



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 4

POLICE INVESTIGATORY AND OTHER POWERS

CHAPTER 3

QUESTIONING OF CERTAIN CHILDREN

Limitation on police questioning

39 Limitation on police questioning of certain children

- (1) This section applies where a constable has reasonable grounds to suspect that a child, while under 12 years of age—
 - (a) by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or
 - (b) by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person.
- (2) The child may not be questioned by a constable, or subjected to an investigative interview, in relation to the incident mentioned in subsection (1) unless the questioning or interview is authorised—
 - (a) by virtue of section 40(2),
 - (b) by an order under section 44 (a “child interview order”), or
 - (c) by virtue of section 54.
- (3) In this Chapter—

“child” means a person—

 - (a) who is under 16 years of age, or
 - (b) who is—
 - (i) 16 or 17 years of age, and

Changes to legislation: *Age of Criminal Responsibility (Scotland) Act 2019, Section 39 is up to date with all changes known to be in force on or before 05 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*

- (ii) subject to a compulsory supervision order, or an interim compulsory supervision order, made under the 2011 Act,
 “investigative interview” means a meeting, or series of meetings—
- (a) planned by a constable in collaboration with a local authority, and
 - (b) conducted—
 - (i) by a constable or an officer of a local authority, or
 - (ii) jointly by a constable and an officer of a local authority,

for the purpose of seeking information from a child in relation to an incident which is the subject of a police investigation,

references to a constable questioning a child include references to a constable causing a child to be questioned by another person (and cognate expressions are to be construed accordingly).

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. 39 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\(9\)](#)