

Status: This version of this provision is prospective.

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Section 3 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes



Children (Care and Justice) (Scotland) Act 2024

2024 asp 5

PART 1

CHILDREN'S HEARINGS SYSTEM

PROSPECTIVE

3 Child assessment and child protection measures: secure accommodation

- (1) The 2011 Act is amended as follows.
- (2) In section 35 (child assessment orders), in subsection (3), at the end of paragraph (b) insert “(but see section 57A(2)).”.
- (3) In section 37 (child protection orders), in subsection (2), at the end of paragraph (b) insert “(but see section 57A(2)).”.
- (4) In section 55 (application to justice of the peace), in subsection (1), at the end of paragraph (b) insert “(but see section 57A(2)).”.
- (5) In section 56 (constable's power to remove child to place of safety), in subsection (1), after “may” insert “, subject to section 57A(3).”.
- (6) In section 57 (sections 55 and 56: regulations), in subsection (1), after “safety” insert “(other than secure accommodation)”.
- (7) After section 57 insert—

“Emergency placement of child in secure accommodation

57A Emergency placement of child in secure accommodation: pre-conditions

- (1) Subsection (2) applies to—

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- (a) a child assessment order,
 - (b) a child protection order,
 - (c) an order made by a justice of the peace under section 55.
- (2) The order may not include an authorisation that enables the child to be taken or removed to, and kept in, a place or, as the case may be, a place of safety that is secure accommodation unless—
- (a) one or more of the conditions mentioned in subsection (4) applies, and
 - (b) having considered the other options available, the sheriff or, as the case may be, the justice of the peace is satisfied that it is necessary to include such an authorisation in the order.
- (3) A constable may not, under section 56(1), remove a child to a place of safety that is secure accommodation and keep the child there unless—
- (a) one or more of the conditions mentioned in subsection (4) applies, and
 - (b) having considered the other options available, the constable is satisfied that it is necessary to do so.
- (4) The conditions are—
- (a) that—
 - (i) the child has previously absconded and is likely to abscond again unless the child is kept in secure accommodation, and
 - (ii) if the child were to abscond, it is likely the child’s health, safety or development would be at risk,
 - (b) that the child is likely to engage in self-harming conduct unless the child is kept in secure accommodation,
 - (c) that the child is likely to cause physical or psychological harm to another person unless the child is kept in secure accommodation.
- (5) In subsection (4)(c), “psychological harm” includes fear, alarm and distress.

57B Emergency placement of child in secure accommodation: regulations

- (1) The Scottish Ministers may by regulations make further provision about the placing and keeping of a child in secure accommodation—
- (a) by virtue of—
 - (i) a child assessment order,
 - (ii) a child protection order,
 - (iii) an order made by a justice of the peace under section 55,
 - (b) by a constable acting under section 56(1).
- (2) Regulations under subsection (1) may in particular include provision—
- (a) requiring—
 - (i) the consent of the person in charge of the residential establishment containing the secure accommodation in which the child is to be placed (the “head of unit”),
 - (ii) the agreement of the chief social work officer,
 - (b) specifying the criteria to be applied and the procedure to be followed—
 - (i) by the head of unit in deciding whether to give such consent,

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- (ii) by the chief social work officer in deciding whether to give such agreement,
 - (c) specifying the procedure for—
 - (i) the notification of decisions,
 - (ii) the giving of reasons for decisions,
 - (d) imposing requirements in connection with the protection of the welfare of a child being placed and kept in secure accommodation.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.”.

Commencement Information

II S. 3 not in force at Royal Assent, see [s. 38\(3\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to modify conferred by 1995 c. 36, s. 33A (as inserted) by [2024 asp 5 s. 30\(2\)](#)
- Act power to modify conferred by 2010 asp 8, s. 190(2A) (as substituted) by [2024 asp 5 s. 29\(2\)\(b\)](#)