



# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 2

#### SEARCH BY POLICE

#### CHAPTER 1

##### SEARCH OF PERSON NOT IN POLICE CUSTODY

###### *Miscellaneous and definitions*

#### **69 Publication of information by police**

- (1) The Police Service of Scotland must ensure that, as soon as practicable after the end of each reporting year, information is published on how many times during the reporting year a search was carried out by a constable—
  - (a) of a person not in police custody, and
  - (b) otherwise than under the authority of a warrant expressly conferring a power of search.
- (2) So far as practicable, the information is to disclose (in addition)—
  - (a) how many persons were searched on two or more occasions,
  - (b) the age and gender, and the ethnic and national origin, of the persons searched,
  - (c) the proportion of searches that resulted in—
    - (i) something being seized by a constable,
    - (ii) a case being reported to the procurator fiscal,
  - (d) the number of complaints made to the Police Service of Scotland about the carrying out of searches (or the manner in which they were carried out).
- (3) In this section, “reporting year” means a yearly period ending on 31 March.

#### **Commencement Information**

**II** [S. 69](#) in force at 11.5.2017 by [S.S.I. 2017/99](#), [art. 2\(e\)](#) (with [art. 6](#))

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Criminal Justice (Scotland) Act 2016, Cross Heading: Miscellaneous and definitions is up to date with all changes known to be in force on or before 06 January 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) View outstanding changes*

## PROSPECTIVE

### 70 Provisions about possession of alcohol

- (1) The Scottish Ministers may by regulations amend section 61 (confiscation of alcohol from persons under 18) of the Crime and Punishment (Scotland) Act 1997 so as to confer on a constable a power, exercisable in addition to the power in subsection (1) or (2) of that section—
  - (a) to search a person for alcoholic liquor,
  - (b) to dispose of anything found in the person's possession that the constable believes to be such liquor.
- (2) Prior to laying before the Scottish Parliament a draft of an instrument containing regulations under this section, the Scottish Ministers must—
  - (a) consult publicly on the regulations that they are proposing to make,
  - (b) send a copy of the proposed regulations to—
    - (i) the chief constable of the Police Service of Scotland,
    - [<sup>F1</sup>(ia) the chief constable of the British Transport Police Force,
    - (ib) the chief constable of the Civil Nuclear Constabulary,
    - (ic) the chief constable of the Ministry of Defence Police,]
    - (ii) the Scottish Human Rights Commission,
    - (iii) the Commissioner for Children and Young People in Scotland, and
    - (iv) such other persons as the Scottish Ministers consider appropriate.
- (3) When laying before the Scottish Parliament a draft of an instrument containing regulations under this section, the Scottish Ministers must also so lay a statement—
  - (a) giving reasons for wishing to make the regulations as currently framed (and confirming whether the regulations will amend the relevant enactment in the same way as shown in the proposed regulations),
  - (b) summarising—
    - (i) the responses received by them to the public consultation on the proposed regulations,
    - (ii) the representations made to them by the persons to whom a copy of the proposed regulations was sent.
- (4) Regulations under this section are subject to the affirmative procedure.

#### Textual Amendments

- F1** S. 70(2)(b)(ia)-(ic) inserted (17.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), arts. 2(1)(e), **24(3)**

### 71 Matters as to effect of sections 65, 66 and 70

- (1) The day appointed for the coming into force of sections 65 and 66 is to be the same as the day from which a code of practice required by section 73(1) has effect by virtue of the first regulations made under section 77.

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- (2) If no regulations under section 70 are made before the end of the 2 years beginning with the day from which a code of practice required by section 73(1) has effect by virtue of the first regulations made under section 77, section 70 is to be regarded as repealed at the end of that period.

## 72 Meaning of constable etc.

In this Chapter—

“constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012,

“police custody” has the same meaning as given for the purposes of Part 1 (see section 64).

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### Commencement Information

**I2** [S. 72](#) in force at 11.5.2017 by [S.S.I. 2017/99](#), [art. 2\(f\)](#) (with [art. 6](#))

**Status:**

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**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)