38 Right to have intimation sent to other person
- 39 Right to have intimation sent: under 18s
- 40 Right of under 18s to have access to other person
- 41 Social work involvement in relation to under 18s

Vulnerable persons

- 42 Support for vulnerable persons

Intimation and access to a solicitor

- 43 Right to have intimation sent to solicitor
- 44 Right to consultation with solicitor

CHAPTER 6

POLICE POWERS AND DUTIES

Powers of police

- 45 Use of reasonable force
- 46 Common law power of entry
- 47 Common law power of search etc.
- 48 Power of search etc. on arrest
- 49 Taking drunk persons to designated place

Duties of police

- 50 Duty not to detain unnecessarily
- 51 Duty to consider child's wellbeing
- 52 Duties in relation to children in custody
- 53 Duty to inform Principal Reporter if child not being prosecuted

CHAPTER 7

GENERAL

Common law and enactments

- 54 Abolition of pre-enactment powers of arrest
- 55 Abolition of requirement for constable to charge
- 56 Consequential modification

Code of practice about investigative functions

- 57 Code of practice about investigative functions

Disapplication of Part

- 58 Disapplication in relation to service offences
- 59 Disapplication in relation to terrorism offences

Powers to modify Part

- 60 Further provision about application of Part

- 61 Further provision about vulnerable persons

Interpretation of Part

- 62 Meaning of constable
63 Meaning of officially accused
64 Meaning of police custody

PART 2

SEARCH BY POLICE

CHAPTER 1

SEARCH OF PERSON NOT IN POLICE CUSTODY

Lawfulness of search by constable

- 65 Limitation on what enables search
66 Cases involving removal of person
67 Public safety at premises or events
68 Duty to consider child's wellbeing

Miscellaneous and definitions

- 69 Publication of information by police
70 Provisions about possession of alcohol
71 Matters as to effect of sections 65, 66 and 70
72 Meaning of constable etc.

CHAPTER 2

CODE OF PRACTICE

Making and status of code

- 73 Contents of code of practice
74 Review of code of practice
75 Legal status of code of practice

Procedure applying to code

- 76 Consultation on code of practice
77 Bringing code of practice into effect

PART 3

SOLEMN PROCEDURE

- 78 Proceedings on petition
79 Pre-trial time limits
80 Duty of parties to communicate
81 First diets
82 Preliminary hearings
83 Plea of guilty

PART 4

SENTENCING

Maximum term for weapons offences

- 84 Maximum term for weapons offences

Prisoners on early release

- 85 Sentencing under the 1995 Act
86 Sentencing under the 1993 Act

PART 5

APPEALS AND SCCRC

Appeals

- 87 Preliminary pleas in summary cases
88 Preliminary diets in solemn cases
89 Extending certain time limits: summary
90 Extending certain time limits: solemn
91 Certain lateness not excusable
92 Advocation in solemn proceedings
93 Advocation in summary proceedings
94 Finality of appeal proceedings
95 Courts reform: spent provisions

SCCRC

- 96 References by SCCRC

PART 6

MISCELLANEOUS

CHAPTER 1

PUBLICATION OF PROSECUTORIAL TEST

- 97 Publication of prosecutorial test

CHAPTER 2

SUPPORT FOR VULNERABLE PERSONS

- 98 Meaning of appropriate adult support
99 Responsibility for ensuring availability of appropriate adults
100 Assessment of quality of appropriate adult support
101 Training for appropriate adults
102 Recommendations from quality assessor and training provider
103 Duty to ensure quality assessment takes place
104 Elaboration of regulation-making powers under this Chapter
105 Procedure for making regulations under this Chapter
106 Other powers of Ministers unaffected

CHAPTER 3

NOTIFICATION IF PARENT OF UNDER 18 IMPRISONED

- 107 Child's named person to be notified
- 108 Definition of certain expressions

CHAPTER 4

STATEMENTS AND PROCEDURE

Statements by accused

- 109 Statements by accused

Use of technology

- 110 Live television links
- 111 Electronic proceedings

CHAPTER 5

AUTHORISATION UNDER PART III OF THE POLICE ACT 1997

- 112 Authorisation of persons other than constables

CHAPTER 6

POLICE NEGOTIATING BOARD FOR SCOTLAND

- 113 Establishment and functions
- 114 Consequential and transitional

PART 7

FINAL PROVISIONS

Ancillary and definition

- 115 Ancillary regulations
- 116 Meaning of "the 1995 Act"

Commencement and short title

- 117 Commencement
- 118 Short title

SCHEDULE 1 — BREACH OF LIBERATION CONDITION

- 1 Offence of breaching condition
- 2 Sentencing for the offence
- 3 Breach by committing offence
- 4 Matters for paragraph 3(2)(b)
- 5 Matters for paragraph 3(2)(c)
- 6 Evidential presumptions

7 Interpretation

SCHEDULE 2 — MODIFICATIONS IN CONNECTION WITH PART 1

PART 1 — PROVISIONS AS TO ARREST

- 1 Criminal Procedure (Scotland) Act 1995
- 2 These provisions are repealed— (a) in section 13, subsection (7),...
- 3 (1) In section 234A, subsections (4A) and (4B) are repealed....
- 4 Miscellaneous enactments
- 5 In subsection (3) of section 1 of the Public Meeting...
- 6 In the Firearms Act 1968, section 50 is repealed.
- 7 In the Civic Government (Scotland) Act 1982—
- 8 In the Child Abduction Act 1984, section 7 is repealed....
- 9 In section 11 of the Protection of Badgers Act 1992,...
- 10 In the Criminal Justice and Public Order Act 1994, section...
- 11 In section 8B of the Olympic Symbol etc. (Protection) Act...
- 12 In the Criminal Law (Consolidation) (Scotland) Act 1995—
- 13 In the Deer (Scotland) Act 1996, section 28 is repealed....
- 14 In section 61 of the Crime and Punishment (Scotland) Act...
- 15 In section 7 of the Protection of Wild Mammals (Scotland)...
- 16 In the Fireworks Act 2003— (a) in section 11A, subsection...
- 17 In section 307 of the Criminal Justice Act 2003, subsection...
- 18 In the Antisocial Behaviour etc. (Scotland) Act 2004—
- 19 In section 130 of the Serious Organised Crime and Police...
- 20 In the Animal Health and Welfare (Scotland) Act 2006, in...
- 21 In the Prostitution (Public Places) (Scotland) Act 2007, section 2...
- 22 In section 32 of the Glasgow Commonwealth Games Act 2008,...
- 23 In section 7 of the Tobacco and Primary Medical Services...
- 24 In each of sections 169(2) and 170(2) of the Children's...
- 25 In section 9 of the Forced Marriage etc. (Protection and...

PART 2 — FURTHER MODIFICATIONS

- 26 The 1995 Act
- 27 These provisions are repealed— (a) sections 14 to 17A,
- 28 (1) In section 18— (a) in subsection (1), the words...
- 29 In section 28— (a) after subsection (1) there is inserted—...
- 30 After section 28 there is inserted— Application of the Criminal...
- 31 In section 42— (a) subsection (3) is repealed,
- 32 In section 74, after paragraph (a) of subsection (2) there...
- 33 In section 79— (a) for subsection (2)(b)(ii) there is substituted—...
- 34 Before section 261A there is inserted— Statements made after charge...
- 35 Other enactments
- 36 In section 6D of the Road Traffic Act 1988, for...
- 37 In Schedule 8 to the Terrorism Act 2000—
- 38 In the schedule to the Sexual Offences (Procedure and Evidence)...
- 39 In the Criminal Procedure (Legal Assistance, Detention and Appeals)
(Scotland)...
- 40 In the Children's Hearings (Scotland) Act 2011—
- 41 In section 20 of the Police and Fire Reform (Scotland)...

SCHEDULE 3 — POLICE NEGOTIATING BOARD FOR SCOTLAND