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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 345**

**The Criminal Justice (Scotland) Act 2016 (Commencement  
No. 5, Transitional and Saving Provisions) Order 2017**

**Interpretation**

2.—(1) In this Order—

“constable” means—

- (a) a constable within the meaning given by section 62 of the 2016 Act; and
- (b) a member of the staff of the Police Investigations and Review Commissioner designated under paragraph 7B of schedule 4 of the Police, Public Order and Criminal Justice (Scotland) Act 2006(1)—
  - (i) to take charge of any investigation on behalf of the Commissioner; or
  - (ii) to assist a member of the Commissioner’s staff designated to take charge of such an investigation.

“detained” means detained under section 14 of the 1995 Act, and “detention” is to be construed accordingly;

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(2);

“the 2016 Act” means the Criminal Justice (Scotland) Act 2016;

“the appointed day” means the day appointed by article 3.

(2) For the purposes of this Order, a person is in police custody from the time the person is arrested or detained by a constable until any one of the events mentioned in paragraph (3) occurs.

(3) The events are—

- (a) the person is released from custody;
- (b) the person is brought before a court in accordance with any enactment or rule of law or the terms of any warrant;
- (c) the Principal Reporter makes a direction under section 65(2)(b) of the Children’s Hearings (Scotland) Act 2011(3) that the person continue to be kept in a place of safety.

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(1) [2006 asp 10](#). Paragraph 7B of schedule 4 was inserted by the Police and Fire Reform (Scotland) Act [2012 asp 8](#) schedule 7(1) paragraph 33(17)(c).

(2) [1995 c.46](#). Section 14 was amended by the Police, Public Order and Criminal Justice (Scotland) Act [2006 \(asp 10\)](#) section 81(6) and the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act [2010 \(asp 15\)](#) (“the 2010 Act”) sections 1(2) and 3(1).

(3) [2011 asp 1](#). Section 65(2) is amended by schedule 2 paragraph 40(a)(ii) of the 2016 Act.