



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART IV

#### OFFENCES, POWERS OF CONSTABLES, ETC.

##### *Powers of constables etc.*

#### **59 Powers of arrest and apprehension.**

- (1) Subject to subsection (2) below, a constable may, where it is necessary in the interests of justice to do so, arrest without warrant a person whom he finds committing an offence to which this section applies or a person who is delivered into his custody in pursuance of subsection (3) below.
- (2) A constable who is not in uniform shall produce his identification if required to do so by any person whom he is arresting under subsection (1) above.
- (3) The owner, tenant or occupier of any property in, upon, or in respect of, which an offence to which this section applies is being committed or any person authorised by him may apprehend any person whom the owner or, as the case may be, the tenant, occupier or authorised person finds committing that offence and detain the apprehended person until he can be delivered into the custody of a constable.

In this subsection “property” means heritable or moveable property.

- (4) This section applies to offences under sections 50, 57 and 58 of this Act.
- (5) This section shall not prejudice any power of arrest conferred by law apart from this section.

#### **60 Powers of search and seizure.**

- (1) Subject to subsection (2) and (3) below, if a constable has reasonable grounds to suspect that a person is in possession of any stolen property, the constable may without warrant—

*Status: Point in time view as at 20/12/2017.*

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- (a) search that person or anything in his possession, and detain him for as long as is necessary for the purpose of that search;
- (b) enter and search any vehicle or vessel in which the constable suspects that that thing may be found, and for that purpose require the person in control of the vehicle or vessel to stop it and keep it stopped;
- (c) enter and search any premises occupied by a second-hand dealer or a metal dealer for the purposes of his business;
- (d) seize and detain anything found in the course of any such search which appears to the constable to have been stolen or to be evidence of the commission of the crime of theft

and may, in doing so, use reasonable force.

In this subsection “second-hand dealer” and “metal dealer” have the meanings respectively assigned to them by sections 24(2) and 37(1) of this Act.

- (2) The power under subsection (1)(b) above to require the person in charge of a vehicle or vessel to stop it shall be exercisable only by a constable in uniform.
- (3) A constable who is not in uniform shall not be entitled to exercise the powers which he may exercise under subsection (1)(a) to (c) above until he has produced his identification—
  - (a) in relation to the exercise of powers under subsection (1)(a) above, to the person in respect of whom the powers are exercised;
  - (b) in relation to the exercise of powers under subsections (1)(b) or (c) above, to the person for the time being in charge of the vehicle, vessel or premises and to any other person in or on the vehicle, vessel or premises who, having reasonable cause to do so, requests to see it.
- (4) In subsection (1) above “theft” includes any aggravation of theft including robbery.
- (5) Nothing in [<sup>F1</sup>section 54(2A) of this Act or] this section prejudices any power of entry or search or any power to seize or detain property or any power to require any vehicle or vessel to be stopped [<sup>F2</sup>which is otherwise exercisable by a constable].
- (6) Any person who, without reasonable excuse—
  - (a) fails to allow a constable [<sup>F3</sup>to enter and search—
    - (i) any premises in pursuance of section 54(2A) of this Act or of subsection (1) above; or
    - (ii) any vehicle or vessel in pursuance of the said subsection (1)], or seize and detain anything found in the course of such search;
  - (b) when required by a constable in pursuance of subsection (1) above to stop a vehicle or vessel and keep it stopped, fails to do so; or
  - (c) obstructs a constable in the exercise of his powers under [<sup>F4</sup>section 54(2A) of this Act or]subsection (1) above;
 shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F5</sup>level 3 on the standard scale].

#### Textual Amendments

**F1** Words in s. 60(5) inserted (1.12.1998) by 1998 c. 37, s. 24(3)(a)(i); S.I. 1998/2327, art. 2(1)

**F2** Words in s. 60(5) substituted (1.12.1998) by 1998 c. 37, s. 24(3)(a)(ii); S.I. 1998/2327, art. 2(1)

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- F3** Words and s. 60(6)(a)(i)(ii) substituted for words in s. 60(6)(a) substituted (1.12.1998) by 1998 c. 37, s. 24(3)(b)(i); S.I. 1998/2327, art. 2(1)
- F4** Words in s. 60(6)(c) inserted (1.12.1998) by 1998 c. 37, s. 24(3)(b)(ii); S.I. 1998/2327, art. 2(1)
- F5** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

## 61 Protection of insecure premises.

(1) Where—

- (a) any premises have been left open, unlocked or otherwise insecure; and
- (b) in the opinion of a constable, the insecurity of the premises is likely to conduce to the commission of an offence,

the constable may take such reasonable steps as he may consider necessary to make the premises secure.

(2) Any reasonable expense incurred by a constable in making any premises secure under subsection (1) above may be recovered by the [<sup>F6</sup>Scottish Police Authority] from the occupier (or, where there is no occupier, from the tenant or, where there is no occupier or tenant, from the owner) of the premises.

### Textual Amendments

- F6** Words in s. 61(2) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), sch. 7 para. 6(3); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**Status:**

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