



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1 **S**

ARREST AND CUSTODY

CHAPTER 3 **S**

CUSTODY: PERSON OFFICIALLY ACCUSED

Police liberation

28 Rescission of undertaking **S**

- (1) The procurator fiscal may by notice rescind an undertaking given under section 25(2)
 - (a) (whether or not the person who gave it is to be prosecuted).
- (2) The rescission of an undertaking by virtue of subsection (1) takes effect at the end of the day on which the notice is sent.
- (3) Notice under subsection (1) must be effected in a manner by which citation may be effected under section 141 of the 1995 Act.
- (4) A constable may arrest a person without a warrant if the constable has reasonable grounds for suspecting that the person is likely to fail to comply with the terms of an undertaking given under section 25(2)(a).
- (5) Where a person is arrested under subsection (4) or subsection (6) applies—
 - (a) the undertaking referred to in subsection (4) or (as the case may be) (6) is rescinded, and
 - (b) this Part applies as if the person, since being most recently arrested, has been charged with the offence in connection with which the person was in police custody when the undertaking was given.
- (6) This subsection applies where—

Changes to legislation: *Criminal Justice (Scotland) Act 2016, Section 28 is up to date with all changes known to be in force on or before 22 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*

- (a) a person who is subject to an undertaking given under section 25(2)(a) is in police custody (otherwise than as a result of having been arrested under subsection (4)), and
 - (b) a constable has reasonable grounds for suspecting that the person has failed, or (if liberated) is likely to fail, to comply with the terms of the undertaking.
- (7) The references in subsections (4) and (6)(b) to the terms of the undertaking are to the terms of the undertaking subject to any modification by—
- (a) notice under section 27(1), or
 - (b) the sheriff under section 30(3)(b).

Commencement Information

II S. 28 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#) (with art. 4)

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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\(a\)](#)