



Bail etc. (Scotland) Act 1980

1980 CHAPTER 4

7 Interim liberation by constable of person charged with offence against a person under 17 years

(1) In section 18 of the 1975 Act (power of constables to take offenders into custody), for subsection (2) there shall be substituted the following subsections—

“(2) Where a person has been arrested under this section, the officer in charge of a police station may—

- (a) liberate him upon a written undertaking, signed by him and certified by the said officer, in terms of which that person undertakes to appear at a specified court at a specified time; or
- (b) liberate him without any such undertaking; or
- (c) refuse to liberate him; and such refusal and the detention of that person until his case is tried in the usual form shall not subject the officer to any claim whatsoever.

(3) A person in breach of an undertaking given by him under subsection (2)(a) above without reasonable excuse shall be guilty of an offence and liable to the following penalties—

- (a) a fine not exceeding £200 ; and
- (b) imprisonment for a period not exceeding 3 months.

(4) The penalties provided for in subsection (3) above may be imposed in addition to any other penalty which it is competent for the court to impose, notwithstanding that the total of penalties imposed may exceed the maximum penalty which it is competent to impose in respect of the original offence.

(5) In any proceedings relating to an offence under this section, a writing, purporting to be such an undertaking as is mentioned in subsection (2)(a) above and bearing to be signed and certified, shall be sufficient evidence of the terms of the undertaking given by the arrested person.”

(2) In section 294 of the 1975 Act (power of constables to take offenders into custody), for subsection (2) there shall be substituted the following subsections—

- “(2) Where a person has been arrested under this section, the officer in charge of a police station may—
- (a) liberate him upon a written undertaking, signed by him and certified by the said officer, in terms of which that person undertakes to appear at a specified court at a specified time ; or
 - (b) liberate him without any such undertaking ; or
 - (c) refuse to liberate him; and such refusal and the detention of that person until his case is tried in the usual form shall not subject the officer to any claim whatsoever.
- (3) A person in breach of an undertaking given by him under subsection (2)(a) above without reasonable excuse shall be guilty of an offence and liable to the following penalties—
- (a) a fine not exceeding £200 ; and
 - (b) imprisonment for a period—
 - (i) where conviction is in the district court, not exceeding 60 days ; or
 - (ii) where conviction is in the sheriff court, not exceeding 3 months.
- (4) The penalties provided for in subsection (3) above may be imposed in addition to any other penalty which it is competent for the court to impose, notwithstanding that the total of penalties imposed may exceed the maximum penalty which it is competent to impose in respect of the original offence.
- (5) In any proceedings relating to an offence under this section, a writing, purporting to be such an undertaking as is mentioned in subsection (2)(a) above and bearing to be signed and certified, shall be sufficient evidence of the terms of the undertaking given by the arrested person.”.