



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 1

ARREST BY POLICE

Procedure following arrest

3 Information to be given on arrest

When a constable arrests a person (or as soon afterwards as is reasonably practicable), a constable must inform the person—

- (a) that the person is under arrest,
- (b) of the general nature of the offence in respect of which the person is arrested,
- (c) of the reason for the arrest,
- (d) that the person is under no obligation to say anything, other than to give the information specified in section 34(4), and
- (e) of the person's right to have—
 - (i) intimation sent to a solicitor under section 43, and
 - (ii) access to a solicitor under section 44.

4 Arrested person to be taken to police station

- (1) Where a person is arrested by a constable outwith a police station, a constable must take the person as quickly as is reasonably practicable to a police station.
- (2) Subsection (1) ceases to apply, and the person must be released from police custody immediately, if—
 - (a) the person has been arrested without a warrant,
 - (b) the person has not yet arrived at a police station in accordance with this section, and

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- (c) in the opinion of a constable there are no reasonable grounds for suspecting that the person has committed—
 - (i) the offence in respect of which the person was arrested, or
 - (ii) an offence arising from the same circumstances as that offence.
- (3) For the avoidance of doubt, subsection (1) ceases to apply if, before arriving at a police station in accordance with this section, the person is released from custody under—
 - (a) section 25(2), or
 - (b) section 28(3A) of the 1995 Act.

5 Information to be given at police station

- (1) Subsections (2) and (3) apply when—
 - (a) a person is in police custody having been arrested at a police station, or
 - (b) a person is in police custody and has been taken to a police station in accordance with section 4.
- (2) The person must be informed as soon as reasonably practicable—
 - (a) that the person is under no obligation to say anything, other than to give the information specified in section 34(4),
 - (b) of any right the person has to have intimation sent and to have access to certain persons under—
 - (i) section 38,
 - (ii) section 40,
 - (iii) section 43,
 - (iv) section 44.
- (3) The person must be provided as soon as reasonably practicable with such information (verbally or in writing) as is necessary to satisfy the requirements of Articles 3 and 4 of Directive 2012/13/EU of the European Parliament and of the Council on the right to information in criminal proceedings.

6 Information to be recorded by police

- (1) There must be recorded in relation to any arrest by a constable—
 - (a) the time and place of arrest,
 - (b) the general nature of the offence in respect of which the person is arrested,
 - (c) if the person is taken from one place to another while in police custody (including to a police station in accordance with section 4)—
 - (i) the place from which, and time at which, the person is taken, and
 - (ii) the place to which the person is taken and the time at which the person arrives there,
 - (d) the time at which, and the identity of the constable by whom, the person is informed of the matters mentioned in section 3,
 - (e) the time at which the person ceases to be in police custody.
- (2) Where relevant, there must be recorded in relation to an arrest by a constable—
 - (a) the reason that the constable who released the person from custody under subsection (2) of section 4 formed the opinion mentioned in paragraph (c) of that subsection,

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- (b) the time at which, and the identity of the person by whom, the person is—
 - (i) informed of the matters mentioned in subsection (2) of section 5, and
 - (ii) provided with information in accordance with subsection (3) of that section,
 - (c) the time at which, and the identity of the person by whom, the person is informed of the matters mentioned in section 20,
 - (d) the time at which the person requests that intimation be sent under—
 - (i) section 38,
 - (ii) section 43,
 - (e) the time at which intimation is sent under—
 - (i) section 38,
 - (ii) section 41,
 - (iii) section 42,
 - (iv) section 43.
- (3) Where a person is in police custody and not officially accused of committing an offence, there must be recorded the time, place and outcome of any decision under section 7.
- (4) Where a person is held in police custody by virtue of authorisation given under section 7 there must be recorded—
 - (a) the time at which the person is informed of the matters mentioned in section 8,
 - (b) the time, place and outcome of any custody review under section 13,
 - (c) the time at which any interview in the circumstances described in section 15(6) begins and the time at which it ends.
- (5) If a constable considers whether to give authorisation under section 11 there must be recorded—
 - (a) whether a reasonable opportunity to make representations has been afforded in accordance with subsection (4)(a) of that section,
 - (b) if the opportunity referred to in paragraph (a) has not been afforded, the reason for that,
 - (c) the time, place and outcome of the constable's decision, and
 - (d) if the constable's decision is to give the authorisation—
 - (i) the grounds on which it is given,
 - (ii) the time at which, and the identity of the person by whom, the person is informed and reminded of things in accordance with section 12, and
 - (iii) the time at which the person requests that intimation be sent under section 12(3)(a) and the time at which it is sent.
- (6) Where a person is held in police custody by virtue of authorisation given under section 11 there must be recorded—
 - (a) the time, place and outcome of any custody review under section 13,
 - (b) the time at which any interview in the circumstances described in section 15(6) begins and the time at which it ends.
- (7) If a person is released from police custody on conditions under section 16, there must be recorded—
 - (a) details of the conditions imposed, and
 - (b) the identity of the constable who imposed them.

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- (8) If a person is charged with an offence by a constable while in police custody, there must be recorded the time at which the person is charged.