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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 452**

**The Criminal Justice (Scotland) Act 2016 (Consequential and Supplementary Modifications) Regulations 2017**

**Consequential and supplementary modifications of enactments**

2.—(1) The schedule contains modifications of enactments consequential on and supplementary to the Criminal Justice (Scotland) Act 2016 (“the 2016 Act”).

(2) Paragraphs 1, 7, 12(2) and 13 to 18 of the schedule do not apply in respect of any matter arising from an arrest or detention of a person by a constable where—

- (a) the arrest or detention takes place before the appointed day; and
- (b) the person remains in police custody following that arrest or detention at the beginning of the appointed day.

(3) In this regulation—

“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<sup>(1)</sup>—
  - (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;

“detention” means detention under section 14 of the Criminal Procedure (Scotland) Act 1995<sup>(2)</sup>, and “detained” is to be construed accordingly;

“the appointed day” means 25th January 2018.

(4) For the purposes of this regulation, a person is in police custody from the time when the person is arrested or detained by a constable until any one of the events mentioned in paragraph (5) occurs.

(5) 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<sup>(3)</sup> 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) 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.