



# Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

## PART 4

### POLICE INVESTIGATORY AND OTHER POWERS

#### CHAPTER 3

##### QUESTIONING OF CERTAIN CHILDREN

###### *Planning and conduct of investigative interviews*

#### **50 Right to have supporter present**

- (1) This section applies where an investigative interview of a child is authorised—
  - (a) by virtue of section 40(2), or
  - (b) by a child interview order made in respect of the child.
- (2) The child has the right, during the investigative interview, to have another person (a “supporter”) present in the room in which the interview is being conducted.
- (3) The supporter must not be denied access to the child at any time during the interview.
- (4) Subsections (2) and (3) do not apply if (but only for as long as)—
  - (a) a relevant constable, and
  - (b) an officer of the relevant local authority,agree that the supporter's absence from the room in which the interview is being conducted is necessary (including where it is necessary to safeguard or promote the child's wellbeing).
- (5) A “relevant constable” is a constable—
  - (a) who is of the rank of sergeant or above, and
  - (b) who has not been involved in the investigation of the incident to which the interview relates (including in the planning and conduct of the interview).

**Changes to legislation:** *Age of Criminal Responsibility (Scotland) Act 2019, Section 50 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*

- (6) Where the investigative interview is authorised—
- (a) by virtue of section 40, the child's supporter must be the parent who has given agreement under subsection (1)(c)(ii) of that section to the interview being conducted,
  - (b) by a child interview order, the child's supporter—
    - (i) must be aged 18 or over,
    - (ii) may, but need not, be a parent of the child.
- (7) The child's supporter is to be a person considered appropriate by the person conducting the interview.
- (8) In considering for the purpose of subsection (7) whether a person is appropriate, the person conducting the interview is—
- (a) so far as reasonably practicable, to ascertain the views of the child, and
  - (b) to have regard to any views ascertained.
- (9) In having regard to the views of the child under subsection (8), the person conducting the interview is to take account of the child's age and maturity.
- (10) Subsection (11) applies where—
- (a) the child's supporter is required by subsection (6)(a) to be a particular person, and
  - (b) the person conducting the interview does not consider that person to be an appropriate person to be the child's supporter.
- (11) The agreement of the person required by subsection (6)(a) to be the child's supporter to the investigative interview being conducted is to be treated as withdrawn.

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

**Changes to legislation:**

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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\(9\)](#)