



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART V

RETURN AND REMOVAL OF CHILDREN WITHIN UNITED KINGDOM

Transfer

72 Supervision of children moving to England or Wales or Northern Ireland.

- (1) Where a children's hearing are satisfied that a child in respect of whom a supervision requirement under section 44(1)(a) of this Act is in force proposes to reside or is residing in England or Wales or in Northern Ireland they may either—
- (a) discharge the supervision requirement; or
 - (b) send notification of the requirement
 - [^{F1}(i) in the case of residence in England and Wales, to a youth court acting for the petty sessions area (within the meaning of the Children and Young Persons Act 1969);
 - (ii) in the case of residence in Northern Ireland, to a juvenile court acting for the petty sessions district (within the meaning of Part III of the Magistrates' Courts (Northern Ireland) Order 1981).]
- in which the child proposes to reside or is residing.

[^{F2}(1A) [^{F3}A youth court] to which notification of a supervision requirement is sent under this section may make a supervision order in respect of the person to whom the notification relates but, notwithstanding anything in section 76(1) of this Act, shall not include in the order a requirement authorised by section 12 [^{F4}12A, 12AA, 12B or 12C] of the ^{M1}Children and Young Persons Act 1969 unless that person is before the court when the supervision order is made; and in relation to a supervision order made by virtue of this subsection—

[
[
^{F5}(a)

Status: Point in time view as at 01/10/1992.

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- (b) section 17 of that Act shall have effect as if in paragraph (a) the references to three years and the date on which the order was originally made were respectively references to one year and the date on which the said notification was sent and as if in paragraph (b) the words from “the order was” to “and” were omitted.]]]
- (2) [^{F6} A juvenile court] to which notification of a supervision requirement is sent under this section may make in respect of the child subject to that requirement a supervision order placing him under the supervision of a probation officer for a period not exceeding one year beginning with the day on which the notification was sent; and the provisions . . . ^{F7} of the ^{M2}Children and Young Persons Act (Northern Ireland) 1950 shall apply to any such order as those provisions . . . ^{F7} apply . . . ^{F7} to a supervision order within the meaning of section 63(1)(d) of the said Act of 1950.
- (3) Where a case is disposed of by a [^{F8} youth court or, as the case may be] juvenile court in pursuance of this section in respect of a child subject to a supervision requirement, the requirement shall cease to have effect.
- ^{F9}(4)

Textual Amendments

- F1** S. 72(1)(b)(i)(ii) substituted (1.10.1992) for words in s. 72(1)(b) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 16, **Sch. 3 Pt. II para. 9(a)** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F2** S. 72(1A) inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), **Sch. 5 para. 58(1)**
- F3** Words in s.72(1A) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 16, **Sch. 3 Pt. II para. 9(b)(i)** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F4** Words in s. 72(1A) inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 16, **Sch. 3 Pt. II para. 9(b)(ii)** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F5** S. 72(1A)(a) and word following it repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 16, 101(2), **Sch. 3 Pt. II para. 9(b)(iii)**, **Sch.13** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F6** Words in s. 72(2) substituted (1.10.1992) by virtue of [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 16, **Sch. 3 Pt. II para. 9(c)** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F7** Words repealed by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(d), **Sch. 6**
- F8** Words in s. 72(3) inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 16, **Sch. 3 Pt. II para. 9(d)** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F9** S. 72(4) repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 16, 101(2), **Sch. 3 Pt. II para. 9(e)**, **Sch.13** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.

Marginal Citations

- M1** 1969 c. 54.
M2 1950 c. 5 (N.I.)

73 Supervision of children moving to Scotland.

- (1) Where a juvenile court in England or Wales or in Northern Ireland is satisfied that a child in respect of whom a probation order or a supervision order is in force proposes to reside or is residing in Scotland, the court may either—
- (a) discharge the probation order or supervision order; or
 - (b) send notification of that order to the reporter of the local authority for the area in which the child proposes to reside or is residing;

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and on the receipt of such a notification it shall be the duty of the reporter

[^{F10}(i) in the case of a supervision order made by virtue of [^{F11}sections 189(4) and 390(4) of the ^{M3}Criminal Procedure (Scotland) Act 1975] to notify the appropriate court and to transmit to that court all documents and certified copies of documents relating to the case which the reporter has received by virtue of section 76 of this Act;

(ii) in any other case.]

to arrange a children’s hearing for the consideration and determination of the case under Part III of this Act.

[^{F12}In this subsection “the appropriate court” means the sheriff having jurisdiction in the area in which the child proposes to reside or is residing or, where the original probation order was imposed by the High Court of Justiciary, that Court.]

[^{F13}(1A) Where a court in England or Wales is satisfied that a child in respect of whom the court proposes to make a supervision order is residing or proposes to reside in Scotland, the court may make the order notwithstanding anything in subsection (1) of section 18 of the ^{M4}Children and Young Persons Act 1969 (which relates to residence of the supervised person in England or Wales); and where the court makes a supervision order by virtue of this subsection—

- (a) the areas to be named in the order in pursuance of subsection (2)(a) of the said section 18 shall be those in which the court is sitting;
- (b) the order may require the supervised person to comply with directions of the supervisor with respect to his departure to Scotland, and any such requirement shall, for the purposes of sections 15 and 16 of that Act (which relate to the variation and discharge of supervision orders), be deemed to be included in the order in pursuance of section 12(2) of that Act; and
- (c) the court shall send notification of the order as mentioned in paragraph (b) of the foregoing subsection and the provisions of that subsection relating to the duty of the reporter shall apply accordingly.]

(2) For the purposes of a children’s hearing arranged in pursuance of the foregoing [^{F14}provisions of this section] the notification by a . . . ^{F15} court of a probation order or supervision order shall be conclusive evidence of the existence of that order in relation to the child.

(3) When a children’s hearing have disposed of a case referred to them under this section the probation order or the supervision order in respect of the child shall cease to have effect.

Textual Amendments

- F10** S. 73(1)(i)(ii) inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 59(1)**
- F11** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 460(1)(b)
- F12** Definition inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 59(1)**
- F13** S. 73(1A) inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 59(2)**
- F14** Words substituted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 59(3)**
- F15** Words repealed by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(d), **Sch. 6**

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Modifications etc. (not altering text)

C1 S. 73(1) extended (E.W.) (S.) by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 189(6), 390(6)** (which said ss. 189(6), 390(6) ceased to have effect (1.10.1992) by virtue of [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3 Pt. II para. 7(4)** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**)

Marginal Citations

M3 1975 c. 21.

M4 1969 c. 54.

74 Parent of a child in a residential establishment under a supervision requirement moving to England or Wales or Northern Ireland.

- (1) Where a children’s hearing are satisfied that the parent of a child who is required to reside in a residential establishment under a supervision requirement made under section 44(1)(b) of this Act proposes to reside or is residing in England or Wales or in Northern Ireland they shall review the requirement, and on such review they may as they think proper—
 - (a) discharge the supervision requirement;
 - (b) continue the supervision requirement;
 - (c) vary the supervision requirement by making a supervision requirement under subsection (1)(a) of the said section 44 and send notification of that requirement in accordance with section 72(1)(b) of this Act; or
 - (d) make a report on the case to the Secretary of State with a recommendation for the transfer of the child in accordance with the following provisions of this section.
- (2) If the Secretary of State is for any reason unable to accept a recommendation for the transfer of a child made under paragraph (d) of subsection (1) of this section, he may refer the matter back to the children’s hearing for their reconsideration of the case, or himself discharge the supervision requirement.
- (3) Where such a recommendation is made and is not dealt with under subsection (2) of this section, the Secretary of State may make an order transferring the child to the care of the managers of a school . . . ^{F16} in Northern Ireland, being . . . ^{F16}, a training school within the meaning of the ^{M5}Children and Young Persons Act (Northern Ireland) 1950 or, . . . ^{F16}, committing him to the care of the local authority or, as the case may be, of the welfare authority in whose area the parent of the child proposes to reside or is residing.
- (4) The provisions of . . . ^{F16} the said Act of 1950 shall apply to any order under this section transferring a child to the care of the managers of . . . ^{F16} a training school as if it were . . . ^{F16} a training school order made by a court on the date on which the supervision requirement was originally made under section 44 of this Act in respect of the child:

Provided that—

 - (a) notwithstanding anything in . . . ^{F16} section 75 of the said Act of 1950, the order under this section shall not be authority for his detention in . . . ^{F16} a training school after he has attained the age of eighteen years,
 - (b) the contributions to be made in respect of him under . . . ^{F16} section 126 of the said Act of 1950 shall be made by such council as may be named in the order

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under this section, being the council within whose district his parent proposes to reside or is residing at the time of the order.

- (5) The provisions . . . ^{F16}, of the said Act of 1950 shall apply to any order under this section committing a child to the care . . . ^{F16}, of a welfare authority as if it were an order made by a court under . . . ^{F16} that Act.
- [^{F17}(6) An order under this section committing a child to the care of a local authority shall have effect as if it were a care order under the [^{F18}Children Act 1989, but as if section 31(8) were omitted].]

Textual Amendments

- F16** Words repealed by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(d), [Sch. 6](#)
- F17** [S. 74\(6\)](#) inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 60](#)
- F18** Words in [s. 74\(6\)](#) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5), [Sch. 13 para.21](#); [S.I. 1991/828](#), [art. 3\(2\)](#)

Marginal Citations

- M5** [1950 c. 5 \(N.I.\)](#)

75 Parent of a child subject to an approved school order or a committal order moving to Scotland.

- (1) Where . . . ^{F19}[^{F20}the Secretary of State] is satisfied that the parent of a child who is subject to an . . . ^{F19} training school order [^{F21}or an order under section 74(3) of this Act relating to a training school] proposes to reside or is residing in Scotland, he may refer the case to the reporter of the local authority of the area in which the parent of the child is proposing to reside or is residing and if the case is so referred the reporter shall arrange a children's hearing for the consideration and determination of the case under Part III of this Act.
- (2) Where a child has been committed to the care of a local authority in England or Wales [^{F22}by a care order (other than an interim order) within the meaning of the [^{F23}Children Act 1989] or an order under section 74(3) of this Act], or committed to the care of a welfare authority in Northern Ireland under Part III of the ^{M6}Children and Young Persons Act (Northern Ireland) 1950 or Part I of the ^{M7}Education Act (Northern Ireland) 1947 [^{F24}or the said section 74(3)] and that authority are satisfied that the parent of the child proposes to reside or is residing in Scotland, the authority may make the like reference of the case as mentioned in the foregoing subsection and the reporter shall arrange a children's hearing accordingly.
- (3) Any reference under subsection (1) or subsection (2) of this section shall include particulars of the . . . ^{F19} training school order [^{F25}or order under the said section 74(3) relating to a training school] or, as the case may be, of the order committing the child to the care of the local or welfare authority; and for the purposes of any children's hearing arranged pursuant to the reference those particulars shall be conclusive evidence of the existence of that order in relation to the child.
- (4) When a children's hearing have disposed of a case referred to them under this section the order [^{F26}under the said section 74(3) or] of the court in England or Wales or in Northern Ireland in respect of the child shall cease to have effect.

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Textual Amendments

- F19** Words repealed by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(d), [Sch. 6](#)
- F20** Words substituted by virtue of [S.I. 1973/2163](#), [arts. 2\(1\)](#), 11(5)
- F21** Words inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 61\(1\)](#)
- F22** Words substituted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 61\(2\)](#)
- F23** Words in s. 75(2) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5), [Sch. 13 para.22](#); [S.I. 1991/828](#), [art. 3\(2\)](#)
- F24** Words inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 61\(2\)](#)
- F25** Words inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 61\(3\)](#)
- F26** Words inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 61\(4\)](#)

Modifications etc. (not altering text)

- C2** [S. 75\(2\)](#) extended by [Local Authority Social Services Act 1970 \(c. 42, SIF 81:3\)](#), s. 2(1), [Sch. 1](#)

Marginal Citations

- M6** [1950 c. 5 \(N.I.\)](#)
- M7** [1947 c. 3 \(N.I.\)](#)

76 Procedure.

- (1) A children’s hearing or . . . ^{F27} court, in exercising any jurisdiction under this Part of this Act in respect of a child, may proceed in the absence of the child or his parent or both.
- (2) It shall be the duty of the reporter at any children’s hearing arranged for the purposes of section 72 of this Act and of the clerk to any . . . ^{F27} court referring a case to a reporter for the purposes of section 73 of this Act to ensure that all documents relating to the case or certified copies thereof are transmitted to the . . . ^{F27} court or, as the case may be, to the reporter to which the case stands referred.
- (3) Where a child is to be transferred from a residential establishment in Scotland to any place in England or Wales or in Northern Ireland under this Part of this Act, it shall be the duty of the local authority responsible for the child to ensure the transfer of the child to that place.
- (4) Where a children’s hearing is arranged under this Part of this Act in respect of a child subject to an . . . ^{F27} training school order [^{F28} or order under section 74(3) of this Act relating to a training school] or committed to the care of a local authority in England or Wales or of a welfare authority in Northern Ireland, it shall be the duty of the managers . . . ^{F27} of the training school or, as the case may be, of that local or welfare authority to ensure the transfer of the child to the place notified to them by the reporter.

Textual Amendments

- F27** Words repealed by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(d), [Sch. 6](#)
- F28** Words inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 62](#)

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Modifications etc. (not altering text)

C3 S. 76(4) extended by [Local Authority Social Services Act 1970 \(c. 42, SIF 81:3\)](#), s. 2(1), [Sch. 1](#)

77 Meaning of child for the purposes of this Part of this Act.

- (1) “Child” in this Part of this Act means—
- (a) for the purpose of sections 69 to 71, a child within the meaning of Part III of this Act,
 - (b) **F29**
 - (c) for any other purpose, a person under eighteen.
- (2) “Parent” in this Part of this Act includes a guardian.

Textual Amendments

F29 S. 77(1)(b) repealed by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), [ss. 72\(4\), 73\(4\)\(d\)](#), [Sch. 6](#)

Status:

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