



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 4

POLICE INVESTIGATORY AND OTHER POWERS

CHAPTER 3

QUESTIONING OF CERTAIN CHILDREN

Questioning in urgent cases

54 Questioning of child in urgent cases

- (1) This section applies where a constable has reasonable grounds to suspect that—
 - (a) a child, while under 12 years of age, by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, and
 - (b) there is a risk of loss of life if the child is not questioned immediately.
- (2) The constable may, in so far as necessary to prevent loss of life, question the child about the child's behaviour and the circumstances surrounding it if authorised to do so by a relevant senior officer under subsection (3).
- (3) The relevant senior officer may authorise the constable to question the child as mentioned in subsection (2) only if that officer is satisfied that—
 - (a) there are reasonable grounds to suspect that the child, while under 12 years of age, by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person,
 - (b) questioning of the child is necessary to properly investigate the child's behaviour and the circumstances surrounding it (including whether a person other than the child has committed an offence), and
 - (c) it is not practicable to apply for a child interview order authorising an investigative interview of the child because there is a risk of loss of life if the child is not questioned immediately.

- (4) In considering the matters mentioned in subsection (3), the relevant senior officer must have regard to—
 - (a) the nature and seriousness of the child’s behaviour,
 - (b) whether the questioning of the child is appropriate given the child’s circumstances (including the child’s age and any matter related to the child’s behaviour).
- (5) A child in respect of whom authorisation under subsection (3) is granted is not required to answer questions during the questioning authorised by that subsection.
- (6) In this section, a “relevant senior officer” is an officer of the rank of superintendent or above.

55 Procedure following authorisation of questioning under section 54

- (1) This section applies where the questioning of a child is authorised by section 54.
- (2) The constable authorised under section 54 to question the child must inform the child—
 - (a) that the questioning of the child has been authorised under section 54, and
 - (b) that the child has the right not to answer questions.
- (3) A constable must, in so far as practicable, inform a parent of the child about the authorisation under section 54.
- (4) Subsection (3) need not be complied with if the constable reasonably suspects that informing a parent of the child would exacerbate the risk of loss of life.
- (5) A constable must inform a child interview rights practitioner about the authorisation under section 54.
- (6) A constable must, as soon as reasonably practicable after authorisation is granted under section 54, apply for a child interview order authorising an investigative interview of the child in relation to the behaviour mentioned in section 54(1).