



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 3

CUSTODY: PERSON OFFICIALLY ACCUSED

Police liberation

26 Release on undertaking

- (1) A person may be released from police custody on an undertaking given under section 25(2)(a) only if the person signs the undertaking.
- (2) The terms of an undertaking are that the person undertakes to—
 - (a) appear at a specified court at a specified time, and
 - (b) comply with any conditions imposed under subsection (3) while subject to the undertaking.
- (3) The conditions which may be imposed under this subsection are—
 - (a) that the person does not—
 - (i) commit an offence,
 - (ii) interfere with witnesses or evidence, or otherwise obstruct the course of justice,
 - (iii) behave in a manner which causes, or is likely to cause, alarm or distress to witnesses,
 - (b) any further condition that a constable considers necessary and proportionate for the purpose of ensuring that any conditions imposed under paragraph (a) are observed.
- (4) Conditions which may be imposed under subsection (3)(b) include—
 - (a) a condition requiring the person—
 - (i) to be in a specified place at a specified time, and

Changes to legislation: *Criminal Justice (Scotland) Act 2016, Section 26 is up to date with all changes known to be in force on or before 25 July 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*

- (ii) to remain there for a specified period,
- (b) a condition requiring the person—
 - (i) not to be in a specified place, or category of place, at a specified time, and
 - (ii) to remain outwith that place, or any place falling within the specified category (if any), for a specified period.
- (5) For the imposition of a condition under subsection (3)(b)—
 - (a) if it is of the kind described in subsection (4)(a), the authority of a constable of the rank of inspector or above is required,
 - (b) if it is of any other kind, the authority of a constable of the rank of sergeant or above is required.
- (6) The requirements imposed by an undertaking to attend at a court and comply with conditions are liberation conditions for the purposes of schedule 1.

Commencement Information

II S. 26 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#) (with art. 4)

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

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)

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

- s. 38(7)(a) words renumbered as s. 38(7)(a) by [2024 asp 5 s. 15\(6\)\(a\)](#)
- s. 38(7)(b) and word inserted by [2024 asp 5 s. 15\(6\)\(b\)](#)
- s. 41(1A) inserted by [2024 asp 5 s. 15\(7\)\(b\)](#)