



# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 2

#### SEARCH BY POLICE

#### CHAPTER 1

#### SEARCH OF PERSON NOT IN POLICE CUSTODY

##### *Lawfulness of search by constable*

#### 66 Cases involving removal of person

- (1) A person who is not in police custody may be searched by a constable while the person is to be, or is being, taken to or from any place—
  - (a) by virtue of any enactment, warrant or court order requiring or permitting the constable to do so, or
  - (b) in circumstances in which the constable believes that it is necessary to do so with respect to the care or protection of the person.
- (2) A search under this section is to be carried out for the purpose of ensuring that the person is not in, or does not remain in, possession of any item or substance that could cause harm to the person or someone else.
- (3) Anything seized by a constable in the course of a search carried out under this section may be retained by the constable.

#### **Modifications etc. (not altering text)**

- C1** Pt. 2 applied (with modifications) by 2003 c. 20, s. 31A (as inserted (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), art. 2(2)(a)(f), [Sch. 2 para. 2](#) (with art. 6))
- C2** Pt. 2 applied (with modifications) by 2004 c. 20, s. 56A (as inserted (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), art. 2(2)(a)(f), [Sch. 2 para. 3](#) (with art. 6))

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**Changes to legislation:** *Criminal Justice (Scotland) Act 2016, Section 66 is up to date with all changes known to be in force on or before 11 April 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*

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- C3** Pt. 2 applied (with modifications) by 1987 c. 4, s. 2D (as inserted (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), art. 2(2)(a)(f), **Sch. 2 para. 1** (with art. 6))
- C4** S. 66 applied (with modifications) (25.1.2018) by [The Police Investigations and Review Commissioner \(Application and Modification of the Criminal Justice \(Scotland\) Act 2016\) Order 2017 \(S.S.I. 2017/465\)](#), arts. 14
- C5** S. 66 applied (with modifications) (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), art. 2(2)(a)(f), **Sch. 3 Pt. 2** (with art. 7, Sch. 3 Pts. 5, 6)
- C6** S. 66 applied (with modifications) (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), art. 2(2)(a)(f), **Sch. 3 Pt. 3** (with art. 7, Sch. 3 Pts. 5, 6)
- C7** S. 66 applied (with modifications) (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), art. 2(2)(a)(f), **Sch. 3 Pt. 4** (with art. 7, Sch. 3 Pts. 5, 6)

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#### **Commencement Information**

- I1** S. 66 in force at 11.5.2017 by [S.S.I. 2017/99](#), **art. 2(b)** (with art. 6)

**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\(a\)](#)