



Criminal Justice (Scotland) Act 1980

1980 CHAPTER 62

PART I

POLICE POWERS

2 Detention and questioning at police station.

(1) Where a constable has reasonable grounds for suspecting that a person has committed or is committing an offence punishable by imprisonment, the constable may, for the purpose of facilitating the carrying out of investigations—

(a) into the offence; and

(b) as to whether criminal proceedings should be instigated against the person, detain that person and take him as quickly as is reasonably practicable to a police station or other premises [^{F1}and may thereafter for that purpose take him to any other place] and, subject to the following provisions of this section, the detention may continue [^{F1}at the police station, or as the case may be the other premises or place.]

(2) Detention under subsection (1) above shall be terminated not more than six hours after it begins or (if earlier)—

(a) when the person is arrested; . . . ^{F2}

[^{F3}(aa) when he is detained in pursuance of any other enactment or subordinate instrument; or]

(b) where there are no longer such grounds as are mentioned in the said subsection (1);

and when a person has been detained under subsection (1) above [^{F4}he shall be informed immediately upon the termination of his detention in accordance with this subsection] that his detention has been terminated.

(3) Where a person has been released at the termination of a period of detention under subsection (1) above he shall not thereafter be detained, under that subsection, on the same grounds or on any grounds arising out of the same circumstances.

[^{F5}(3A) [^{F6}Subject to subsection (3B) below,]Where a person has previously been detained in pursuance of any other enactment or subordinate instrument, he may not be detained

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under subsection (1) above on the same grounds or on grounds arising from the same circumstances as those which led to his earlier detention.]

[^{F7}(3B) Subsection (3A) above shall not apply in relation to detention under section 41(3) of the Prisons (Scotland) Act 1989 (detention in relation to introduction etc. into prison of prohibited article), but where a person was detained under section 41(3) immediately prior to his detention under subsection (1) above the period of six hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention.]

(4) At the time when a constable detains a person under subsection (1) above, he shall inform the person of his suspicion, of the general nature of the offence which he suspects has been or is being committed and of the reason for the detention; and there shall be recorded—

(a) the place where detention begins and the police station or other premises to which the person is taken;

[^{F8}(aa) any other place to which the person is, during the detention, thereafter taken;]

(b) the general nature of the suspected offence;

(c) the time when detention under subsection (1) above begins and the time of the person's arrival at the police station or other premises;

(d) the time when the person is informed of his rights in terms of subsection (7) below and of subsection (1)(b) of section 3 of this Act and the identity of the constable so informing him;

(e) where the person requests such intimation to be sent as is specified in section 3(1)(b) of this Act, the time when such request is—

(i) made;

(ii) complied with; and

(f) the time of the person's [^{F9}release from detention] or, where instead of being released he is arrested in respect of the alleged offence, the time of such arrest.

(5) Where a person is detained under subsection (1) above, a constable may—

(a) put questions to him in relation to the suspected offence:

Provided that this paragraph shall be without prejudice to any existing rule of law as regards the admissibility in evidence of any answer given;

(b) exercise the same powers of search as are available following an arrest; and

^{F10}(c)

(6) A constable may use reasonable force in exercising any power conferred by subsection (1), or by paragraph (b) ^{F11} . . . of subsection (5), above.

(7) A person detained under subsection (1) above shall be under no obligation to answer any question other than to give his name and address, and a constable shall so inform him both on so detaining him and on arrival at the police station or other premises.

Textual Amendments

F1 Words in s. 2(1) inserted (3.2.1995) by 1994 c 33, s. 129(1); S.I. 1995/127, art. 2(1), **Sch. 1**

F2 Word repealed by **Criminal Justice (Scotland) Act 1987** (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 16(a)**

F3 S. 2(2)(aa) inserted by **Criminal Justice (Scotland) Act 1987** (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 16(a)**

F4 Words substituted by **Criminal Justice (Scotland) Act 1987** (c. 41, SIF 39:1), s. 70(1), **Sch. 1 para. 16(b)**

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- F5** S. 2(3A) inserted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 16(c)**
- F6** Words in s. 2(3A) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 47(a)**; S.I. 1995/127, **art. 2(1) Sch. 1**
- F7** Words in s. 2(3B) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 47(b)**; S.I. 1995/127, **art. 2(1) Sch. 1**
- F8** Words in s. 2(4)(aa) inserted (3.2.1995) by 1994 c. 33, **s. 129(2)(a)**; S.I. 1995/127, **art. 2(1) Sch. 1**
- F9** Words in s. 2(4)(f) inserted (3.2.1995) by 1994 c. 33, **s. 129(2)(b)**; S.I. 1995/127, **art. 2(1) Sch. 1**
- F10** S. 2(5)(c) and proviso repealed (1.10.1993) by 1993 c. 9, s. 47(3), **Sch. 7 Pt. I** (with Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(4)** (with art. 4(1)).
- F11** Words in s. 2(6) repealed (1.10.1993) by 1993 c. 9, s. 47(3), **Sch. 7 Pt. I** (with Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(4)** (with art. 4(1)).

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