



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART II

#### POLICE FUNCTIONS

##### *Schedule 1 offences*

#### **21 Schedule 1 offences: power of constable to take offender into custody**

- (1) Without prejudice to any other powers of arrest, a constable may take into custody without warrant—
  - (a) any person who within his view commits any of the offences mentioned in Schedule 1 to this Act, if the constable does not know and cannot ascertain his name and address;
  - (b) any person who has committed, or whom he had reason to believe to have committed, any of the offences mentioned in that Schedule, if the constable does not know and cannot ascertain his name and address or has reasonable ground for believing that he will abscond.
- (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 level 3 on the standard scale; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) imprisonment for a period—
  - (i) where conviction is in the district court, not exceeding 60 days; or
  - (ii) in any other case, 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.