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SCHEDULES

SCHEDULE 2

AMENDMENT OF PART IV OF THE CHILDREN AND YOUNG PERSONS (SCOTLAND) ACT 1937

PART II

Specific Adaptations

- 3 (1) In section 40(1) for the words "apparently under the age of seventeen years " there shall be substituted the words " who is apparently a child ".
- (2) In section 40(2) for the words " apparently under the age of seventeen years" there shall be substituted the words " who is apparently a child, " and for the words " remand home " there shall be substituted the words " place of safety other than a police station ".
- (3) After subsection (2) there shall be inserted the following subsections—
- “(3) Where a person who is apparently a child has been detained under this section and is not so liberated as aforesaid and it is decided not to proceed with the charge against him a constable shall so inform the reporter of the local authority for the area in which the child is detained, and the child may continue to be detained in a place of safety until the reporter has decided on the course that should be taken with regard to the child under the provisions of Part III of the Social Work (Scotland) Act 1968.
- (4) A child shall not continue to be detained under this section—
- (a) where the 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 section 37(4) of the Social Work (Scotland) Act 1968, or
- (c) for a period exceeding seven days.”
- 4 (1) In section 41, for subsection (1) there shall be substituted the following subsection—
- “(1) Any court, on remanding or committing for trial a child who is not liberated on bail shall, instead of committing him to prison, commit him to the local authority in whose area the court is situated to be detained in a place of safety chosen by the local authority for the period for which he is remanded or until he is liberated in due course of law:
- Provided that in the case of a child over fourteen years of age it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be so committed, or that he is of so depraved a character that he is not a fit person to be so detained.”

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- (2) In subsection (2), for the words " young person" where first occurring there shall be substituted the words " child over fourteen years of age ", and where secondly occurring there shall be substituted the word " child ".
- 5 For section 43 there shall be substituted the following section—

“43 Notice to local authority of charges against children, and duty of local authority to furnish reports and information to courts.

- (1) Where a child is to be brought before a court notification of the day and hour when, and the nature of the charge on which, the child is to be so brought shall be sent by the chief constable of the area in which the offence is alleged to have been committed, to the local authority for the area in which the court will sit.
- (2) Where a local authority have received a notification under the foregoing subsection they shall make such investigations and render available to the court a report which shall contain such information as to the home surroundings of the child as appear to them will assist the court in the disposal of his case, and the report shall contain information, which the appropriate education authority shall have a duty to supply, as to the school record, health and character of the child.”

6 In section 44, after the word " child" where first occurring there shall be inserted the words " under fourteen years of age ".

7 In section 46(1) for the words " child or young person ", in both places where these words occur, there shall be substituted the words " a person under the age of seventeen years ".

8 (1) In section 47(1) the words " until he can be brought before a juvenile court" shall be omitted wherever occurring.

(2) After subsection (1) there shall be inserted the following subsection—

“(1A) A child shall not continue to be detained under the last foregoing subsection—

- (a) where the 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 section 37(4) of the Social Work (Scotland) Act 1968, or
- (c) for a period exceeding seven days”.

9 In section 48, for the words " any child or young person " there shall be substituted the words " any person under the age of seventeen ", and for the words " the child or young person " there shall be substituted the words " the person ".

10 For section 50 there shall be substituted the following section—

“50 Child charged jointly with person who is not a child.

When a child has been charged with an offence jointly with a person who is not a child the provisions of sections 52 to 54 of this Act and section 49 of the Children and Young Persons Act 1933 shall not apply to summary proceedings before the sheriff in respect of the charges.”

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- 11 (1) In section 52(1), for the words from the beginning to the words " a juvenile court", second occurring, there shall be substituted the words—

“Where summary proceedings are brought in respect of an offence alleged to have been committed by a child the sheriff shall sit either in a different building or room from that in which he usually sits or on different days from those on which other courts in the building are engaged in criminal proceedings ; and no person shall be present at any sitting to which this subsection applies”.

- (2) For subsection (2) there shall be substituted the following subsection—

“(2) The power to make rules conferred on the High Court of Justiciary under section 76(1) of the Summary Jurisdiction (Scotland) Act 1954 shall include power to make rules as respects the procedure in cases to which the foregoing subsection applies.”

- 12 In section 53(5), for the words from the beginning to the words " juvenile court", there shall be substituted the words " Any direction in any enactment that a charge shall be brought before a juvenile court shall be construed as a direction that he shall be brought before the sheriff sitting as a court of summary jurisdiction, and no such direction ".

- 13 In section 54(1), after the word " report" there shall be inserted the words " of any summary proceedings in the sheriff court in respect of an offence by a child or ", and for the words " child or young person " in both places where these words occur there shall be substituted the words " a person under the age of seventeen years ".

- 14 In section 57(2), for the words from the beginning to " harm " there shall be substituted the words " Where a child is convicted on indictment ".

- 15 In section 58, the words from the beginning to " imprisonment or " shall be omitted and for the words from " he be committed " to the end of the section, there shall be substituted the words " the child be detained for such period, not exceeding one month, as may be specified in the order in a place chosen by the local authority in whose area the court is situated. "

- 16 After section 58 there shall be inserted the following section—

“58A Committal for residential training.

- (1) Where a child charged summarily before the sheriff with an offence pleads guilty to, or is found guilty of, that offence the sheriff may order the child to be committed for such period not exceeding two years as may be specified in the order to such a place as the Secretary of State may direct for the purpose of undergoing residential training, and where such an order is made the child shall during that period be liable to be detained in that place subject to such conditions as the Secretary of State may direct.
- (2) A child detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.
- (3) Any child so detained as aforesaid may at any time be released conditionally or unconditionally by the Secretary of State, and any such child conditionally released shall be liable to recall on the directions of the Secretary of State and if he fails to comply with any condition of his release he may be apprehended without warrant and taken to the place from which he was released.”

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- 17 In section 59(2), after the words "for his" there shall be inserted the words " co-operation in securing the child's ".
- 18 In section 62, for the words " an approved school" there shall be substituted the words " a residential establishment ", and in paragraph (c), for the word " school" there shall be substituted the words " residential establishment ".
- 19 In section 63(3), for the words " juvenile offenders " there shall be substituted the word " children ", and the words " under the Probation of Offenders Act 1907 " shall be omitted.
- 20 For section 67 there shall be substituted the following section—
- “**67** Any court by or before which a person is convicted of having committed in respect of a child any of the offences mentioned in the First Schedule to this Act or any offence under section 21 of this Act, may refer the child to the reporter of the local authority in whose area the child resides and certify that the said offence shall be a ground established for the purposes of Part III of the Social Work (Scotland) Act 1968.”