
DRAFT STATUTORY INSTRUMENTS

2021 No.

**The Age of Criminal Responsibility (Scotland) Act 2019
(Consequential Provisions and Modifications) Order 2021**

PART 3

Police powers etc.

Exercise of functions by constables and members of non-territorial police organisations

Application of 2019 Act to non-territorial forces

17. After section 2D of the Ministry of Defence Police Act 1987(1) insert—

“2E. Exercise of functions in relation to children under the Scottish age of criminal responsibility

(1) The following apply, in Scotland, in relation to a member of the Ministry of Defence Police as they apply in relation to a constable of the Police Service of Scotland—

- (a) Part 4 of the Age of Criminal Responsibility (Scotland) Act 2019 (in this section, “the 2019 Act”),
- (b) any regulations made or guidance issued under that Part.

(2) Subsections (3) to (6) make further provision in relation to the application of Part 4 of the 2019 Act to members of the Ministry of Defence Police.

(3) References in Part 4 of the 2019 Act (however expressed) to constables of a particular rank are to be read, in relation to action taken or proposed to be taken by a member of the Ministry of Defence Police, as references to a member of the Ministry of Defence Police of the rank referred to.

(4) References in the following sections of the 2019 Act to the chief constable are to be read as including reference to the chief constable of the Ministry of Defence Police—

- (a) section 29(2)(a),
- (b) section 31(3)(a) and (5)(a),
- (c) section 57(4)(a).

(5) The reference in section 33(1) of the 2019 Act to an enactment includes reference to an enactment which confers a power of the type described in that section on members of the Ministry of Defence Police (whether or not the enactment also confers that power on constables of the Police Service of Scotland).

(6) The reference in section 75(2) of the 2019 Act to a constable is to be read as including reference to a member of the Ministry of Defence Police.”.

(1) 1987 c. 4; section 2D was added S.I. 2018/46, Schedule 2, paragraph 1.

18. After section 31A of the Railways and Transport Safety Act 2003⁽²⁾ insert—

“31B. Exercise of functions in relation to children under the Scottish age of criminal responsibility

(1) The following apply, in Scotland, in relation to a constable of the Police Force as they apply in relation to a constable of the Police Service of Scotland—

(a) Part 4 of the Age of Criminal Responsibility (Scotland) Act 2019 (in this section, “the 2019 Act”),

(b) any regulations made or guidance issued under that Part.

(2) Subsections (3) to (6) make further provision in relation to the application of Part 4 of the 2019 Act to constables of the Police Force.

(3) References in Part 4 of the 2019 Act (however expressed) to constables of a particular rank are to be read, in relation to action taken or proposed to be taken by constable of the Police Force, as references to a constable of the Police Force of the rank referred to.

(4) References in the following sections of the 2019 Act to the chief constable are to be read as including reference to the chief constable of the Police Force—

(a) section 29(2)(a),

(b) section 31(3)(a) and (5)(a),

(c) section 57(4)(a).

(5) The reference in section 33(1) of the 2019 Act to an enactment includes reference to an enactment which confers a power of the type described in that section on constables of the Police Force (whether or not the enactment also confers that power on constables of the Police Service of Scotland).

(6) The reference in section 75(2) of the 2019 Act to a constable is to be read as including reference to a constable of the Police Force.”

19. After section 56A of the Energy Act 2004⁽³⁾ insert—

“56B. Exercise of functions in relation to children under the Scottish age of criminal responsibility

(1) The following apply, in Scotland, in relation to a member of the Constabulary as they apply in relation to a constable of the Police Service of Scotland—

(a) Part 4 of the Age of Criminal Responsibility (Scotland) Act 2019 (in this section, “the 2019 Act”),

(b) any regulations made or guidance issued under that Part.

(2) Subsections (3) to (6) make further provision in relation to the application of Part 4 of the 2019 Act to members of the Constabulary.

(3) References in Part 4 of the 2019 Act (however expressed) to constables of a particular rank are to be read, in relation to action taken or proposed to be taken by a member of the Constabulary, as references to a member of the Constabulary of the rank referred to.

(4) References in the following sections of the 2019 Act to the chief constable are to be read as including reference to the chief constable of the Constabulary—

(a) section 29(2)(a),

(2) 2003 c. 20; section 31A was added by S.I. 2018/46, Schedule 2, paragraph 2.

(3) 2004 c. 20; section 56A was added by S.I. 2018/46, Schedule 2, paragraph 3.

(b) section 31(3)(a) and (5)(a),

(c) section 57(4)(a).

(5) The reference in section 33(1) of the 2019 Act to an enactment includes reference to an enactment which confers a power of the type described in that section on members of the Constabulary (whether or not the enactment also confers that power on constables of the Police Service of Scotland).

(6) The reference in section 75(2) of the 2019 Act to a constable is to be read as including reference to a member of the Constabulary.”.