



Counter-Terrorism Act 2008

2008 CHAPTER 28

PART 2

POST-CHARGE QUESTIONING OF TERRORIST SUSPECTS

23 Post-charge questioning: Scotland

- (1) The following provisions apply in Scotland.
- (2) On the application of the prosecutor, a sheriff may authorise the questioning of a person about an offence—
 - (a) after the person has been charged with the offence, or
 - (b) after the person has appeared on petition in respect of the offence,if the offence is a terrorism offence or it appears to the sheriff that the offence has a terrorist connection.
- (3) The sheriff—
 - (a) must specify the period during which questioning is authorised, and
 - (b) may impose such conditions as appear to be necessary in the interests of justice, which may include conditions as to the place where the questioning is to be carried out.
- (4) The period during which questioning is authorised—
 - (a) begins when questioning pursuant to the authorisation begins and runs continuously from that time (whether or not questioning continues), and
 - (b) must not exceed 48 hours.

This is without prejudice to any application for a further authorisation under this section.

- (5) Where the person is in prison or otherwise lawfully detained, the sheriff may authorise the person's removal to another place and detention there for the purpose of being questioned.

Status: This is the original version (as it was originally enacted).

- (6) A sheriff must not authorise the questioning of a person under this section unless satisfied—
- (a) that further questioning of the person is necessary in the interests of justice,
 - (b) that the investigation for the purposes of which the further questioning is proposed is being conducted diligently and expeditiously, and
 - (c) that what is authorised will not interfere unduly with the preparation of the person’s defence to the charge in question or any other criminal charge.
- (7) Evidence of any statement obtained from a person as a result of questioning under this section is not inadmissible solely because the questioning occurred after the person had been charged (or had appeared on petition).
- (8) In this section “charged” means charged by the police.