



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PART II

SUMMARY PROCEDURE

Procedure prior to trial

323 Warrant to search for or remove a child.

- (1) If, on an application to a justice by any person who, in the opinion of the justice, is acting in the interests of a child, it appears to the justice on information on oath that there is reasonable cause to suspect—
- (a) that the child has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of the justice, in a manner likely to cause him unnecessary suffering or injury to health, or
 - (b) that any offence mentioned in Schedule 1 to this Act has been or is being committed in respect of the child,

the justice may issue a warrant authorising any constable named therein to search for the child and, if it is found that he has been or is being assaulted, ill-treated or neglected in manner aforesaid, or that any such offence as aforesaid has been or is being committed in respect of him, to take him to and detain him in a place of safety, or authorising any constable to remove him with or without search to a place of safety and detain him there.

- (2) A child shall not continue to be detained under the last foregoing subsection—
- (a) where the reporter considers the child does not require compulsory measures of care, or
 - (b) after the day on which a children's hearing first sit to consider his case in pursuance of section 37(4) of the ^{M1}Social Work (Scotland) Act 1968, or
 - (c) for a period exceeding seven days.

Status: Point in time view as at 03/02/1995. This version of this provision has been superseded.

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Section 323 is up to date with all changes known to be in force on or before 26 August 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)*

- (3) A justice issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of the child to be apprehended and brought before the sheriff, and proceedings to be taken against him according to law.
- (4) Any constable authorised by warrant under this section to search for or, with or without search, to remove any child may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove him therefrom.
- (5) Every warrant issued under this section shall be addressed to and executed by a constable, who shall be accompanied by the person making the application if that person so desires, unless the justice by whom the warrant is issued otherwise directs, and may also, if the justice by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.
- (6) It shall not be necessary in any application, information or warrant under this section to name the child.

Modifications etc. (not altering text)

- C1** S. 323 amended by [Adoption \(Scotland\) Act 1978 \(c. 28, SIF 49:11\)](#), **ss. 37(1)**, and [Foster Children \(Scotland\) Act 1984 \(c. 56, SIF 20\)](#), **s. 13**

Marginal Citations

- M1** [1968 c. 49\(81:3\)](#).

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