



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

PROMOTION OF CHILDREN'S WELFARE BY LOCAL AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

CHAPTER 3

PROTECTION AND SUPERVISION OF CHILDREN

Preliminary and investigatory measures

53 Provision of information to the Principal Reporter.

- (1) Where information is received by a local authority which suggests that compulsory measures of supervision may be necessary in respect of a child, they shall—
 - (a) cause inquiries to be made into the case unless they are satisfied that such inquiries are unnecessary; and
 - (b) if it appears to them after such inquiries, or after being satisfied that such inquiries are unnecessary, that such measures may be required in respect of the child, give to the Principal Reporter such information about the child as they have been able to discover.
- (2) A person, other than a local authority, who has reasonable cause to believe that compulsory measures of supervision may be necessary in respect of a child—
 - (a) shall, if he is a constable, give to the Principal Reporter such information about the child as he has been able to discover;
 - (b) in any other case, may give the Principal Reporter that information.
- (3) A constable shall make any report required to be made under paragraph (b) of section 17(1) of the ^{M1}Police (Scotland) Act 1967 (duty to make reports in relation to commission of offences) in relation to a child to the Principal Reporter as well as to the appropriate prosecutor.

Status: Point in time view as at 28/09/2009.

Changes to legislation: Children (Scotland) Act 1995, Cross Heading: Preliminary and investigatory measures is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Where an application has been made to the sheriff—
- (a) by the Principal Reporter in accordance with a direction given by a children’s hearing under section 65(7) or (9) of this Act; or
 - (b) by any person entitled to make an application under section 85 of this Act,
- the Principal Reporter may request any prosecutor to supply him with any evidence lawfully obtained in the course of, and held by the prosecutor in connection with, the investigation of a crime or suspected crime, being evidence which may assist the sheriff in determining the application; and, subject to subsection (5) below, it shall be the duty of the prosecutor to comply with such a request.
- (5) A prosecutor may refuse to comply with a request issued under subsection (4) above where he reasonably believes that it is necessary to retain the evidence for the purposes of any proceedings in respect of a crime, whether the proceedings have been commenced or are to be commenced by him.
- (6) The Lord Advocate may direct that in any specified case or class of cases any evidence lawfully obtained in the course of an investigation of a crime or suspected crime shall be supplied, without the need for a request under subsection (4) above, to the Principal Reporter.
- (7) In subsections (3), (4) and (5) above “crime” and “prosecutor” have the same meanings respectively given by ^[F1]section 307 of the Criminal Procedure (Scotland) Act 1995].

Textual Amendments

F1 Words in s. 53(7) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 97(5)**

Marginal Citations

M1 1967 c.77.

54 Reference to the Principal Reporter by court.

- (1) Where in any relevant proceedings it appears to the court that any of the conditions in section 52(2)(a) to (h), (j), (k) or (l) of this Act is satisfied with respect to a child, it may refer the matter to the Principal Reporter, specifying the condition.
- (2) In this section “relevant proceedings” means—
- (a) an action for divorce or judicial separation or for declarator of marriage, nullity of marriage, parentage or non-parentage;
 - ^[F2](aa) an action for dissolution or declarator of nullity of a civil partnership or separation of civil partners;]
 - (b) proceedings relating to parental responsibilities or parental rights within the meaning of Part I of this Act;
 - (c) proceedings for an adoption order under the ^[F3]Adoption and Children (Scotland) Act 2007 (asp 4);
 - ^[F4](ca) proceedings for the making, variation or revocation of a permanence order under that Act in respect of a child who is not subject to a supervision requirement;] and
 - (d) proceedings for an offence against section 35 (failure by parent to secure regular attendance by his child at a public school), 41 (failure to comply

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with attendance order) or 42(3) (failure to permit examination of child) of the ^{M2}Education (Scotland) Act 1980.

- (3) Where the court has referred a matter to the Principal Reporter under subsection (1) above, he shall—
- (a) make such investigation as he thinks appropriate; and
 - (b) if he considers that compulsory measures of supervision are necessary, arrange a children’s hearing to consider the case of the child under section 69 of this Act; and subsection (1) of that section shall apply as if the condition specified by the court under subsection (1) above were a ground of referral established in accordance with section 68 of this Act.

Textual Amendments

- F2** S. 54(2)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(2), 263, **Sch. 28 para. 61**; S.S.I. 2005/604, **art. 2(c)**
- F3** Words in s. 54(2)(c) substituted (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(1), 121(2), **Sch. 2 para. 9(6)(a)**; S.S.I. 2009/267, arts. 1(2), **2** (with arts. 3-21)
- F4** S. 54(2)(ca) inserted (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(1), 121(2), **Sch. 2 para. 9(6)(b)**; S.S.I. 2009/267, arts. 1(2), **2** (with arts. 3-21)

Modifications etc. (not altering text)

- C1** S. 54(1) extended (*temp.* from 22.8.1996 to 1.4.1997) by S.I. 1996/2203, **art. 6(a)**
- C2** S. 54(3) extended (*temp.* from 22.8.1996 to 1.4.1997) by S.I. 1996/2203, **art. 6(b)**

Marginal Citations

- M2** 1980 c. 44.

55 Child assessment orders.

- (1) A sheriff may grant an order under this section for an assessment of the state of a child’s health or development, or of the way in which he has been treated (to be known as a “child assessment order”), on the application of a local authority if he is satisfied that—
- (a) the local authority have reasonable cause to suspect that the child in respect of whom the order is sought is being so treated (or neglected) that he is suffering, or is likely to suffer, significant harm;
 - (b) such assessment of the child is required in order to establish whether or not there is reasonable cause to believe that the child is so treated (or neglected); and
 - (c) such assessment is unlikely to be carried out, or be carried out satisfactorily, unless the order is granted.
- (2) Where—
- (a) an application has been made under subsection (1) above; and
 - (b) the sheriff considers that the conditions for making a child protection order under section 57 of this Act are satisfied,
- he shall make such an order under that section as if the application had been duly made by the local authority under that section rather than this section.
- (3) A child assessment order shall—

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- (a) specify the date on which the assessment is to begin;
 - (b) have effect for such period as is specified in the order, not exceeding seven days beginning with the date specified by virtue of paragraph (a) above;
 - (c) require any person in a position to produce the child to—
 - (i) produce him to any authorised person;
 - (ii) permit that person or any other authorised person to carry out an assessment in accordance with the order; and
 - (iii) comply with any other conditions of the order; and
 - (d) be carried out by an authorised person in accordance with the terms of the order.
- (4) A child assessment order may—
- (a) where necessary, permit the taking of the child concerned to any place for the purposes of the assessment; and
 - (b) authorise the child to be kept at that place, or any other place, for such period of time as may be specified in the order.
- (5) Where a child assessment order makes provision under subsection (4) above, it shall contain such directions as the sheriff considers appropriate as to the contact which the child shall be allowed to have with any other person while the child is in any place to which he has been taken or in which he is being kept under a child assessment order.
- (6) In this section “authorised person” means any officer of the local authority, and any person authorised by the local authority to perform the assessment, or perform any part of it.

Modifications etc. (not altering text)

- C3** S. 55 restricted (30.12.2005) by 1978 c. 28, s. 53C(4)(b) (as inserted by 2002 c. 38, ss. 139(1), 148(5) (c), Sch. 3 para. 30) (with Sch. 4 paras. 6-8); S.S.I. 2005/643, **art. 2(c)**
- C4** S. 55 restricted (28.9.2009) **Adoption and Children (Scotland) Act 2007 (asp 4), ss. 79(4), 121(2); S.S.I. 2009/267, arts. 1(2), 2** (with arts. 3-21)

56 Initial investigation by the Principal Reporter.

- (1) Where the Principal Reporter receives information from any source about a case which may require a children’s hearing to be arranged he shall, after making such initial investigation as he thinks necessary, proceed with the case in accordance with subsection (4) or (6) below.
- (2) 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 on such circumstances concerning the child as appear to him to be relevant; and the local authority shall supply the report which may contain such information, from any person whomsoever, as the Principal Reporter thinks, or the local authority think, fit.
- (3) A report requested under subsection (2) above may contain information additional to that given by the local authority under section 53 of this Act.
- (4) The Principal Reporter may decide, after an initial investigation under subsection (1) above, that a children’s hearing does not require to be arranged; and where he so decides—

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- (a) he shall inform the child, any relevant person and the person who brought the case to his notice, or any of those persons, that he has so decided; ^{F5} . . .
 - (b) he may, if he considers it appropriate, refer the case to a local authority with a view to their making arrangements for the advice, guidance and assistance of the child and his family in accordance with Chapter 1 of this Part of this Act^{F6}; and
 - (c) he may, where it appears to him that—
 - (i) an education authority have a duty under section 14(3) of the Education (Scotland) Act 1980 (c. 44) in relation to the child; and
 - (ii) the authority are not complying with that duty,
 refer the matter to the Scottish Ministers.
- (4A) A reference made under subsection (4)(c) above shall be in writing.
- (4B) A copy of a reference made under subsection (4)(c) above shall be sent by the Principal Reporter to the education authority in respect of which the reference is made.]
- (5) Where the Principal Reporter has decided under subsection (4) above that a children’s hearing does not require to be arranged, he shall not at any other time, on the basis solely of the information obtained during the initial investigation referred to in that subsection, arrange a children’s hearing under subsection (6) below.
- (6) Where it appears to the Principal Reporter that compulsory measures of supervision are necessary in respect of the child, he shall arrange a children’s hearing to which he shall refer the case for consideration and determination.
- (7) Where the Principal Reporter has arranged a children’s hearing in accordance with subsection (6) above, he—
- (a) shall, where he has not previously done so, request a report under subsection (2) above;
 - (b) may request from the local authority such information, supplementary or additional to a report requested under subsection (2) above, as he thinks fit;
- and the local authority shall supply that report, or as the case may be information, and any other information which they consider to be relevant.

Textual Amendments

F5 Word in s. 56(4) repealed (31.1.2005) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), **ss. 137(2)(a)**, 145(2); [S.S.I. 2004/420](#), **art. 3**, Sch. 4

F6 S. 56(4)(c)(4A)(4B) and word inserted (31.1.2005) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), **ss. 137(2)(b)**, 145(2); [S.S.I. 2004/420](#), **art. 3**, Sch. 4

Modifications etc. (not altering text)

C5 S. 56(6)(7) modified (1.4.1997) by [S.I. 1996/3255](#), **reg. 8(3)**

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