



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 4

POLICE INTERVIEW

Rights of suspects

33 Consent to interview without solicitor

- (1) Subsections (2) and (3) apply for the purpose of section 32(3)(a).
- (2) A person may not consent to being interviewed without having a solicitor present if—
 - (a) the person is under 16 years of age
 - (b) the person is 16 or 17 years of age and subject to a compulsory supervision order, or an interim compulsory supervision order, made under the Children's Hearings (Scotland) Act 2011, or
 - (c) the person is 16 years of age or over and, owing to mental disorder, appears to a constable to be unable to—
 - (i) understand sufficiently what is happening, or
 - (ii) communicate effectively with the police.
- (3) A person to whom this subsection applies (referred to in subsection (5) as “person A”) may consent to being interviewed without having a solicitor present only with the agreement of a relevant person.
- (4) Subsection (3) applies to a person who is—
 - (a) 16 or 17 years of age, and
 - (b) not precluded by subsection (2)(b) or (c) from consenting to being interviewed without having a solicitor present.
- (5) For the purpose of subsection (3), “a relevant person” means—

Status: This is the original version (as it was originally enacted).

- (a) if person A is in police custody, any person who is entitled to access to person A by virtue of section 40(2),
 - (b) if person A is not in police custody, a person who is—
 - (i) at least 18 years of age, and
 - (ii) reasonably named by person A.
- (6) In subsection (2)(c)—
- (a) “mental disorder” has the meaning given by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003,
 - (b) the reference to the police is 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.