



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 4

POLICE INVESTIGATORY AND OTHER POWERS

CHAPTER 1

EMERGENCY PLACE OF SAFETY

28 Power to take child under 12 to place of safety

- (1) This section applies where a constable finds in any place a child under 12 years of age who the constable has reasonable grounds to believe is behaving or is likely to behave in a way that is causing or risks causing significant harm to another person.
- (2) The constable may take the child to a place of safety and keep the child there if the constable is satisfied that it is necessary to do so to protect any other person from an immediate risk of significant harm or further such harm.
- (3) As soon as practicable after a constable takes a child to a place of safety under this section, the constable must inform a parent of the child.
- (4) A child may be kept in a place of safety under this section—
 - (a) only for so long as is necessary—
 - (i) to put in place arrangements for the care or protection of the child, or
 - (ii) for an order under section 63 authorising the taking of intimate samples from the child to be obtained, and
 - (b) in either case, for no longer than 24 hours.
- (5) A child may be kept in a place of safety that is a police station only if a constable of the rank of inspector or above considers that it is not reasonably practicable to keep the child in a place of safety that is not a police station.
- (6) But a child must not be kept in a cell within a police station.

Changes to legislation: *Age of Criminal Responsibility (Scotland) Act 2019, Section 28 is up to date with all changes known to be in force on or before 10 June 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) View outstanding changes*

- (7) Subsection (6) does not apply if (and only for as long as) a constable of the rank of inspector or above considers that it is not reasonably practicable for the child to be kept elsewhere within the police station.
- (8) Where a child is kept in a police station (whether in a cell or elsewhere), the constable must take steps to identify a place of safety that is not a police station and transfer the child to that place as soon as is reasonably practicable.
- (9) Subsection (8) does not apply where subsection (4)(a)(ii) applies.
- (10) This section does not affect any other power by virtue of which a constable may take a child to a place of safety.
- (11) In this section—
- “intimate sample” has the meaning given by section 60(4),
- “place of safety” means—
- (a) a residential or other establishment provided by a local authority,
 - (b) a community home within the meaning of section 53 of the Children Act 1989 (c.41),
 - (c) a hospital or surgery, the person or body of persons responsible for the management of which is willing temporarily to receive the child,
 - (d) the dwelling-house of a suitable person who is so willing,
 - (e) any other suitable place the occupier of which is so willing, or
 - (f) a police station (but see subsections (5) to (8)).

Modifications etc. (not altering text)

- C1** Pt. 4 applied (with modifications) (17.12.2021) by 2004 c. 20, s. 56B (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **19**)
- C2** Pt. 4 applied (with modifications) (17.12.2021) by 1987 c. 4, s. 2E (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **17**)
- C3** Pt. 4 applied (with modifications) (17.12.2021) by 2003 c. 20, s. 31B (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **18**)

Commencement Information

- I1** S. 28 in force at 17.12.2021 by [S.S.I. 2021/449](#), **reg. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1A) inserted by [2020 asp 13 sch. 5 para. 7\(8\)\(b\)](#)
- s. 20A inserted by [2020 asp 13 sch. 5 para. 7\(9\)](#)