

CRIMINAL JUSTICE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

OVERVIEW OF THE ACT

Part 1 – Arrest and Custody

Chapter 4 – Police interview

Rights of suspects

Section 33 – Consent to interview without solicitor

95. Subsection (2)(a) provides that a person under 16 years of age may not consent to be interviewed without a solicitor present.
96. Subsection (2)(b) provides that a person aged 16 or 17 and subject to a compulsory supervision order or an interim compulsory supervision order made under the Children’s Hearings (Scotland) Act 2011 may not consent to be interviewed without a solicitor present.
97. Subsection (2)(c) provides that a person aged 16 years and over and, owing to a mental disorder (as defined in subsection (6)(a)), is considered by a constable to be unable to understand sufficiently what is happening or to communicate effectively with the police, may not consent to be interviewed without a solicitor present.
98. Subsections (3), (4) and (5) provide that a person who is 16 or 17 years of age and not subject to a compulsory supervision order or interim compulsory supervision order or suffering from a mental disorder may consent to be interviewed without a solicitor present with the agreement of a “relevant person”. If the person aged 16 or 17 years is in police custody, a “relevant person” means any person who could by virtue of section 40(2) visit the person. If the person aged 16 or 17 is not in police custody, a “relevant person” means a person who is at least 18 years of age and is reasonably named by the 16 or 17 year old.