



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 5

RIGHTS OF SUSPECTS IN POLICE CUSTODY

VALID FROM 10/01/2020

Vulnerable persons

42 Support for vulnerable persons

- (1) Subsection (2) applies where—
 - (a) a person is in police custody,
 - (b) a constable believes that the person is 16 years of age or over, and
 - (c) owing to mental disorder, the person appears to the constable to be unable to—
 - (i) understand sufficiently what is happening, or
 - (ii) communicate effectively with the police.
- (2) With a view to facilitating the provision of support of the sort mentioned in subsection (3) to the person as soon as reasonably practicable, the constable must ensure that intimation of the matters mentioned in subsection (4) is sent to a person who the constable considers is suitable to provide the support.
- (3) That is, support to—
 - (a) help the person in custody to understand what is happening, and
 - (b) facilitate effective communication between the person and the police.
- (4) Those matters are—
 - (a) the place where the person is in custody, and

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Changes to legislation: *Criminal Justice (Scotland) Act 2016, Cross Heading: Vulnerable persons is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) that support of the sort mentioned in subsection (3) is, in the view of the constable, required by the person.

(5) In this section—

- (a) “mental disorder” has the meaning given by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003,
- (b) the references to the police are to any—
 - (i) constable, or
 - (ii) person appointed as a member of police staff under section 26(1) of the Police and Fire Reform (Scotland) Act 2012.

Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 5 applied (with modifications) by 1994 c. 33, s. 137D(3)(b), Sch. 7B Pt. 2 (as inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\), ss. 116\(1\)\(3\), 183\(1\)\(5\)\(e\), Sch. 16](#))
- C2** S. 42 modified by 2007 c. 11, s. 87(2B)(d) (as inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 17 para. 9\(2\)](#))
- C3** S. 42 modified by 2013 c. 22, Sch. 21 para. 42B(5) (as inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 17 para. 10\(3\)](#))
- C4** S. 42 modified by 2013 c. 22, Sch. 21 para. 42D(4) (as inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 17 para. 10\(3\)](#))
- C5** S. 42 modified by 2007 c. 11, s. 87(2D)(c) (as inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 17 para. 9\(2\)](#))

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