



Criminal Justice (Scotland) Act 1980

1980 CHAPTER 62

PART I

POLICE POWERS

1 Suspect or potential witness may be required by constable to identify himself.

- (1) Where a constable has reasonable grounds for suspecting that a person has committed or is committing an offence at any place, he may require—
 - (a) that person, if the constable finds him at that place or at any place where the constable is entitled to be, to give his name and address and may ask him for an explanation of the circumstances which have given rise to the constable's suspicion;
 - (b) any other person whom the constable finds at that place or at any place where the constable is entitled to be and who the constable believes has information relating to the offence, to give his name and address.

- (2) The constable may require the person mentioned in paragraph (a) of subsection (1) above to remain with him while he (either or both)—
 - (a) verifies any name and address given by the person:

Provided that the constable shall exercise his power under this paragraph only where it appears to him that such verification can be obtained quickly;

- (b) notes any explanation proffered by the person.
- (3) A constable may use reasonable force to ensure that the person mentioned in paragraph (a) of subsection (1) above remains with him.
- (4) A constable shall inform a person, when making a requirement of that person under—
 - (a) paragraph (a) of subsection (1) above, of his suspicion and of the general nature of the offence which he suspects that the person has committed or is committing;
 - (b) paragraph (b) of subsection (1) above, of his suspicion, of the general nature of the offence which he suspects has been or is being committed and that

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- the reason for the requirement is that he believes the person has information relating to the offence;
- (c) subsection (2) above, of why the person is being required to remain with him;
- (d) either of the said subsections, that failure to comply with the requirement may constitute an offence.
- (5) A person mentioned in—
- (a) paragraph (a) of subsection (1) above who having been required—
- (i) under that subsection to give his name and address; or
- (ii) under subsection (2) above to remain with a constable,
- fails, without reasonable excuse, to do so, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F1}level 3 on the standard scale].
- (b) paragraph (b) of the said subsection (1) who having been required under that subsection to give his name and address fails, without reasonable excuse, to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F2}level 2 on the standard scale].
- (6) A constable may arrest without warrant any person who he has reasonable grounds for suspecting has committed an offence under subsection (5) above.

Textual Amendments

- F1** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289G](#)
- F2** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289G](#)

2 Detention and questioning at police station.

- (1) Where a constable has reasonable grounds for suspecting that a person has committed or is committing an offence punishable by imprisonment, the constable may, for the purpose of facilitating the carrying out of investigations—
- (a) into the offence; and
- (b) as to whether criminal proceedings should be instigated against the person,
- detain that person and take him as quickly as is reasonably practicable to a police station or other premises and, subject to the following provisions of this section, the detention may continue there.
- (2) Detention under subsection (1) above shall be terminated not more than six hours after it begins or (if earlier)—
- (a) when the person is arrested; . . . ^{F3}
- [^{F4}(aa) when he is detained in pursuance of any other enactment or subordinate instrument; or]
- (b) where there are no longer such grounds as are mentioned in the said subsection (1);
- and when a person has been detained under subsection (1) above [^{F5}he shall be informed immediately upon the termination of his detention in accordance with this subsection] that his detention has been terminated.
- (3) Where a person has been released at the termination of a period of detention under subsection (1) above he shall not thereafter be detained, under that subsection, on the same grounds or on any grounds arising out of the same circumstances.

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[^{F6}(3A) Where a person has previously been detained in pursuance of any other enactment or subordinate instrument, he may not be detained under subsection (1) above on the same grounds or on grounds arising from the same circumstances as those which led to his earlier detention.]

(4) At the time when a constable detains a person under subsection (1) above, he shall inform the person of his suspicion, of the general nature of the offence which he suspects has been or is being committed and of the reason for the detention; and there shall be recorded—

- (a) the place where detention begins and the police station or other premises to which the person is taken;
- (b) the general nature of the suspected offence;
- (c) the time when detention under subsection (1) above begins and the time of the person's arrival at the police station or other premises;
- (d) the time when the person is informed of his rights in terms of subsection (7) below and of subsection (1)(b) of section 3 of this Act and the identity of the constable so informing him;
- (e) where the person requests such intimation to be sent as is specified in section 3(1)(b) of this Act, the time when such request is—
 - (i) made;
 - (ii) complied with; and
- (f) the time of the person's departure from the police station or other premises or, where instead of being released he is arrested in respect of the alleged offence, the time of such arrest.

(5) Where a person is detained under subsection (1) above, a constable may—

- (a) put questions to him in relation to the suspected offence:

Provided that this paragraph shall be without prejudice to any existing rule of law as regards the admissibility in evidence of any answer given;

- (b) exercise the same powers of search as are available following an arrest; and
- (c) take fingerprints, palmprints and such other prints and impressions as the constable may, having regard to the circumstances of the suspected offence, reasonably consider appropriate:

Provided that the record of the prints and impressions so taken shall be destroyed immediately following a decision not to institute criminal proceedings against the person or on the conclusion of such proceedings otherwise than with a conviction or an order under section 182 or 383 (absolute discharge) or 183(1) or 384(1) (probation) of the 1975 Act.

(6) A constable may use reasonable force in exercising any power conferred by subsection (1), or by paragraph (b) or (c) of subsection (5), above.

(7) A person detained under subsection (1) above shall be under no obligation to answer any question other than to give his name and address, and a constable shall so inform him both on so detaining him and on arrival at the police station or other premises.

Textual Amendments

F3 Word repealed by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(1), [Sch. 1 para. 16\(a\)](#)

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- F4** S. 2(2)(aa) inserted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 16(a)**
- F5** Words substituted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), s. 70(1), **Sch. 1 para. 16(b)**
- F6** S. 2(3A) inserted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 16(c)**

3 Right to have someone informed when arrested or detained.

- (1) Without prejudice to section 19 or 305 of the 1975 Act (intimation to solicitor following arrest), a person who, not being a person in respect of whose custody or detention subsection (3) below applies—
- (a) has been arrested and is in custody in a police station or other premises, shall be entitled to have intimation of his custody and of the place where he is being held sent, to a person reasonably named by him;
 - (b) is being detained under section 2 of this Act in a police station or other premises, shall be entitled to have intimation of his detention and of the place where he is being detained sent, to a solicitor and to one other person reasonably named by him,
- without delay or, where some delay is necessary in the interest of the investigation or the prevention of crime or the apprehension of offenders, with no more delay than is so necessary; and the person shall be informed of such entitlement—
- (i) on arrival at the police station or other premises; or
 - (ii) where he is not arrested, or as the case may be detained, until after such arrival, on such arrest or detention.
- (2) Where the person mentioned in paragraph (a) of subsection (1) above requests such intimation to be sent as is specified in that paragraph there shall be recorded the time when such request is—
- (i) made;
 - (ii) complied with.
- (3) Without prejudice to the said section 19 or 305, a constable shall, where a person who has been arrested and is in such custody as is mentioned in paragraph (a) of subsection (1) above or who is being detained as is mentioned in paragraph (b) of that subsection appears to him to be a child, send without delay such intimation as is mentioned in the said paragraph (a), or as the case may be paragraph (b), to that person's parent if known; and the parent—
- (a) in a case where there is reasonable cause to suspect that he has been involved in the alleged offence in respect of which the person has been arrested or detained, may; and
 - (b) in any other case shall,
- be permitted access to the person.
- (4) The nature and extent of any access permitted under subsection (3) above shall be subject to any restriction essential for the furtherance of the investigation or the well-being of the person.
- (5) In subsection (3) above—
- (a) “child” means a person under 16 years of age; and

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- (b) “parent” includes guardian [^{F7}and any person who has the actual custody of a child].

Textual Amendments

- F7** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 39:1\) s. 59, Sch. 2 para. 23](#)

Modifications etc. (not altering text)

- C1** [S. 3\(1\)\(2\)](#) extended by [Matrimonial Homes \(Family Protection\) \(Scotland\) Act 1981 \(c. 59\), s. 17\(3\)](#)

[^{F8}3A **Rights of persons arrested or detained in connection with terrorism.**

- (1) A person who has been arrested or detained under the terrorism provisions and who is in detention in a police station or other premises shall be entitled to have intimation of his detention and of the place where he is being detained sent without delay to a solicitor and to another person reasonably named by him:

Provided that a police officer not below the rank of superintendent may authorise a delay (not extending longer than the period of 48 hours from the start of the detention) where, in his view, such delay is necessary on one of the grounds mentioned in section 3C(3) of this Act.

- (2) Where a person arrested or detained under the terrorism provisions requests that the intimation be made, there shall be recorded the time when such request is—
- made; and
 - complied with.
- (3) A person arrested or detained under the terrorism provisions shall be entitled to consult a solicitor at any time, without delay:

Provided that a police officer not below the rank of superintendent may authorise a delay (not extending longer than the period of 48 hours from the start of the detention) where, in his view, such delay is necessary on one of the grounds mentioned in section 3C(3) of this Act.

- (4) Subject to section 3C of this Act the consultation provided for in subsection (3) above shall be private.]

Textual Amendments

- F8** [Ss. 3A–3D](#) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36\), s. 35](#)

3B Provisions as to children detained in connection with terrorism.

- (1) Subject to the provisions of this section the provisions of section 3A of this Act apply to children as they apply to adults.
- (2) Without prejudice to—
- subsection (3) of this section, or

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- (b) his entitlement, in terms of section 3A(1), to have intimation of his detention and of the place where he is being detained sent to a solicitor—
- a person arrested or detained under the terrorism prevention provisions who appears to a constable to be a child shall not be entitled to have such intimation sent to any other person named by him.
- (3) Where it appears to a constable that a person arrested or detained under the terrorism provisions is a child, he shall, subject to subsection (4), without delay—
- (a) send intimation of the arrest or detention and of the place where the child is being held to his parent (if known); and
- (b) allow such parent access to the child.
- (4) A police officer not below the rank of superintendent may authorise—
- (a) a delay in compliance with the duty mentioned in subsection (3)(a) above;
- (b) non-compliance with the duty mentioned in subsection (3)(b) above,
- where such delay or, as the case may be, non-compliance is, in his view, necessary on one of the grounds mentioned in section 3C(3) of this Act:
- Provided that any such delay in compliance with the duty mentioned in subsection (3) (a) shall not extend longer than the period of 48 hours from the start of the detention.
- (5) There shall be recorded the time at which the intimation mentioned in subsection (3) (a) is made.
- (6) Subject to section 3C of this Act the access mentioned in subsection (3)(b) above shall be private.
- (7) Where a child is, by virtue of any enactment, in the care either of a local authority or of a voluntary organisation, the intimation shall be either to the authority or organisation or to the parent, and the right of access shall be exercisable both by an officer of the authority or organisation and by the parent; and subsections (4) and (6) above and section 3C of this Act shall apply in relation to intimation and access under this subsection as they apply to intimation and access under subsection (3) above.

3C Provisions relating to consultations and access in connection with terrorism.

- (1) An officer not below the rank of Assistant Chief Constable may direct that the consultation or access mentioned in sections 3A(3) and 3B(3) of this Act respectively be in the presence of a uniformed officer not below the rank of inspector if it appears to the officer giving the direction to be necessary on one of the grounds mentioned in subsection (3) below.
- (2) A uniformed officer directed to be present during a consultation or, as the case may be, access shall be an officer who, in the opinion of the officer giving the direction, has no connection with the case.
- (3) The grounds mentioned in sections 3A(1), 3A(3) and 3B(4) of this Act and in subsection (1) above are that it is in the interests of the investigation or prevention of crime, or of the apprehension, prosecution or conviction of offenders.
- (4) Where delay or non-compliance is authorised in the exercising of any of the rights or, as the case may be, the carrying out of any of the duties, mentioned in sections

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3A(1), 3A(3), and 3B(3) of this Act, there shall be recorded the reason for such delay or non-compliance.

3D

- (1) In sections 3A to 3C and this section of this Act—
 - [^{F9}(a) “terrorism provisions” means section 14(1) of the ^{M1} Prevention of Terrorism (Temporary Provisions) Act and any provision of Schedule 2 or 5 to that Act conferring a power of arrest or detention;]
 - (b) “child” and “parent” have the same meanings as in section 3 of this Act.
- (2) The provisions of sections 3A to 3C and this section of this Act shall have effect, in relation to persons arrested or detained under the terrorism provisions, in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.

Textual Amendments

F9 S. 3D(1)(a) substituted by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 25(1), [Sch. 8 para. 5](#)

Marginal Citations

M1 [1989 c.4 \(39:2\)](#).

4 Search for offensive weapons.

- (1) Where a constable has reasonable grounds for suspecting that any person is carrying an offensive weapon and has committed or is committing an offence under section 1 of the ^{M2}Prevention of Crime Act 1953 (prohibition of carrying of offensive weapons is public) the constable may search that person without warrant, and detain him for such time as is reasonably required to permit the search to be carried out; and he shall inform the person of the reason for such detention.
- (2) Any person who—
 - (a) intentionally obstructs a constable in the exercise of the constable’s powers under subsection (1) above; or
 - (b) conceals from a constable acting in the exercise of the said powers an offensive weapon,shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F10}level 3 on the standard scale].
- (3) A constable may arrest without warrant any person who he has reason to believe has committed an offence under subsection (2) above.
- (4) In this section, “offensive weapon” has the same meaning as in the said section 1.

Textual Amendments

F10 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [s. 289G](#)

Marginal Citations

M2 [1953 c. 14](#).

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5 Constable may take drunken person to designated place.

- (1) Where a constable has power to arrest a person without a warrant for any offence and the constable has reasonable grounds for suspecting that that person is drunk, the constable may, if he thinks fit, take him to any place designated by the Secretary of State for the purposes of this section as a place suitable for the care of drunken persons.
- (2) A person shall not by virtue of this section be liable to be detained in any such place as is mentioned in subsection (1) above, but the exercise in his case of the power conferred by this section shall not preclude his being charged with any offence.

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