



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 4

POLICE INVESTIGATORY AND OTHER POWERS

CHAPTER 2

SEARCH OF CHILDREN UNDER 12

Search under order

36 Order authorising search in relation to child under 12

- (1) This section applies where a constable makes an application under section 34 in respect of a child.
- (2) The sheriff may make an order authorising any of the actions mentioned in subsection (4) if satisfied that there are reasonable grounds to suspect that—
 - (a) the child—
 - (i) by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or
 - (ii) by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person, and
 - (b) evidence relevant to the investigation of that behaviour may be found on the child, on any premises or in any vehicle.
- (3) In considering the matters mentioned in subsection (2), the sheriff must have regard to—
 - (a) the nature and seriousness of the child's behaviour,
 - (b) whether making the order is appropriate given the child's circumstances (including the child's age and any matter related to the child's behaviour).

Changes to legislation: *Age of Criminal Responsibility (Scotland) Act 2019, Section 36 is up to date with all changes known to be in force on or before 19 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*

- (4) The actions referred to in subsection (2) are—
- (a) the search of the child,
 - (b) the entry to and search of any premises,
 - (c) the entry to and search of any vehicle,
 - (d) the seizure of anything the constable may find on the child or on premises or in the vehicle.
- (5) An order under this section authorises such of the actions mentioned in subsection (4) as are specified in the order for a period of 7 days beginning with the day on which the order is made.
- (6) A constable who enters any unoccupied premises by virtue of this section must leave the premises as effectively secured against unauthorised entry as the constable found them.
- (7) In this section—
- “premises” includes—
- (a) land,
 - (b) buildings (including a building used as a dwelling),
 - (c) a caravan, houseboat or other moveable structure used as a dwelling,
- “vehicle” includes a vessel.

Modifications etc. (not altering text)

- C1** Pt. 4 applied (with modifications) (17.12.2021) by 2004 c. 20, s. 56B (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **19**)
- C2** Pt. 4 applied (with modifications) (17.12.2021) by 1987 c. 4, s. 2E (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **17**)
- C3** Pt. 4 applied (with modifications) (17.12.2021) by 2003 c. 20, s. 31B (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **18**)

Commencement Information

- I1** S. 36 in force at 17.12.2021 by [S.S.I. 2021/449](#), **reg. 2**

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1A) inserted by [2020 asp 13 sch. 5 para. 7\(8\)\(b\)](#)
- s. 20A inserted by [2020 asp 13 sch. 5 para. 7\(9\)](#)