



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

### [<sup>F1</sup>PART III S

#### CHILDREN IN NEED OF COMPULSORY MEASURES OF CARE]

##### Textual Amendments

- F1** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(14), Sch. 5 ((with savings in ss. 103(1), 105(3), Sch. 3 para. 8)); S.I. 1996/3201, art. 3(6)(7) (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, art. 2 (with transitional provisions inserted into S.I. 1996/3201, art. 3))

##### Modifications etc. (not altering text)

- C1** Pt. III extended by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 168, 296(3), 364

### [<sup>F2</sup>30 Definition of child and parent for Part III. S

- (1) Except where otherwise expressly provided, a child for the purposes of this Part of this Act means—
- a child who has not attained the age of sixteen years;
  - a child over the age of sixteen years who has not attained the age of eighteen years and in respect of whom a supervision requirement of a children's hearing is in force under this Part of this Act;
  - a child whose case has been referred to a children's hearing in pursuance of Part V of this Act.

[<sup>F3</sup>and for the purposes of the application of this Part of this Act to a person who has failed to attend school regularly without reasonable excuse includes a person who is over the age of sixteen years but who is not over school age.]

- (2) For the said purposes the expression "parent" includes a guardian.

*Status: Point in time view as at 12/12/1996.*

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[ Where a child attains the age of sixteen years after the date on which a children’s<sup>F4</sup>(3) hearing first sit to consider his case, but before the date of the conclusion of the proceedings on his case, the provisions of this Part of this Act and of statutory instrument made thereunder shall continue to apply to him in relation to that case as if he had not attained that age.]]

#### Textual Amendments

- F2** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F3** Words added by **Education (Scotland) Act 1969 (c. 49)**, **Sch. 2 Pt. II para. 5** (that 1969 Act has been repealed by **Education (Scotland) Act 1980 (c. 44, SIF 41:2)**, **Sch. 5**)
- F4** S. 30(3) added by **Social Work (Scotland) Act 1972 (c. 24, SIF 81:3)**, **s. 1**

#### Modifications etc. (not altering text)

- C2** S. 30(2) modified (22.8.1996) by S.I. 1996/2203, **art. 5A** (which art. 5A was inserted (19.1.1997) by S.I. 1997/137, **art. 2**)

### 31 Restriction on prosecution of children for offences. **S**

<sup>F5</sup>(1) .....

(2) .....<sup>F6</sup>

(3) Part IV of the <sup>M1</sup>Children and Young Persons (Scotland) Act 1937 shall have effect subject to the amendments set out in Schedule 2 to this Act.

#### Textual Amendments

- F5** S. 31(1) repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**
- F6** S. 31(2) repealed by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3)**, **Sch. 10 Pt. I** and Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) expressed to be repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)**, **Sch. 5** (with savings in ss. 103(1), 105(3), **Sch. 3 para. 8**); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

#### Marginal Citations

- M1** 1937 c. 37.

### [<sup>F7</sup>32 Children in need of compulsory measures of care. **S**

(1) A child may be in need of compulsory measures of care within the meaning of this Part of this Act if any of the conditions mentioned in the next following subsection is satisfied with respect to him.

(2) The conditions referred to in subsection (1) of this section are that—

(a) he is beyond the control of his parent; or

[<sup>F8</sup>(b) he is falling into bad associations or is exposed to moral danger; or

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- (c) lack of parental care is likely to cause him unnecessary suffering or seriously to impair his health or development; or]]
  - (d) any of the offences mentioned in Schedule 1 to the <sup>F9M2</sup>Criminal Procedure (Scotland) Act 1975] has been committed in respect of him or in respect of a child who is a member of the same household; or
  - <sup>F10</sup>(dd) the child is, or is likely to become, a member of the same household as a person who has committed any of the offences mentioned in Schedule 1 to the <sup>M3</sup>Criminal Procedure (Scotland) Act 1975; or]
  - (e) the child, being a female, is a member of the same household as a female in respect of whom an offence which constitutes the crime of incest has been committed by a member of that household; or
  - (f) he has failed to attend school regularly without reasonable excuse; or
  - (g) he has committed an offence; or
  - <sup>F11</sup>(gg) he has misused a volatile substance by deliberately inhaling, other than for medicinal purposes, that substance’s vapour; or]
  - (h) he is a child whose case has been referred to a children’s hearing in pursuance of Part V of this Act.
  - <sup>F12</sup>(i) he is in the care of local authority and his behaviour is such that special measures are needed for his adequate care and control.]
- (3) For the purposes of this Part of this Act “care” includes protection, control, guidance and treatment.

#### Textual Amendments

- F7** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F8** S. 32(2)(b)(c) substituted by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 3 para. 54(a)**
- F9** Words substituted by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 3 para. 54(b)**
- F10** S. 32(2)(dd) inserted by Children Act 1975 (c. 72, SIF 49:1, 10), **Sch. 3 para. 54(c)**
- F11** S. 32(2)(gg) inserted by Solvent Abuse (Scotland) Act 1983 (c. 33, SIF 81:3), **s. 1**
- F12** S. 32(2)(i) inserted (30.1.1984) by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **s. 8(1)**

#### Marginal Citations

- M2** 1975 c. 21.
- M3** 1975 c. 21.

### <sup>F13</sup>33 Formation of children’s panels. **S**

- (1) A panel (to be called “the children’s panel”) shall be formed for every local authority area for the purposes of this Part of this Act.
- (2) Schedule 3 to this Act shall have effect with respect to the number, qualifications, appointment and tenure of office of members of a children’s panel.
- (3) A local authority shall cause to be published a list of the names and addresses of members of the children’s panel for their area, and that list shall be open for public inspection at all reasonable times at the <sup>F14</sup>principal offices]] of the local authority, and at any place where an electors list for the locality is exhibited.

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#### Textual Amendments

- F13** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F14** Words in s. 33(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(10)**; S.I. 1996/323, **art. 4(1)(b)(c)**

### [<sup>F15</sup>34 Children’s hearings. **S**

- (1) Sitings of members of the children’s panel, hereinafter referred to as children’s hearings, shall be constituted from the panel in accordance with the provisions of this section to perform, in respect of children who may require compulsory measures of care, the functions assigned to those hearings by this Part of this Act.
- (2) A children’s hearing shall consist of a chairman and two other members and shall have both a man and a woman among the members.

<sup>F16</sup>(3) . . . . . ]

#### Textual Amendments

- F15** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F16** S. 34(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 76(11), **Sch. 14**; S.I. 1996/323, **art. 4(1)(b)(c)(d)**, **Sch. 2**

### [<sup>F17</sup><sup>F18</sup>34 Safeguarding of interests of children before children’s hearings etc. **S**

- (1) In any proceedings—
  - (a) before a children’s hearing;
  - (b) before the sheriff on an application under section 42(2)(c) of this Act;
  - (c) before the sheriff on an appeal under section 49 or 51 of this Act,
 the chairman (in the case of proceedings referred to in paragraph (a) above) or the sheriff (in any other case)—
  - (i) shall consider whether it is necessary for the purpose of safeguarding the interests of the child in the proceedings, because there is or may be a conflict, on any matter relevant to the proceedings, between the interests of the child and those of his parent, to appoint a person to act for that purpose; and
  - (ii) without prejudice to any existing power to appoint a person to represent the interests of the child, may, if he thinks fit, appoint a person to act for the purpose specified in paragraph (i) above.
- (2) The power to make rules under—
  - (a) section 35(4) of this Act,
  - (b) section 32 of the <sup>M4</sup>Sheriff Courts (Scotland) Act 1971,
 shall include power to make rules providing for—
  - (i) the procedure in relation to the disposal of matters arising under this section;

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- (ii) appointment under subsection (1) of this section, the functions of a person so appointed and any right of such a person to information relating to the proceedings in question.
- (3) The expenses of a person appointed under subsection (1) of this section shall—
- (a) in so far as reasonably incurred by him in safeguarding the interests of the child in the proceedings, and
  - (b) except in so far as otherwise defrayed in terms of regulations made under section 103(2) of the <sup>M5</sup>Children Act 1975,  
be borne by the local authority for whose area the children’s panel from which the relevant children’s hearing has been constituted is formed.
- (4) For the purposes of subsection (3) of this section, “relevant children’s hearing” means—
- (a) in the case of proceedings referred to in subsection (1)(a) of this section, the children’s hearing;
  - (b) in the case of proceedings referred to in subsection (1)(b) of this section, the children’s hearing who have directed the application;
  - (c) in the case of proceedings referred to in subsection (1)(c) of this section, the children’s hearing whose decision is being appealed against.]

#### Textual Amendments

**F17** S. 34A inserted by [Children Act 1975 \(c. 72, SIF 49:9, 10\)](#), **ss. 66, 108(2)**

**F18** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by [1995 c. 36, s. 105\(4\)\(5\)](#), **Sch. 4 para. 15(14)** (with [s. 103\(1\)](#)); [S.I. 1996/3201](#), **art. 3(6)**

#### Marginal Citations

**M4** [1971 c. 58](#).

**M5** [1975 c. 72](#).

### [<sup>F19</sup>35 Provisions as to time, place, privacy and notification of children’s hearings. **S**

- (1) Any children’s hearing shall be conducted in private, and, subject to the provisions of any rules made under this section, no person other than a person whose presence is necessary for the proper consideration of the case which is being heard, or whose presence is permitted by the chairman, shall be present.
- (2) The chairman shall take all reasonable steps to ensure that the number of persons present at a children’s hearing at any one time is kept to a minimum.
- (3) Nothing in the foregoing provisions of this section, or in any rules made thereunder, shall operate to prevent a member of the Council on Tribunals, or of the Scottish Committee of that Council, attending any children’s hearing, or shall authorise the exclusion of bona fide representatives of a newspaper or news agency.
- (4) The Secretary of State may make rules for the constituting and arranging of children’s hearings and for regulating the procedure of those hearings.
- (5) Without prejudice to the generality of the last foregoing subsection, rules under that subsection may make provision with respect to—

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- (a) notification of the time and place of a children’s hearing to the child and his parent [<sup>F20</sup>and to such other persons as may be prescribed;]
- (b) the statement of the grounds for the referral of the case to a children’s hearing and the rights of the child and his parent to dispute the said grounds;
- (c) the right to appeal to the sheriff against a decision of a children’s hearing and the notification of the procedure before him;
- (d) the right of the child and his parent to be represented at the children’s hearing;
- (e) the entitlement of the child and his parent to the refund of such expenses as may be prescribed in connection with the children’s hearing and any proceedings arising therefrom;
- (f) persons whose presence shall be permitted at a children’s hearing;
- (g) the continuation of a children’s hearing for further investigation of a case before that hearing and the number and duration of such continuations.

#### Textual Amendments

- F19** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F20** Words inserted by **Children Act 1975 (c. 72, SIF 49:9, 10)**, **Sch. 3 para. 55**

#### <sup>F22</sup>36 [<sup>F21</sup> The [<sup>F21</sup>Principal Reporter]] and deputies. **S**

- <sup>F23</sup>(1) . . . . .
- [<sup>F24</sup>(2) The qualifications of a [<sup>F25</sup>Principal Reporter] shall be such as the Secretary of State may prescribe.]
- (3) . . . . . <sup>F26</sup>
- <sup>F27</sup>(4) . . . . .
- [<sup>F28</sup>(5) A reporter shall not, except with the consent of the Scottish Children’s Reporter Administration, be employed by a local authority.]
- [<sup>F29</sup>(5A) In subsections (2) and (5) above, “reporter” means the Principal Reporter or any officer of the Scottish Children’s Reporter Administration to whom there is delegated, under section 131(1) of the <sup>M6</sup>Local Government etc. (Scotland) Act 1994 any function of the Principal Reporter under this Part of this Act or under the Criminal Procedure (Scotland) Act 1975.]
- <sup>F30</sup>(6) . . . . .
- (7) . . . . . <sup>F26</sup>
- (8) The Secretary of State may make rules in relation to the [<sup>F31</sup>functions of the Principal Reporter under this Act and under the Criminal Procedure (Scotland) Act 1975].

#### Textual Amendments

- F21** S. 36: words in cross heading substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26) (27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

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- F22** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F23** S. 36(1) repealed (1.4.1996) by 1994 c. 39, ss. 127, 128(8), 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**
- F24** S. 36(2) substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 27 Pt. II para. 185(b)**
- F25** Words in s. 36(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(10)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F26** S. 36(3)(7) repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**
- F27** S. 36(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 76(12)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**
- F28** S. 36(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(12)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F29** S. 36(5A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(12)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F30** S. 36(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 76(12)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**
- F31** Words in s. 36(8) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(12)(e)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### Marginal Citations

**M6** 1975 c. 21.

### [<sup>F32F33</sup>36] Power of reporters to conduct proceedings before a sheriff. **S**

The Secretary of State and the Lord Advocate may, by regulations—

- (a) empower [<sup>F34</sup>the reporter, whether or not he is an advocate or solicitor], to conduct before a sheriff—
- (i) any proceedings which, under this Act are heard by the sheriff in chambers;
  - (ii) any application under section 37 or 40 of this Act in relation to a warrant;
- (b) prescribe such requirements as they think fit as to qualifications, training or experience necessary for any [<sup>F35</sup>reporter] to be so empowered.]

[<sup>F36</sup>In this section, “reporter” has the same meaning as it has in subsections (2) and (5) of section 36 of this Act.]

#### Textual Amendments

- F32** S. 36A inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 82**
- F33** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F34** Words in s. 36A(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(13)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F35** Word in s. 36A(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(13)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F36** Words in s. 36A(b) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(13)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**



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**[<sup>F37</sup>37 Reports of cases of children who may require compulsory measures of care and the interim detention of such children in places of safety. S**

- (1) Where any person has reasonable cause to believe that a child may be in need of compulsory measures of care he may give to the [<sup>F38</sup>Principal Reporter]] such information about the child as he may have been able to discover.
- [<sup>F39</sup>(1A) Where a local authority receive information suggesting that a child may be in need of compulsory measures of care, they shall—
- (a) cause enquiries to be made into the case unless they are satisfied that such enquiries are unnecessary; and
  - (b) if it appears to them that the child may be in need of compulsory measures of care, give to the [<sup>F38</sup>Principal Reporter] such information about the child as they may have been able to discover.]
- [<sup>F40</sup>(2) A constable or any person authorised by any court or by any justice of the peace may take to a place of safety any child—
- (a) in respect of whom any of the offences mentioned in Schedule 1 to the <sup>M7</sup>Criminal Procedure (Scotland) Act 1975 has been or is believed to have been committed; or
  - (b) who is a member of the same household as a child in respect of whom such an offence has been or is believed to have been committed; or
  - (c) who is, or is likely to become, a member of the same household as a person who has committed or is believed to have committed such an offence; or
  - (d) in respect of whom an offence under section 21(1) of the Children and Young Persons (Scotland) Act 1937 has been or is believed to have been committed; or
  - (e) who is likely to be caused unnecessary suffering or serious impairment of health because there is, or is believed to be, in respect of the child a lack of parental care,
- and any child so taken to a place of safety or any child who has taken refuge in a place of safety may be detained there until arrangements can be made for him to be brought before a children’s hearing under the following provisions of this Part of this Act; and, where a child is so detained, the constable or the person authorised as aforesaid or the occupier of the place of safety shall forthwith inform the [<sup>F38</sup>Principal Reporter] of the case.]
- (3) A child shall not continue to be detained under the last foregoing subsection—
- (a) where the [<sup>F38</sup>Principal Reporter] considers the child does not require compulsory measures of care, or
  - (b) after the day on which a children’s hearing first sit to consider his case in pursuance of the next following subsection, or
  - (c) for a period exceeding seven days.
- (4) Where a child has been detained in a place of safety under subsection (2) of this section or under [<sup>F41</sup>section 14(1), 296(3) or 323(1) of the said Act of 1975], and the [<sup>F38</sup>Principal Reporter] considers that the child may be in need of compulsory measures of care, he shall, wherever practicable, arrange a children’s hearing to sit not later than in the course of the first lawful day after the commencement of the child’s detention to consider the case under this Part of this Act, and, if that hearing are unable to dispose of the case and are satisfied that his further detention is necessary in his own interest, or have reason to believe that he will run away during the investigation of his case,



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they may issue a warrant requiring the child to be detained in any place of safety for such a period not exceeding twenty-one days as may be necessary.

(5) On cause shown a warrant authorising detention under the last foregoing subsection may be renewed [<sup>F42</sup>by a children's hearing], on one occasion only, for the period mentioned in that subsection on the application of the [<sup>F38</sup>Principal Reporter].

[<sup>F43</sup>(5A) Where a warrant has been renewed under subsection (5) of this section but it appears to the [<sup>F38</sup>Principal Reporter]—

(a) that the children's hearing will not be able to dispose of the child's case before the expiry of the period of detention required by the warrant as renewed; and

(b) that further detention of the child is necessary in the child's own interest,

the [<sup>F38</sup>Principal Reporter] may apply to the sheriff for a warrant requiring the child to be detained in a place of safety for such a period not exceeding twenty-one days as may be necessary and the sheriff may issue such a warrant if he is satisfied that such detention is necessary in the child's own interest.

(5B) On cause shown a warrant authorising detention under subsection (5A)

of this section may be renewed by the sheriff on one occasion only, for the period mentioned in that subsection on the application of the [<sup>F38</sup>Principal Reporter].]

(6) In this section any reference to a justice of the peace includes a reference to a sheriff and to a magistrate.

#### Textual Amendments

**F37** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F38** Words in s. 37(1)(1A)(b)(2)(3)(a)(4)(5)(5A)(5B) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F39** S. 37(1A) inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 83(a)**

**F40** S. 37(2) substituted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 83(b)**

**F41** Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 461(1), **Sch. 9 para. 42**

**F42** Words inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 83(c)**

**F43** S. 37(5A)(5B) inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 83(d)**

#### Marginal Citations

**M7** 1975 c. 21.

<sup>F45</sup>**38** [<sup>F44</sup> **Initial investigation of cases by** [<sup>F44</sup>Principal reporter]]. **S**

(1) Where [<sup>F46</sup>the Principal Reporter] receives information from any source of a case which may require a children's hearing to be arranged he shall, after making such initial investigation as he may think necessary, proceed with the case in accordance with the provisions of the next following section.

[<sup>F47</sup>(1A) For the purposes of making any initial investigation under subsection (1) above, the Principal Reporter may request from the local authority a report on the child and his social background and it shall be the duty of the authority to supply the report which

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may contain information from any such person as the Principal Reporter or the local authority may think fit.

- (1B) A report requested under subsection (1A) above may contain information additional to that given by the local authority under section 37(1A)(b) of this Act.]
- (2) Paragraph (b) of section 17(1) of the <sup>M8</sup>Police (Scotland) Act 1967 shall, in relation to a child to whom this Part of this Act applies, have effect as if that paragraph imposed a requirement on constables of a police force to make the reports required there by to <sup>F46</sup>the Principal Reporter] in addition to the appropriate prosecutor.

#### Textual Amendments

- F44** S. 38: words in the cross heading substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F45** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F46** Words in s. 38(1)(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(14)(a)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F47** S. 38(1A)(1B) inserted (1.4.1996) by 1994 c. 39, s. 139(1); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

#### Marginal Citations

- M8** 1967 c. 77.

#### <sup>F49</sup>39 [ <sup>F48</sup> Action on initial investigation by [ <sup>F48</sup>Principal reporter]]. **S**

- (1) Where the [ <sup>F50</sup>Principal Reporter] decides that no further action on the case is required, he shall, where he considers this to be the proper course, so inform the child and his parent and the person who brought the case to his notice, or any of those persons.
  - (2) Where the [ <sup>F50</sup>Principal Reporter] considers it to be the proper course, he shall refer the case to the local authority with a view of their making arrangements for the advice, guidance and assistance of the child and his family in accordance with Part II of this Act.
  - (3) Where it appears to the [ <sup>F50</sup>Principal Reporter] that the child is in need of compulsory measures of care, he shall arrange a children's hearing to whom the case shall stand referred for consideration and determination.
  - (4) Where the [ <sup>F50</sup>Principal Reporter] has arranged a children's hearing in pursuance of the last foregoing subsection, he shall request from the local authority ; a report on the child and his social background and it shall be the duty of the authority to supply the report which may contain information from any such person as the [ <sup>F50</sup>Principal Reporter] or the local authority may think fit.
- [ <sup>F51</sup>(4A) A report requested under subsection (4) above may contain information additional to that given in a report under section 38(1A) of this Act.]
- (5) Where the [ <sup>F50</sup>Principal Reporter] has decided that no further action on the case is required, or has taken action in pursuance of subsection (2) of A this section, he shall not thereafter take action under subsection (3) of this section in relation to the same facts.

*Status: Point in time view as at 12/12/1996.*

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#### Textual Amendments

- F48** S. 39: words in cross heading substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F49** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F50** Words in s. 39(1)-(4)(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F51** S. 39(4A) inserted (1.4.1996) by 1994 c. 39, s. 139(2); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

#### [<sup>F52</sup>40 Attendance of child at children's hearing. **S**

- (1) Where a child has been notified by virtue of section 35 of this Act that his case has been referred to a children's hearing, he shall be under an obligation to attend that hearing in accordance with the notification.
- (2) Without prejudice to the provisions of section 42(1)  
of this Act, where a children's hearing are satisfied in a case concerned with an offence mentioned in [<sup>F53</sup>Schedule 1 to the <sup>M9</sup>Criminal Procedure (Scotland) Act 1975]] that the attendance of a child is not necessary for the just hearing of that case, or in any case where they are satisfied that it would be detrimental to the interest of the child to be present at the hearing of his case, the case, in whole or in part, may be considered in the absence of the child.
- (3) The [<sup>F54</sup>Principal Reporter] shall be responsible for securing the attendance of a child at the hearing of his case before a children's hearing and at any subsequent hearing to which the case is continued.
- (4) For the purpose of the last foregoing subsection, or where a child fails to attend at any hearing of his case, a children's hearing may, at the instance of the [<sup>F54</sup>Principal Reporter] on cause shown, or, as the case may be, of their own motion, issue a warrant for the apprehension of the child if satisfied of the necessity for such a course, and any warrant so issued shall be authority for bringing him before a children's hearing and for his detention in a place of safety.
- (5) A child shall not continue to be detained under the last foregoing subsection—
  - (a) after the day on which a children's hearing first sit to consider his case in pursuance of the next following subsection, or
  - (b) for a period exceeding seven days.
- (6) Where a child is apprehended in pursuance of subsection (4)  
of this section, and he cannot immediately be brought before a children's hearing, the [<sup>F54</sup>Principal Reporter] shall, wherever practicable, arrange a children's hearing to sit not later than in the course of the first lawful day after the apprehension of the child.
- [<sup>F55</sup>(7) Where a children's hearing before whom a child is brought are unable to dispose of his case and—
  - (a) have reason to believe that the child may not attend at any hearing of his case, or at any proceedings arising from the case or may fail to comply with a requirement under section 43(4) of this Act; or

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(b) are satisfied that detention of the child is necessary in his own interest, they may issue a warrant requiring the child to be detained in a place of safety for such a period not exceeding twenty-one days as may be necessary.]

[<sup>F56</sup>(8) On cause shown a warrant authorising detention under subsection (7)

of this section may be renewed by a children’s hearing on one occasion only, for the period mentioned in that subsection, on the application of the [<sup>F54</sup>Principal Reporter].]

[<sup>F57</sup>(8A) Where a warrant has been renewed under subsection (8) of this section but it appears to the [Principal Reporter]—

(a) that the children’s hearing will not be able to dispose of the child’s case before the expiry of the period of detention required by the warrant as renewed; and

(b) that further detention of the child is necessary in the child’s own interest, the [<sup>F54</sup>Principal Reporter] may apply to the sheriff for a warrant requiring the child to be detained in a place of safety for such a period not exceeding twenty-one days as may be necessary, and the sheriff may issue such a warrant if he is satisfied that such detention is necessary in the child’s own interest.

(8B) On cause shown, a warrant authorising detention under subsection (8A)

of this section may be renewed by the sheriff on one occasion only, for the period mentioned in that subsection, on the application of the [<sup>F54</sup>Principal Reporter].]

(9) A warrant of apprehension issued under this Part of this Act may be executed in like manner as a warrant of apprehension of an accused person issued by a court of summary jurisdiction, and any enactment relating to the execution of a warrant of apprehension issued by a court of summary jurisdiction shall, with any necessary modifications, apply in relation to the execution of a warrant of apprehension issued under this Part of this Act as it applies to a warrant of apprehension issued by a court of summary jurisdiction.

#### Textual Amendments

**F52** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F53** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 460(1)(b)**

**F54** Words in s. 40(3)(4)(6)(8)(8A)(8B) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F55** S. 40(7) substituted by **Children Act 1975 (c. 72, SIF 49:9, 10), s. 84(a)**

**F56** S. 40(8) substituted by **Children Act 1975 (c. 72, SIF 49:9, 10), s. 84(b)**

**F57** S. 40(8A)(8B) inserted by **Children Act 1975 (c. 72, SIF 49:9, 10), s. 84(c)**

#### Marginal Citations

**M9** 1975 c. 21.

[<sup>F58</sup>41 **Attendance of parent at children’s hearing.** **S**

(1) A parent of a child shall have a right to attend at all stages of a children’s hearing who are considering the case of his child.

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- (2) When a child's case is being considered by a children's hearing his parent shall attend at all stages of the hearing unless the children's hearing are satisfied that it would be unreasonable to require his attendance or that his attendance would be unnecessary to the consideration of the case.
- (3) Any person who fails to comply with the provisions of the foregoing subsection shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding [<sup>F59</sup>level 3 on the standard scale].

#### Textual Amendments

- F58** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F59** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

#### [<sup>F60</sup>42] **Conduct of children's hearing and application to sheriff for findings.** **S**

- (1) Subject to the provisions of subsections (7)

and (8) of this section, at the commencement of a children's hearing, and before proceeding to the consideration of the case, it shall be the duty of the chairman to explain to the child and his parent the grounds stated by the [<sup>F61</sup>Principal Reporter] for the referral of the case for the purpose of ascertaining whether these grounds are accepted in whole or in part by the child and his parent.

- (2) Thereafter—

- (a) where the child and his parent accept the grounds stated by the [<sup>F61</sup>Principal Reporter] for the referral the hearing shall proceed;
- (b) where the child and his parent accept those grounds in part and the children's hearing consider it proper so to do the hearing may proceed in respect of the grounds so accepted; and
- (c) in any other case, unless they decide to discharge the referral, the children's hearing shall direct the [<sup>F61</sup>Principal Reporter] to make application to the sheriff for a finding as to whether such grounds for the referral, as are not accepted by the child or his parent, are established having regard to the provisions of section 32 of this Act.

[ Where the ground for referral is that the child is in need of compulsory measures of  
<sup>F62</sup>(2A) care because he has committed an offence, the sheriff to whom an application under subsection (2)(c) above shall be made shall be the sheriff who would have jurisdiction if the child were being prosecuted for that offence.]

- (3) It shall be the duty of the chairman of a children's hearing who have made a direction under the last foregoing subsection to explain to the child and his parent the purpose for which the application to the sheriff is being made, and to inform the child that he is under an obligation to attend the hearing of the application, and where a child fails to attend at the hearing of the application the sheriff may issue a warrant for the apprehension of the child; and any warrant so issued shall be authority for bringing him before the sheriff and for his detention in a place of safety until the sheriff can

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hear the application, but a child shall not be detained under this subsection [<sup>F63</sup>after whichever is the earlier of the following—

- (a) the expiry of 14 days beginning with the day on which he was first detained;
- (b) the disposal of the application by the sheriff.]

(4) An application under subsection (2) of this section shall be heard by the sheriff in chambers within twenty-eight days of the lodging of the application and, without prejudice to their right to legal representation, a child or his parent may be represented at any diet fixed by the sheriff for the hearing of the application.

(5) Where a sheriff decides that none of the grounds in respect of which the application has been made has been established for the referral of a case to a children's hearing, he shall dismiss the application and discharge the referral in respect of those grounds.

(6) [<sup>F64</sup>Subject to subsection (6A) of this section,] Where the sheriff is satisfied on the evidence before him that any of the grounds in respect of which the application has been made has been established

[ he shall remit the case to the [<sup>F61</sup>Principal Reporter] to make arrangements for a children's hearing for consideration and determination of the case [<sup>F66</sup>; and

- (b) if he is satisfied that detention of the child is necessary in his own interest or has reason to believe that the child will run away before the children's hearing sit to consider the case, he may issue a warrant requiring the detention of the child until the children's hearing sit to consider the case, but a child shall not be detained under this subsection after whichever is the earlier of the following—
  - (i) the expiry of 3 days beginning with the day on which he was first detained;
  - (ii) the consideration of his case by the children's hearing.]

, and where a ground for the referral of the case is the condition referred to in section 32(2)(g) of this Act, the sheriff in hearing the application shall apply to the evidence relating to that ground the standard of proof required in criminal procedure.

[ Notwithstanding the provisions of subsection (2)(c) of this section, where, in the [<sup>F67</sup>(6A) course of the proceedings before the sheriff, the child and his parent accept any of the grounds in respect of which the application has been made, the sheriff may dispense with the hearing of evidence relating to that ground unless he is satisfied that in all the circumstances such evidence should be heard, and deem that ground to have been established for the purposes of this section.]

(7) Where a children's hearing are satisfied that the child for any reason is not capable of understanding the explanation of the grounds of referral required by subsection (1) of this section, or in the course of, or at the conclusion of that explanation, it appears not to be understood by the child, the hearing shall, unless they decide to discharge the referral, direct the [<sup>F61</sup>Principal Reporter] to make application to the sheriff for a finding as to whether any of the grounds for the referral have been established, and the provisions of this section relating to an application to the sheriff under subsection (2) (c) thereof shall apply as they apply to an application under that subsection [<sup>F68</sup>except that where any of the grounds for the referral are accepted by the child's parent, whether or not accepted by the child, then, notwithstanding subsection (6A) of this section, the sheriff may dispense with the hearing of evidence relating to that ground if he is satisfied that in all the circumstances it would be reasonable to do so.]

(8) The acceptance by a parent of the grounds of referral shall not be a requirement to proceeding with a case under this section where the parent is not present.]



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#### Textual Amendments

- F60** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F61** Words in s. 42(1)(2)(a)(c)(6)(a)(7) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F62** S. 42(2A) inserted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 21**
- F63** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), **s. 25(1)**
- F64** Words inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para 8(a)**
- F65** “(a)” inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), **s. 25(2)(a)**
- F66** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), **s. 25(2)(b)**
- F67** S. 42(6A) inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para.8(b)**
- F68** Words added by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para. 8(c)**

#### Modifications etc. (not altering text)

- C3** S. 42 extended by Rehabilitation of Offenders Act 1974 (c. 53, SIF 39:1), **s. 3**

#### [<sup>F69</sup>43] **Discharge of referral and power of children’s hearing to order further investigation after consideration of the facts. S**

- (1) When a children’s hearing have considered the grounds for the referral of a case, accepted or established under the last foregoing section, the report obtained under section 39(4) of this Act and such other relevant information as may be available to them, they shall proceed in accordance with the subsequent provisions of this section to consider on what course they should decide in the best interests of the child.
- (2) Where a children’s hearing decide that no further action is required they shall discharge the referral.
- (3) Where a children’s hearing consider that further investigation in relation to a child and his history is necessary to complete their consideration of his case they may continue the case to a subsequent hearing.
- (4) For the purpose of such an investigation as aforesaid, a children’s hearing may require a child to attend or reside at any clinic, hospital or establishment during a period not exceeding twenty-one days.
- (5) Where a child fails to fulfil a requirement made in pursuance of the last foregoing subsection it shall be the duty of the [<sup>F70</sup>Principal Reporter]] to arrange a children’s hearing to consider the issue of a warrant for his detention under section 40 of this Act.

*Status: Point in time view as at 12/12/1996.*

*Changes to legislation: Social Work (Scotland) Act 1968, Part III is up to date with all changes known to be in force on or before 14 July 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)*

#### Textual Amendments

- F69** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F70** Words in s. 43(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### [<sup>F71</sup>44 Disposal of case by children’s hearing other than by discharge of referral. **S**

- (1) Subject to the provisions of this Part of this Act a children’s hearing, where, after the consideration of his case, they decide that a child is in need of compulsory measures of care, may make a requirement, in this Act referred to as a supervision requirement, requiring him—
- (a) to submit to supervision in accordance with such conditions as they may impose; or
  - (b) to reside in a residential establishment named in the requirement and be subject to such conditions as they may impose;

and a condition imposed by virtue of head (a) of this subsection may be a condition as to the place where the child is to reside, being a place other than a residential establishment, and the place may be a place in England or Wales where arrangements have been made in that behalf.

[<sup>F72</sup>(1A) A supervision requirement imposing a condition as to the place where a child is to reside in England or Wales shall be a like authority as in Scotland for the person in charge of the place to restrict the child’s liberty to such an extent as that person may consider appropriate having regard to the terms of the supervision requirement.]]

- (2) In making a supervision requirement requiring a child to reside in a residential establishment a children’s hearing shall have regard to the religious persuasion of the child.
- (3) Without prejudice to the provisions of this Part of this Act relating to the review of supervision requirements, a children’s hearing may, where they are satisfied that such a course is proper, postpone the operation of a supervision requirement, but otherwise a supervision requirement shall have effect as from the date it is made.
- (4) Where it appears to a children’s hearing that the functions of the education authority under section 63 of the <sup>M10</sup>Education (Scotland) Act 1962 (ascertainment of children suffering from disability) may require to be exercised, they shall, in addition to any other course which they may take under this section, send a report to that effect to the education authority concerned.
- (5) It shall be the duty of the local authority to give effect to a supervision requirement made by a children’s hearing for their area, and a child who is subject to such a supervision requirement shall, for the purposes of sections 16 to 18, 20 [<sup>F73</sup>20A], 24 to 26, 28 and 29 of this Act [<sup>F74</sup>and section 18 of the Adoption (Scotland) Act 1978 (which, amongst other things, provides that an application by an adoption agency to dispense with parental agreement to the freeing of a child for adoption is competent only where the child is in the care of the agency).], be in their care:

Provided that where the performance of a function under any of the said sections in relation to the child requires, or would be facilitated by, the variation or discharge

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of the supervision requirement, the local authority shall recommend a review of the requirement under this Part of this Act.

- (6) In any case of urgent necessity in the interests of the child, or of the other children in a place, [<sup>F75</sup>the chief social work officer] may direct that a child who is required to reside in that place under this section be transferred to another place.
- (7) Any child transferred under the last foregoing subsection shall have his case reviewed by a children's hearing within seven days of his transfer, in accordance with the following provisions of this Act.
- (8) A supervision requirement shall be in such form as the Secretary of State may prescribe.

#### Textual Amendments

- F71** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F72** S. 44(1A) inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 57**
- F73** Words inserted (*prosp.*) by Children Act 1975 (c. 72, SIF: 9, 10), s. 108(2), **Sch. 3 para. 56**
- F74** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), **s. 28**
- F75** Words in s. 44(6) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### Modifications etc. (not altering text)

- C4** Reference in s. 44(4) to “section 63 of the Education (Scotland) Act 1962” to be construed as reference to Education (Scotland) Act 1980 (c. 44, SIF 41:2), **s. 60**; Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)(a)** and Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 3 para. 1**
- C5** S. 44(6)(7) extended by S.I. 1983/1912, **reg. 6(3)**

#### Marginal Citations

- M10** 1962 c. 47.

### [<sup>F76</sup>45 Rules as respects transmission of information and conveyance of children to residential establishments etc. **S**

The Secretary of State may make rules providing for the transmission of information regarding children who are the subject of supervision requirements to the persons who are to be in charge of them, for the temporary accommodation, where necessary, of such children, and for the conveyance of such children to residential establishments and to other places where they may be required to reside.]

#### Textual Amendments

- F76** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

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**[<sup>F77</sup>46 Children to whom Part IV of the Mental Health (Scotland) Act 1960 may apply. S**

- (1) Where a children's hearing are of the opinion, after considering the case of any child, that an application for admission to hospital or a guardianship application under [<sup>F78</sup>Part V of the Mental Health (Scotland) Act 1984]] should be made to the sheriff in respect of the child, they shall make a report to that effect to the mental health officer concerned.
- (2) Nothing in the provisions of the foregoing subsection shall affect the saving for arrangements for the voluntary treatment of mental disorder contained in [<sup>F79</sup>section 17(2) of the said Act of 1984].

**Textual Amendments**

- F77** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise*prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F78** Words substituted by **Mental Health (Scotland) Act 1984 (c. 36, SIF 85)**, s. 127(1), **Sch. 3 para. 16(a)**
- F79** Words substituted by **Mental Health (Scotland) Act 1984 (c. 36, SIF 85)**, s. 127(1), **Sch. 3 para. 16(b)**

**[<sup>F80</sup>47 Duration of supervision requirements and their variation. S**

- (1) No child shall continue to be subject to a supervision requirement for any time longer than is necessary in his interest; and where they consider that such a requirement in respect of a child should cease to have effect or should be varied, the local authority shall refer his case to [<sup>F81</sup>the Principal Reporter]] for review of that requirement by a children's hearing and, if the hearing think proper, they may terminate the requirement, or continue or vary the requirement, and in the last event they may make any such supervision requirement as may be made under section 44 of this Act.
- (2) A supervision requirement shall cease to have effect in respect of a child when he attains the age of eighteen years and accordingly, within a period of three months ending on the day on which such a requirement will cease to have effect under this subsection, the local authority concerned shall refer the case to the [<sup>F82</sup>Principal Reporter] so that a children's hearing may advise whether the child still requires supervision or guidance, and in the event of the hearing so advising, the local authority shall provide such supervision or guidance as he is prepared to accept.
- (3) Unless the context otherwise requires, any reference in this section and in the following provisions of this Act to a supervision requirement shall be construed as a reference to a supervision requirement which is for the time being in force in respect of a child.

**Textual Amendments**

- F80** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise*prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F81** Words in s. 47(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(16)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F82** Words in s. 47(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

*Status: Point in time view as at 12/12/1996.*

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**[<sup>F83</sup>48 Review of requirement of children’s hearing. S**

- (1) A supervision requirement shall be subject to review by a children’s hearing in accordance with the following provisions of this section.
- (2) A supervision requirement shall be reviewed by a children’s hearing where a local authority so recommends.
- (3) No supervision requirement shall remain in force without review for a period extending beyond one year, and where a supervision requirement is not reviewed within the period of one year from the making or continuing of the requirement it shall cease to have effect at the expiration of that period.
- (4) At any time after the expiration of any of the following periods, that is to say—
  - (a) a period of three months from the date of the making of a supervision requirement; or
  - (b) a period of three months from the date of a review of a supervision requirement where such a review varies a previous requirement; or
  - (c) a period of six months from the date of a review of a supervision requirement which is continued by that review,a child or his parent may require a review of the requirement.

[ If a supervision requirement has not been reviewed under this section during the period <sup>F84</sup>(4A) of nine months following the date when it was made or last reviewed (whichever is the later), the [<sup>F85</sup>Principal Reporter]] may arrange for it to be reviewed.]

- (5) It shall be the duty of the [<sup>F85</sup>Principal Reporter] to ensure that any review required by this section is duly made and to make any necessary arrangements arising therefrom.
- (6) Section 44 of this Act shall apply in relation to the disposal of a case by a children’s hearing under this section as it applies to the disposal of a case under that section.

**Textual Amendments**

- F83** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F84** S. 48(4A) added by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), **s. 29**
- F85** Words in s. 48(4A)(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**[<sup>F86</sup>49 Appeal against decision of a children’s hearing. S**

- (1) A child or his parent or both may, within a period of three weeks beginning with the date of any decision of a children’s hearing, appeal to the sheriff in chambers against that decision, and the child or his parent or both shall be heard by the sheriff as to the reasons for the appeal.
- (2) In any such appeal it shall be the duty of the [<sup>F87</sup>Principal Reporter]] to ensure that all reports and statements available to the hearing along with the reports of their proceedings and the reasons for their decision are lodged with the sheriff clerk.

*Status: Point in time view as at 12/12/1996.*

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- (3) [<sup>F88</sup>The [<sup>F87</sup>Principal Reporter], whether or not he is conducting the proceedings before the sheriff, may be examined by the sheriff; and the sheriff may examine] the authors or compilers of any reports or statements, and may call for any further report which he considers may assist him in deciding the appeal.
- (4) Where the sheriff decides that an appeal under this section has failed, he shall confirm the decision of the children's hearing.
- (5) Where the sheriff is satisfied that the decision of the children's hearing is not justified in all the circumstances of the case he shall allow the appeal, and—
  - (a) where the appeal is against the issue of a warrant for detention he shall recall the warrant, and
  - (b) in any other case, he may, as he thinks fit, remit the case with the reasons for his decision to the children's hearing for reconsideration of their decision or discharge the child from any further hearing or other proceedings in relation to the grounds for the referral of the case.
- (6) Where the sheriff is satisfied that an appeal under this section against the decision of a children's hearing at a review is frivolous, he may order that no appeal against a decision to continue the supervision requirement, which was the subject of that appeal, made on a subsequent review shall lie until the expiration of a period of twelve months beginning with the date of the order.
- (7) An appeal under this section in respect of the issue of a warrant by a children's hearing shall be disposed of within three days of the lodging of the appeal, and failing such disposal the warrant shall forthwith cease to have effect.
- (8) Where a child or his parent appeals under this section against a decision of a children's hearing in relation to a supervision requirement, the child or his parent may make application to a children's hearing for the suspension of the requirement appealed against, and it shall be the duty of the [<sup>F87</sup>Principal Reporter] forthwith to arrange a children's hearing to consider the application, and thereafter the hearing may grant or refuse the application.

#### Textual Amendments

- F86** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F87** Words in s. 49(2)(3)(8) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F88** Words substituted by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 3 para. 57**

#### [<sup>F89</sup>50 Appeal to Court of Session. **S**

- (1) Subject to the provisions of this section, an appeal shall lie to the Court of Session, by way of stated case on a point of law or in respect of any irregularity in the conduct of the case, at the instance of a child or his parent or both or of [<sup>F90</sup>the Principal Reporter]] acting on behalf of a children's hearing, from any decision of the sheriff under this Part of this Act, and no other or further appeal shall be competent.



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- (2) An application to the sheriff to state a case for the purpose of the foregoing subsection shall be made within a period of twenty-eight days beginning with the date of his decision.
- (3) On deciding the appeal the Court of Session shall remit the case to the sheriff for disposal in accordance with such directions as the Court may give.
- (4) No appeal shall lie under this section in respect of a decision of a children's hearing imposing a supervision requirement where the sole ground of the objection to that requirement is that the treatment prescribed thereby is inappropriate for the child.

#### Textual Amendments

- F89** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F90** Words in s. 50(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(17)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### [<sup>F91</sup>51] **Reconsideration by hearing after appeal, and subsequent appeal.** **S**

- (1) Where the sheriff, by virtue of either of the last two foregoing sections, has remitted a case to a children's hearing for reconsideration of their decision the [<sup>F92</sup>Principal Reporter]] shall arrange a children's hearing for that purpose.
- (2) A child or his parent may, within a period of seven days beginning with the date of the decision of a children's hearing on a case remitted as aforesaid, appeal against the decision, and the provisions of subsections (2) to (8) of section 49 of this Act shall apply to such an appeal as they apply to an appeal under subsection (1) of the said section.

#### Textual Amendments

- F91** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F92** Words in s. 51(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### [<sup>F93</sup>52] **Power of Secretary of State to terminate a supervision requirement.** **S**

Where, having regard to all the circumstances of a case and the interests of a child, the Secretary of State is satisfied that a supervision requirement in force in respect of the child should be terminated, he may by order terminate the requirement.]

#### Textual Amendments

- F93** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

*Status: Point in time view as at 12/12/1996.*

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53 ..... <sup>F94</sup> **S**

#### Textual Amendments

**F94** S. 53 repealed by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 43, 45, **Sch. 5** and Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) expressed to be repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)**, **Sch. 5** (with savings in ss. 103(1), 105(3), **Sch. 3 para. 8**); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201, **art. 3**))

[<sup>F95</sup>54] **Transfer of case to another children’s hearing.** **S**

- (1) Where a children’s hearing are satisfied, in a case being heard before them, that the case could be better considered by a children’s hearing for the area of another local authority, they may at any time during the course of the hearing request the [<sup>F96</sup>Principal Reporter]] to arrange [<sup>F97</sup>for the other] children’s hearing to dispose of the case.
- (2) Where a case has been transferred in pursuance of the last foregoing subsection, the grounds of referral accepted or established for the case shall not require to be further accepted or established for the purpose of the children’s hearing to which the case has been transferred.

#### Textual Amendments

**F95** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F96** Words in s. 54(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F97** Words in s. 54(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(18)**; S.I. 1996/323, **art. 4(1)(b)(c)**

[<sup>F98</sup>55] **Presumption and determination of age.** **S**

Where a person is brought before a children’s hearing they shall make inquiry as to his age, and, if it appears to the hearing that the person is a child, they shall proceed with the case, and no decision or requirement of the hearing shall be invalidated by any subsequent proof that the age of that person has not been correctly stated to the hearing, and the age presumed or declared by the hearing to be the age of the person so brought before them shall, for the purposes of this Part of this Act, be deemed to be the true age of that person, and, where it appears to the hearing that the person so brought before them has attained the age of sixteen years, that person shall, for the purposes of this Part of this Act, be deemed not to be a child except as the Act otherwise provides.]

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#### Textual Amendments

**F98** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

### [<sup>F99</sup>56 Reference and remit of children’s cases by courts to children’s hearings. **S**

- (1) ..... <sup>F100</sup>
- (5) Where a court has remitted a case of a child or person [<sup>F101</sup>under section 173 or 372 or 373 of the <sup>M11</sup>Criminal Procedure (Scotland) Act 1975]], a certificate signed by the clerk of the court stating that the child or person has pleaded guilty to, or has been found guilty of, the offence to which the remit relates shall be conclusive evidence for the purpose of the remit that that offence has been committed by the child or person.
- (6) ..... <sup>F100</sup>

#### Textual Amendments

**F99** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F100** Ss. 56(1)–(4)(6), 57(1) repealed by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 10 Pt. I**

**F101** Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 461(1), **Sch. 9 para. 43**

#### Marginal Citations

**M11** 1975 c. 21.

### [<sup>F102</sup>57 Reference and remit of cases of certain young persons by courts to children’s hearings. **S**

- (1) ..... <sup>F103</sup>
- (2) Where a court has remitted a case under [<sup>F104</sup>section 373 of the <sup>M12</sup>Criminal Procedure (Scotland) Act 1975]] the provisions of this Part of this Act shall apply to that person as if he were a child.

#### Textual Amendments

**F102** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F103** Ss. 56(1)–(4)(6), 57(1) repealed by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 10 Pt. I**

**F104** Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 461(1), **Sch. 9 para. 44**

*Status: Point in time view as at 12/12/1996.*

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### Marginal Citations

M12 1975 c. 21.

## [<sup>F105</sup>58 Prohibition of publication of proceedings. S

- (1) Subject to the provisions of this section, no report of any proceedings in any children’s hearing, or of any proceedings before the sheriff under section 42 of this Act, or of any appeal under this Part of this Act, which is made in a newspaper or a sound or television [<sup>F106</sup>programme included in a programme service (within the meaning of the Broadcasting Act 1990)] shall—
  - (a) reveal the name, address or school; or
  - (b) include any particulars calculated to lead to the identification, of any child in any way concerned in a hearing and no picture shall be published in any newspaper or television [<sup>F107</sup>programme included in such a programme service] as being or including a picture of a child concerned as aforesaid.
- (2) Any person guilty of any offence against this section shall on summary conviction be liable to a fine not exceeding [<sup>F108</sup>level 4 on the standard scale] in respect of each offence.
- (3) The Secretary of State may in any case, if satisfied that it is in the interests of justice to do so, by order dispense with the requirements of subsection (1) of this section to such extent as may be specified in the order.
- (4) This section shall extend to England and Wales.

### Textual Amendments

- F105** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F106** Words substituted by virtue of Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 12(a)**
- F107** Words substituted by virtue of Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 12(b)**
- F108** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

## [<sup>F109</sup><sup>F110</sup>58 Residence in secure accommodation. S

- (1) A child who is made subject to a supervision requirement under this Act may not be placed or kept in secure accommodation, except under the provisions of this Act.
- (2) In this Act, “secure accommodation” means accommodation provided in a residential establishment in accordance with regulations made under section 60(1) of this Act for the purpose of restricting the liberty of children.
- (3) Where a children’s hearing decide, in accordance with section 44 of this Act, that a child is in need of compulsory measures of care, and they are satisfied that either—
  - (a) he has a history of absconding, and—

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- (i) he is likely to abscond unless he is kept in secure accommodation; and
  - (ii) if he absconds, it is likely that his physical, mental or moral welfare will be at risk; or
- (b) he is likely to injure himself or other persons unless he is kept in secure accommodation,
- they may make it a condition of a supervision requirement under subsection (1)(b) of the said section 44 that the child shall be liable to be placed and kept in secure accommodation in the named residential establishment at such times as the person in charge of that establishment, with the agreement of the [F111 chief social work officer] of the local authority required to give effect to the supervision requirement, considers it necessary that he do so.
- (4) The Secretary of State shall have power by regulations to make provision with respect to the placing in secure accommodation of any child—
- (a) who is subject to a supervision requirement imposed under section 44 of this Act but not subject to a condition imposed under subsection (3) of this section; or
  - (b) who is not subject to such a supervision requirement but who is being cared for by a local authority or voluntary organisation in pursuance of such enactments as may be specified in the regulations,
- and such regulations shall specify the circumstances which require to pertain before a child may be so placed under regulations made under this subsection and may specify different circumstances for different cases or classes of case.]

#### Textual Amendments

- F109** Ss. 58A—58G inserted (30.1.1984) by [Health and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [s. 8\(4\)](#)
- F110** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) ceased to have effect (12.12.1996 for certain purposes and otherwise *prosp.*) by [1995 c. 36, s. 105\(4\)\(5\)](#), [Sch. 4 para. 15\(14\)](#) (with [s. 103\(1\)](#)); [S.I. 1996/3201, art. 3\(6\)](#)
- F111** Words in [s. 58A\(3\)](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 76\(19\)](#); [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)](#)

#### [F112] **58B Time limits on keeping without reference to children's hearing.** **S**

- (1) The Secretary of State shall by regulations prescribe—
- (a) the maximum period during which a child may be kept under this Act in secure accommodation without the authority of a children's hearing or of the sheriff;
  - (b) the period within which the case of a child placed under this Act in secure accommodation shall be referred to the [F113 Principal Reporter] and different periods may be prescribed in respect of different cases or classes of case.
- (2) The Secretary of State shall by regulations make provision to enable a child who has been placed in secure accommodation under section 58(A)(4) of this Act or his parent to require that the child's case be brought before a children's hearing within a shorter period than would otherwise apply under regulations made under subsection (1)(a) of this section.
- (3) Where, in any case, a [F114 children's] hearing direct the [F113 Principal Reporter] to make application to the sheriff for a finding under section 42(2)(c) of this Act (finding

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that grounds for referral are established), they shall have power, if they are satisfied with regard to the criteria specified in paragraph (a) or (b) of section 58A(3) of this Act, to <sup>F115</sup>order that, pending the determination of his case in accordance with section 42(5) or (6) of this Act, the child shall be liable to be placed and kept in secure accommodation in a named residential establishment at such times as the person in charge of that establishment with the agreement of the <sup>F116</sup>chief social work officer] of the local authority for the area of the children's hearing, considers necessary.]

#### Textual Amendments

- F112** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**
- F113** Words in s. 58B(1)(b)(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F114** Word substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1), ss. 23, 59, **Sch. 2 para. 10**
- F115** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), s. 26(a)
- F116** Words in s. 58B(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(20)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### <sup>F117</sup>58C Review of secure accommodation condition. **S**

- (1) A condition imposed under section 58A(3)
  - of this Act, requiring a child to reside in secure accommodation, shall be subject to review by a children's hearing at such time as the local authority recommends and otherwise at such times and in accordance with such provisions as the Secretary of State shall by regulations prescribe.
- (2) A condition to which this section applies shall be reviewed when the supervision requirement is being reviewed, and may be reviewed separately from that review.
- (3) A condition to which this section applies shall cease to have effect at the expiry of the period of three months after it was made, unless it has been reviewed and the condition has been ordered to continue.
- (4) A condition which is continued on review shall cease to have effect at the expiry of the period of—
  - (a) nine months after it is first reviewed;
  - (b) twelve months after the second or any subsequent review,
 unless it has been reviewed and the condition has been ordered to continue.
- (5) Sections 44 and 48(5)
  - of this Act shall apply to the review of conditions made under section 58A(3) of this Act as they apply to the review of supervision requirements.
- (6) The Secretary of State may from time to time make regulations to vary the periods specified in this section.]



*Status: Point in time view as at 12/12/1996.*

*Changes to legislation: Social Work (Scotland) Act 1968, Part III is up to date with all changes known to be in force on or before 14 July 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)*

#### Textual Amendments

**F117** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

#### Modifications etc. (not altering text)

**C6** S. 58C(4) amended by S.I. 1983/1912, **art. 12(3)** as substituted by S.I. 1988/841, **art. 8**

### [<sup>F118</sup>58D Sheriff's power to direct condition to cease to have effect. **S**

Where under section 49(5) of this Act (appeal against decision of children's hearing) the sheriff is satisfied in a case in which there is in force a condition under section 58A(3) of this Act that the decision of the children's hearing is not justified in all the circumstances of the case he shall direct that the condition shall cease to have effect.]

#### Textual Amendments

**F118** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

### [<sup>F119</sup>58E Warrants to detain in secure accommodation. **S**

- (1) Where the sheriff or a children's hearing issues a warrant under any of sections 37, 40 and 42 of this Act (detention in a place of safety), he or they may, if satisfied with regard to the criteria specified in paragraph (a) or (b) of section 58A(3) of this Act, [<sup>F120</sup>order that the child shall be liable to be placed and kept in secure accommodation in a named residential establishment at such times as the person in charge of that establishment, with the agreement of the [<sup>F121</sup>chief social work officer]] of the local authority, considers necessary. The local authority referred to in this subsection is, in the case of a warrant issued or renewed by the sheriff, the local authority for the area of the children's hearing which was dealing with the child in respect of whom the warrant was issued and, in the case of a warrant issued or renewed by a children's hearing, the local authority for the area of that children's hearing.]
- (2) For the purposes of this section, the Secretary of State may make regulations amending, varying or disapplying any of the criteria specified in the said paragraphs (a) and (b) of section 58A(3) of this Act except in relation to a warrant under section 37 of this Act.

#### Textual Amendments

**F119** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F120** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 49:6), s. 26(b)

*Status: Point in time view as at 12/12/1996.*

*Changes to legislation: Social Work (Scotland) Act 1968, Part III is up to date with all changes known to be in force on or before 14 July 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)*

**F121** Words in s. 58E(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(21)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**[<sup>F122</sup>58F Procedures for placing in secure accommodation. S**

- (1) The Secretary of State may by regulations make provision for the procedures to be applied in the placing of children in secure accommodation, and without prejudice to the foregoing generality may make provision for the referral of cases to a children's hearing for review.
- (2) Regulations under this section may specify the duties of the [<sup>F123</sup>Principal Reporter] in relation to the placing of children in secure accommodation.
- (3) Regulations under this section may make provision for the parent of a child being informed of the placing of the child in secure accommodation.

**Textual Amendments**

**F122** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**F123** Words in s. 58F(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(26)(27)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**[<sup>F124</sup>58G Transitional provisions. S**

Regulations made under sections 58A to 58F of this Act may include such transitional provisions as the Secretary of State may consider necessary, including provisions varying the application of any provision in those sections for a transitional period, either generally, or in relation to specified classes of cases.]

**Textual Amendments**

**F124** Pt. III (ss. 30-58G except s. 31(1)(3) and Sch. 2 amendments provided for in s. 31(3)) repealed (12.12.1996 and otherwise *prosp.*) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(14)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)**

**Status:**

Point in time view as at 12/12/1996.

**Changes to legislation:**

Social Work (Scotland) Act 1968, Part III is up to date with all changes known to be in force on or before 14 July 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.