



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

Status: This is the original version (as it was originally enacted).

- (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).