
STATUTORY INSTRUMENTS

1986 No. 2291 (S. 167)

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Rules 1986

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The Secretary of State, in exercise of the powers conferred on him by sections 34A(2), 35(4) and (5), 36(8) and 44(8) of the Social Work (Scotland) Act 1968(a) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following Rules:-

PART I
INTERPRETATION, ETC.

Citation and commencement

1. These rules may be cited as the Children's Hearings (Scotland) Rules 1986 and shall come into operation on 2nd February 1987.

Interpretation

2.—(1) In these rules, -

“the Act” means the Social Work (Scotland) Act 1968;

“the 1975 Act” means the Criminal Procedure (Scotland) Act 1975(b);

“the 1983 Regulations” means the Secure Accommodation (Scotland) Regulations 1983(c);

“chairman” means the chairman of a children's hearing;

“child” has the meaning assigned to that term by section 30(1)(d) of the Act;

“day” means a period of twenty-four hours commencing at midnight;

“enactment” includes any order, regulation or other instrument made under the Act;

“parent” has the meaning assigned to that term by section 94(1)(e), as read with section 30(2) of the Act;

“reporter” means an officer of a local authority appointed under section 36(1)(f) of the Act;

“representative” has the meaning assigned to that term by rule 11(4) below;

“safeguarder” means a person appointed under section 34A of the Act for the purpose of safeguarding the interests of a child;

“secure accommodation” means accommodation provided in a residential establishment in accordance with the 1983 regulations for the purpose of restricting the liberty of children.

(2) In these rules, unless the context otherwise requires, any reference in relation to a children's hearing -

(a) to the local authority shall be construed as a reference to the local authority for the area of the children's hearing;

(a) 1968 c.49; section 34A was inserted by the Children Act 1975 (c.72), section 66; section 35(5)(a) was amended by paragraph 55 of Schedule 3 to that Act.

(b) 1975 c.21.

(c) S.I. 1983/1912.

(d) Section 30(1) was amended by the Education (Scotland) Act 1969 (c.49), Schedule 2, Part II, paragraph 5.

(e) Section 94(1) was relevantly amended by the Children Act 1975, Schedule 4, Part I.

(f) Section 36(1) was amended by the Local Government (Scotland) Act 1973 (c.65), Schedule 29.

(b) to the reporter shall be construed as a reference to the reporter of the said local authority.

(3) In these rules any reference to a numbered rule or form shall be construed as a reference to the rule or form bearing that number in these rules.

Schedule of Forms

3. In these rules any requirement that a writing shall be in the form of a numbered Form shall be construed as a requirement that the writing shall be in a form to the like effect as the Form bearing that number set out in the Schedule to these rules, but with such variations as circumstances may require.

Application of rules to certain young persons

4. Where under section 373 of the 1975 Act a court has either -

(a) requested the reporter to arrange a children's hearing for the purpose of obtaining their advice as to the treatment of a person; or

(b) remitted the case of a person for disposal by a children's hearing,

the provisions of these rules shall apply in relation to that person as if he were a child.

PART II

CONSTITUTION AND ARRANGEMENT OF CHILDREN'S HEARINGS

Constitution of children's hearings

5.—(1) The selection of the chairman and the members of any children's hearing from among the members of the children's panel for a local authority area shall be made either directly by the chairman of the children's panel, or in his absence by the deputy chairman, or by the operation of standing arrangements in that behalf made by the chairman of the children's panel after consulting the reporter and such members of the panel as he may think fit. Such standing arrangements may provide for the selection of the chairman and members of any hearing to be made by members of the panel appointed for that purpose by the chairman of the panel.

(2) The chairman of the children's panel shall keep under review any standing arrangements which he has made under paragraph (1) above and shall from time to time consult the reporter and such members of the panel as he may think fit as to the operation of those arrangements.

Notification of children's hearing to chairman and members; provisions about relevant documents

6.—(1) Subject to the 1983 regulations, where the reporter arranges any children's hearing, he shall, wherever practicable at least seven days before the date of the hearing, notify the chairman and members of the time and place of the hearing and, subject as aforesaid, as soon as possible, but not later than three clear days before the date of the hearing, he shall give to each of them any of the following documents if it is relevant to the case of a child to be considered at the hearing:-

- (a) a copy of a report of a local authority on the child and his social background;
- (b) a copy of the statement of the grounds for the referral of the case to the children's hearing given to the child under rule 16 below;
- (c) a copy of any judicial remit or reference or of any reference by a local authority;
- (d) where the child is subject to a supervision requirement, a copy of that requirement;
- (e) where a safeguarder has been appointed, a copy of any report which the safeguarder may have prepared.

(2) If the reporter has obtained any information or any document, other than a document mentioned in paragraph (1) above, which is material to the consideration of the case of a child at any children's hearing, he shall make that information or, as the case may be, that document or copies thereof available to the chairman and members of the children's hearing before the hearing.

(3) Subject to paragraph (5) below, the chairman and members of children's hearings shall keep securely in their custody any documents made available to them under this rule and, except as otherwise provided in rules 19(3) and 21(4) below, they shall not cause or permit any information contained in the said documents or otherwise disclosed during the hearing to be made known to any person.

(4) Any information or document which the reporter makes available in compliance with the foregoing (under exception of rule 6(1)(e)) or otherwise to the chairman and members of any children's hearing shall also be made available to any safeguarder who is appointed under the Act by a chairman of a hearing regardless of the date of his appointment.

(5) Any safeguarder appointed under the Act shall keep securely in his custody any documents made available to him under this rule, shall not cause or permit any information contained in the said documents or otherwise disclosed during the hearing to be made known to any person, other than may be necessary for the performance of his own duties, and shall return to the reporter any document which has been made available to him by the reporter when he has completed performance of all the duties associated with his appointment.

(6) Immediately after the conclusion of a children's hearing the chairman and members shall return to the reporter any documents which have been made available to them under this rule.

(7) Any information or document which the reporter makes available in compliance with the foregoing or otherwise to the chairman and members of any children's hearing shall also be made available, if requested, to any member of the Council on Tribunals who is attending that hearing.

(8) Any information or document which the reporter makes available in compliance with the foregoing or otherwise to the chairman and members of any children's hearing shall also be made available, if requested, to any member of the Children's Panel Advisory Committee or to any member of a sub-committee of the Advisory Committee who has given notice of his intention to attend that hearing as an observer. Any persons provided with papers under this rule shall not cause or permit any information contained in the said

documents or otherwise disclosed during the hearing to be made known to any person and shall return to the reporter at the end of the hearing any document which has been made available to him.

Notification of children's hearings to children

7.—(1) Where the reporter arranges a children's hearing -

- (a) to consider under section 37(4)(a) or section 40(6) of the Act the case of a child detained in a place of safety; or
- (b) to consider and determine under Part III of the Act in pursuance of a referral, the case of a child placed in secure accommodation under regulation 7 or 9 of the 1983 regulations; or
- (c) to consider the case of a child detained in a place of safety where a warrant for detention involving secure accommodation has been granted under section 58E(1)(b) of the Act; or
- (d) to review in terms of section 44(7) the case of a child transferred from a place under section 44(6) of the Act or placed in secure accommodation under regulation 6 of the 1983 regulations; or
- (e) to consider an application under section 49(8) of the Act for the suspension of a supervision requirement; or
- (f) to review a condition imposed under section 58A(3)(b) of the Act with respect to residence in secure accommodation, being a review required by a child under regulation 12 of the 1983 regulations; or
- (g) to consider under section 69(3) of the Act the case of a child where the occupier of the place of safety or the person under whose control he has been placed is unwilling or unable to receive him,

he shall as soon as possible before the hearing give to the child notification of the hearing in the form of Form 1:

Provided that if the notification cannot be given in writing, the reporter may notify the child orally that he is required to attend the hearing and inform him of the date, time and place of the hearing.

(2) Where the reporter arranges a children's hearing -

- (a) to consider and determine under Part III of the Act the case of a child in pursuance of a referral; or
- (b) to review a supervision requirement; or
- (c) to consider the giving of advice on a remit by a court under sections 173(1), 372(1) and 373 of the 1975 Act; or
- (d) for any purpose not mentioned in the foregoing provisions of this rule and where a previous children's hearing have determined that the attendance of the child will be necessary or expedient,

the reporter shall, subject to the 1983 regulations, not less than seven clear days before the hearing give to the child notification of the hearing in the form of Form 1.

(a) Section 37(4) was amended by paragraph 42 of Schedule 9 to the 1975 Act.

(b) Sections 58A and 58E were inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 8(4); section 58E was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 26.

Notification of children's hearings to parents

8.—(1) Where the parent of a child whose case is to be considered at a children's hearing has a duty under section 41(2) of the Act, to attend that hearing, the reporter shall give notification to the said parent, if his whereabouts are known, of his said duty and of the time and place of the said hearing and such notification shall, subject to paragraph (4) below, be in writing in the form of Form 2.

(2) Where under section 41(2) of the Act a children's hearing are satisfied either that it would be unreasonable to require the attendance of a parent of a child at any children's hearing who are considering the case of the child or that the attendance of the parent would be unnecessary to the consideration of the case, the reporter shall give notification to the said parent, if his whereabouts are known, of his right under section 41(1) of the Act to attend the said hearing and of the time and place of the said hearing and such notification shall, subject to paragraph (4) below, be in writing in the form of Form 3.

(3) Any notification under this rule, except a notification to a parent of a children's hearing mentioned in rule 7(1) above, shall be given not later than seven clear days before the date of the children's hearing to which it relates.

(4) In the case of such a children's hearing as is mentioned in rule 7(1) above, the notification to the parent under paragraph (1) above may be given orally and, subject to the 1983 regulations, shall be given as soon as practicable.

PART III

GENERAL PROVISIONS AS TO CHILDREN'S HEARINGS

Functions of chairman of children's hearing

9.—(1) Except as otherwise provided by these rules and any other enactment, the procedure at any children's hearing shall be such as the chairman shall in his discretion determine.

(2) Without prejudice to the generality of paragraph (1) above and to the power of a children's hearing under the Act to continue a hearing for the further investigation of a case, the chairman of a children's hearing may at any time during the hearing adjourn the hearing provided that any adjournment under this rule shall be such as to enable the children's hearing to sit again on the same day as the adjournment was made.

(3) As soon as may be after a children's hearing make -

- (a) a decision disposing of the case of a child on a referral or at a review of a supervision requirement or a condition imposed under section 58A(3) of the Act with respect to residence in secure accommodation;
- (b) a decision to issue a warrant for the apprehension or the detention of a child or to renew a warrant for the detention of a child;
- (c) a decision to appoint a person to act as a safeguarder in accordance with section 34A of the Act; or
- (d) a requirement in terms of section 43(4) of the Act,

the chairman shall make or cause to be made a report of the said decision and a statement in writing of the reasons for the said decision and shall sign the said report and statement.

Continuation of cases before children's hearings

10. At any time during a children's hearing, the children's hearing may continue the hearing for the further investigation of the case which is before them to a subsequent children's hearing.

Representation of children and parents at children's hearings

11.—(1) Any child whose case comes before a children's hearing whether for consideration and determination under Part III of the Act or for some other reason and the parent of such a child, being a child or a parent who attends that hearing, may each be accompanied at that hearing by one person for the purpose of representing the child or, as the case may be, the parent at that hearing:

Provided that a child and his parent attending the hearing may be represented as aforesaid by the same person.

(2) Any person attending any children's hearing for the purpose of representing a child or his parent or both a child and his parent, as the case may be, shall assist the person whom he represents in the discussion of the case of the child with the children's hearing.

(3) Notwithstanding anything in these rules, the chairman of a children's hearing may exclude a representative from the hearing if the children's hearing are satisfied, either of their own accord or on the motion of the child or his parent or the reporter, that the representative is persisting in behaviour which disrupts the proceedings at the hearing or which is otherwise likely to be detrimental to the interests of the child.

(4) In these rules any reference to a representative is a reference to a person who under this rule represents a child or a parent or both a child and a parent and includes, unless the context otherwise requires, a reference both to any representative of a child and any representative of his parent.

Safeguarder's attendance at children's hearings

12. Any safeguarder appointed under the Act by the chairman of a children's hearing shall be entitled to be present throughout the duration of any children's hearing until the disposal of the child's case.

Attendance at hearings of constable, prison officer or other person duly authorised

13. A constable, prison officer, or other person duly authorised who has in his lawful custody a person who has to attend a children's hearing shall be entitled to be present at the hearing for the purposes of escorting that person.

Persons who may attend children's hearings at chairman's discretion

14. Without prejudice to the right of a child and of a parent under rule 11 above to be accompanied at a children's hearing by a representative, and subject to subsections (1) to (3) of section 35 of the Act (provisions as to privacy of

children's hearings), the persons whose presence at a children's hearing may be permitted by the chairman under the said subsection (1) shall be -

- (a) the chairman and members of the Children's Panel Advisory Committee for the local authority area of the children's hearing and the clerk of the local authority;
- (b) any members or possible members of children's panels whose attendance is required at children's hearings for the purpose of their training as members of children's hearings, and their instructors;
- (c) any student engaged in formal education or training in social work or any person engaged in research relating to children who may be in need of compulsory measures of care;
- (d) any other person whose presence at the sitting may in the opinion of the chairman be justified by special circumstances; and
- (e) any clerk, interpreter, janitor, messenger or other person whose attendance in a like executive capacity is required or expedient for the proper conduct of the proceedings of the children's hearing.

PART IV

CHILDREN'S HEARINGS ON REFERRAL AND AT REVIEW OF SUPERVISION REQUIREMENTS, ETC.

Application of Part IV

15.—(1) This Part shall, subject to the provisions thereof, apply to any children's hearing, arranged either for the purposes of considering and determining on referral the case of any child or for the review of a supervision requirement or a condition imposed under section 58A(3) of the Act with respect to residence in secure accommodation, being -

- (a) a hearing arranged by virtue of any enactment specified in paragraph (2) below; or
- (b) unless the contrary intention appears, a hearing arranged by virtue of any enactment passed or made after the date of the making of these rules which provides that the case of a child shall be referred to a children's hearing for consideration and determination under Part III of the Act.

(2) The enactments referred to in paragraph (1)(a) above are as follows -

Initial referral

section 39(3) of the Act (referral of case to children's hearing on initial investigation by reporter);

section 42(6)(a) of the Act (remit by sheriff after grounds of referral established);

section 51(1) of the Act (remit by court for reconsideration of case by children's hearing following appeal) insofar as that provision relates to a remit following an appeal under section 49 or section 50 of the Act against a decision

(a) Section 42(6) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 25, and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 2, paragraph 8.

disposing of a case by a children's hearing arranged under any of the other provisions of the Act mentioned in this rule;

section 54(2) of the Act (transfer of case to another children's hearing), subsections (1)(a), (2) or (3) of section 173(a) or 372, or section 373, of the 1975 Act (cases of children or young persons convicted of offence) insofar as those provisions relate to a referral in pursuance of a remit by the court of a case of a child, whether or not subject to a supervision requirement, or of a young person;

section 73(1)(ii)(b) of the Act (referral in pursuance of notification to reporter of order of court in England or Wales or Northern Ireland where child moving to Scotland);

subsections (1) or (2) of section 75(c) of the Act (referral of the cases of children subject to certain orders in England or Wales or Northern Ireland, where parent moving to Scotland);

section 44(1) of the Education (Scotland) Act 1980(d) (powers of the court in relation to the child).

Review of a supervision requirement

section 44(7) of the Act (review of a supervision requirement on transfer of child under section 44(6) of the Act);

section 47 of the Act (duration of supervision requirements and their variation) and section 48(e) (review of requirement of children's hearing);

section 72(1) of the Act (review of supervision requirement where parent of a child in residential establishment moving to England or Wales or Northern Ireland).

Notification of statement of grounds of referral

16.—(1) Where the reporter arranges a children's hearing which will proceed in relation to the case of a child in accordance with section 42(f) of the Act, he shall -

(a) prepare a statement of the grounds for the referral of the case to the children's hearing in the form of Form 4A or Form 4B, whichever is appropriate; and

(b) not less than seven clear days before the date of the said hearing give a copy of the said statement to the child and, if the whereabouts of his parent are known, to his parent.

Provided that where before the said hearing the child is detained in a place of safety, or by virtue of the 1983 regulations, sub-paragraph (b) above shall have

(a) Section 173 was amended by the Criminal Justice (Scotland) Act 1980, Schedule 7, paragraph 35.

(b) Section 73(1) was amended by the Children and Young Persons Act 1969 (c.54), Schedule 5, paragraph 59(1), and by section 460(1)(b) of the Act of 1975.

(c) Subsections (1) and (2) of section 75 were amended by the Children and Young Persons Act 1969, Schedule 5, paragraph 61, and Schedule 6, and by S.I. 1973/2163.

(d) 1980 c.44

(e) Section 48 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 29.

(f) Section 42(6) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 25, and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 2, paragraph 8.

effect as if for the words "not less than seven clear days" there were substituted the words "as soon as practicable".

(2) Notwithstanding that a children's hearing proceed in accordance with section 42 of the Act at more than one hearing, nothing in this rule shall require a copy of the said statement to be given to any person more than once.

Form, etc. of statement of grounds of referral

17.—(1) A statement by a reporter of the grounds for the referral of a case to a children's hearing shall be in the form as nearly as may be of Form 4A in the case of any condition mentioned in paragraphs (a) to (gg) or (i) of section 32(2)(a) of the Act and in the form of Form 4B in the case of a condition mentioned in section 32(2)(h) of the Act.

(2) The statement shall be signed by the reporter and shall specify which one or more of the conditions mentioned in section 32(2) of the Act is or are considered by the reporter to be satisfied with respect to the child.

(3) In the case of any condition mentioned in paragraph (a) to (gg) or (i) of section 32(2) of the Act, the said statement shall state the facts on the basis of which it is sought to show that the condition is satisfied.

(4) In the case of a condition mentioned in section 32(2)(g) of the Act, the statement of the facts constituting the offence shall have the same degree of specification as is required by section 312 of the 1975 Act in a charge in a complaint and the statement shall also specify the nature of the offence in question.

Notification of application to sheriff for finding as to grounds of referral

18. Where a children's hearing have given a direction to the reporter to apply to the sheriff for a finding as to whether or not any grounds for the referral of any case to them are established, being a direction under subsection (2)(c) (grounds of referral not accepted by child or parent) or subsection (7) (child not capable of understanding explanation of grounds of referral or explanation of grounds of referral not understood by child) of section 42 of the Act, the reporter shall give notification in the form of Form 5 to the child and in the form of Form 6 to the parent.

Conduct of children's hearing considering case on referral or at review of supervision requirement

19.—(1) Unless a children's hearing consider the case of a child in the absence of the child, his parent, and any representative, the chairman shall, before the children's hearing proceed to consider the case, explain the purpose of the hearing to such of the said persons as are present.

(2) Thereafter the children's hearing shall consider the case of the child and during such consideration shall -

(a) Section 32(2) was amended by the Children Act 1975 (c.72), Schedule 3, paragraph 54, by the Solvent Abuse (Scotland) Act 1983 (c.33), section 1, and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 8(1).

- (a) consider a report of a local authority on the child and his social background, and any judicial remit or other relevant document and any relevant information available to them;
- (b) consider any report the submission of which has been requested by the manager of the residential establishment in which the child is required to reside;
- (c) discuss the case with the child, parent, any safeguarder appointed under the Act and representative if attending the hearing;
- (d) endeavour to obtain the views of the said child, his parent, and any safeguarder appointed under the Act, if attending the hearing, on what arrangements with respect to the child would be in the best interests of the child.

(3) The chairman shall inform the child and his parent of the substance of any reports, documents and information mentioned in paragraph (2)(a) if it appears to him that this is material to the manner in which the case of the child should be disposed of and that its disclosure would not be detrimental to the interests of the child.

(4) After the children's hearing have completed their consideration of the case of the child and made a decision disposing of the case, but before the conclusion of the hearing at which the decision was made, the chairman shall inform the child, his parent, any safeguarder appointed under the Act, and any representative, if attending the hearing, of -

- (a) the decision of the hearing;
- (b) the reasons for the decision;
- (c) the right of the child and of the parent under section 49(1) of the Act to appeal to the sheriff against the decision; and
- (d) the right of the child and of the parent under rule 20 below to receive a statement in writing of the reasons for the decision.

(5) The children's hearing shall not dispose of the case by making a supervision requirement under section 44(1)(a) of the Act imposing a condition that the child is to reside in a place (which for the purposes of this rule is a household where he is to be under the care of a person who is not his parent or guardian) unless -

- (a) they have received and considered a report for the purposes of paragraph 2(a) above from the local authority, together with the local authority's recommendations, on the child's needs and the suitability to meet these needs of -
 - (i) the place in which the child is to reside by virtue of the supervision requirement, and
 - (ii) the person who is to have care of the child, and
- (b) the local authority have confirmed that in compiling the report they have carried out the procedures and gathered the information described in Regulation 20 of the Boarding-Out and Fostering of Children (Scotland) Regulations 1985(a).

(a) S.I. 1985/1799.

Notification of decisions, etc. on referral or at review of supervision requirement

20.—(1) Where a children's hearing have made a decision disposing of the case of a child, the child's parent and any safeguarder appointed under the Act may ask the reporter for a copy of the statement of the reasons for the said decision made under rule 9(3) above and the reporter shall as soon as reasonably practicable comply with any such request.

(2) Where the child or his parent or any safeguarder appointed under the Act did not attend the said hearing at which the said decision was made, the reporter shall notify the child or, as the case may be, the parent of -

(a) the decision;

(b) the right of the child or, as the case may be, the parent or any safeguarder appointed under the Act, under this rule to receive a copy of the said statement of the reasons for the decision;

(c) except in the case of a review which continued a supervision requirement, being a review in relation to which an order under section 49(6) of the Act is in force, the right of the child or, as the case may be, the parent under section 49(1) of the Act to appeal to the sheriff against the decision;

and such notification shall be given in writing in the form of Form 7, 8A, 8B, or 8C whichever is appropriate.

PART V

REFERENCES FOR ADVICE AND SUSPENSION OF SUPERVISION REQUIREMENTS

Conduct of children's hearing on reference for advice by court or local authority

21.—(1) This rule shall apply to any children's hearing arranged in order to consider the case of a child for the purpose of giving advice to the court or the local authority under section 47(2) of the Act (reference by local authority for advice in case of child subject to supervision requirement) or any of the following provisions of the 1975 Act:-

sections 173(1)(b) or 372(1)(b) (reference by court for advice in case of child not subject to supervision requirement);

sections 173(3) and 372(3) (case of child subject to supervision requirement) insofar as those provisions relate to a reference by the court for advice;

section 373 (case of young person not subject to supervision requirement) insofar as that provision relates to a reference by the court for advice.

(2) Unless the children's hearing consider the case of a child in the absence of the child, his parent and any representative, the chairman shall, before the children's hearing proceed to consider the case, explain the purpose of the hearing to such of the said persons as are present.

(3) The children's hearing shall consider the case of the child and during such consideration shall -

(a) consider the reference by the local authority or the court, any supervision requirement to which the child is subject, a report of a local authority

on the child and his social background, and any other relevant document or any relevant information available to them;

- (b) discuss the case of the child and afford to the said child, parent and representative, if attending the hearing, an opportunity of participating in the discussion and of being heard on the case;
- (c) endeavour to obtain the views of the said child and his parent, if attending the hearing, on what arrangements with respect to the child would be in the best interests of the child; and
- (d) accord to any safeguarder appointed under the Act the same opportunity to discuss the case of the child and of being heard on the case and on what arrangements with respect to the child would be in the best interests of the child as are to accorded to the parties mentioned in sub-paragraphs 3(b) and (c) above,

and the children's hearing shall thereafter determine what advice they will give to the court or, as the case may be, the local authority.

(4) The chairman shall inform the child and his parent of the substance of any reports, documents and information mentioned in paragraph (3)(a) if it appears to him that this is material to the advice that will be given and that its disclosure would not be detrimental to the interests of the child.

Application for suspension of supervision requirements pending hearing of appeals

22.—(1) An application to a children's hearing by a child or parent under section 49(8) of the Act for the suspension of a supervision requirement pending an appeal under section 49(1) of the Act shall be made in writing to the reporter.

(2) The reporter shall give notification in writing separately to the child and parents of the date, time and place of the children's hearing at which the application will be considered, and such notification shall be in the form of Form 9.

(3) The children's hearing shall afford the applicant, or his representative, and any safeguarder appointed under the Act, if attending the hearing, and the reporter an opportunity of being heard.

(4) The chairman of the children's hearing shall inform the applicant at the conclusion of the hearing of the decision of the hearing and the reasons therefor.

(5) If the applicant fails to attend the hearing, the application shall be treated as abandoned.

(6) An application shall not be valid unless an appeal under section 49(1) of the Act has already been lodged.

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Social background report where child in interim detention

23. Subject to the 1983 regulations, where a children's hearing is arranged under section 37(4) of the Act, the children's hearing shall not proceed in

relation to the case of the child in accordance with section 44 of the Act unless the reporter has made available to them a report of a local authority on the child and his social background.

Form of supervision requirement

24.—(1) Subject to paragraph (2) below, a supervision requirement under section 44(1) of the Act shall be in the form of Form 10A.

(2) A supervision requirement under section 44(1) of the Act with a condition under section 58A(3) of the Act (residence in secure accommodation) shall be in the form of Form 10B.

(3) Subject to paragraph (4) below, a supervision requirement under section 44(1), as applied by section 47(1), of the Act (variation of supervision requirements) shall be in the form of Form 11A.

(4) A supervision requirement under section 44(1) of the Act, as so applied, and with a condition under section 58A(3) of the Act, shall be in the form of Form 11B.

(5) A supervision requirement shall be continued by an instrument in the form of Form 12 and terminated by an instrument in the form of Form 13.

(6) A supervision requirement varying, and an instrument continuing or terminating, a supervision requirement shall be endorsed thereon or attached thereto and, if so attached, the second mentioned supervision requirement shall be docketed with reference thereto.

Procedure relating to warrants, and to requirements under section 43(4) of the Act

25.—(1) Where a children's hearing consider in relation to a child the question whether they should issue a warrant under any of the following provisions of the Act:-

section 37(4) (warrant for detention);

section 37(5)(a) (warrant renewing warrant under section 37(4));

section 40(7)(b) (warrant for detention);

section 40(8)(b) (warrant renewing warrant under section 40(7)),

or a warrant under regulation 11 of the 1983 regulations (authorisation of detention in secure accommodation under section 58B(3)(c) of the Act), or a requirement under section 43(4) of the Act (*interim* requirement to reside at clinic, etc.), the children's hearing shall, before they make a decision to issue that warrant or as the case may be that requirement, afford to the child, his parent, and any representative, if attending the hearing, an opportunity of being heard on that question.

(a) Section 37(5) was amended by the Children Act 1975 (c.72), section 83(c).

(b) Subsections (7) and (8) of section 40 were substituted by the Children Act 1975, section 84(a) and (b).

(c) Section 58B was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 8(4) and was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 26.

(2) Where a children's hearing have issued such a warrant or such a requirement as is mentioned in paragraph (1) above, the child or his parent or both the child and his parent may ask the reporter for a copy of the said warrant or requirement, and the reporter shall as soon as reasonably practicable comply with any such request.

(3) A safeguarder appointed under the Act shall be afforded the same opportunities of being heard and of receiving copies of the said warrant as are to be afforded to the parties mentioned in paragraphs (1) and (2) above.

Form of requirement under section 43(4) of the Act

26. A requirement under section 43(4) of the Act shall be in the form of Form 14.

Forms of warrants for apprehension and detention

27.—(1) Subject to paragraph (2) below, a warrant for detention under section 37(4) of the Act and a warrant under section 37(5) renewing a warrant under the said section 37(4) shall be in the form of Forms 15A and 16A respectively.

(2) A warrant issued under the said section 37(4) and section 58E(1) of the Act and the renewal of a warrant under section 37(5), ordering that a child be detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children's hearing considers necessary, shall be in the form of Forms 15B and 16B respectively.

(3) Subject to paragraph (4) below, a warrant for apprehension under section 40(4) of the Act shall be in the form of Form 17A.

(4) A warrant issued under the said section 40(4) and the said section 58E(1) ordering that a child be apprehended and detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children's hearing considers necessary, shall be in the form of Form 17B.

(5) Subject to paragraph (6) below, a warrant for detention under section 40(7) of the Act and a warrant under section 40(8) renewing a warrant under the said section 40(7) shall be in the form of Forms 18A and 19A respectively.

(6) A warrant issued under the said section 40(7) and the said section 58E(1), and the renewal of such a warrant under section 40(8), ordering that a child be detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the approval of the director of social work for the area of the children's hearing considers necessary, shall be in the form of Forms 18B and 19B respectively.

(7) A warrant issued under regulation 11 of the 1983 regulations and section 58B(3) of the Act ordering that a child be detained in a named residential establishment, and that said detention shall be in secure accommodation there

at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children's hearing considers necessary, shall be in the form of Form 19C.

Authentication of documents

28.—(1) A report of any decision, a statement of reasons for a decision or of advice, a warrant for apprehension and detention, or any other writing, authorised or required by Part III of the Act or these rules to be made, given, issued or granted by a children's hearing or by the Chairman of a children's hearing shall be sufficiently authenticated if it is signed by the Chairman, or, if he is unavailable, by a member of that hearing.

(2) Any document authorised or required by these rules to be made or executed by a reporter shall be sufficiently authenticated if it is signed by the reporter or by a person duly authorised by him.

(3) Any copy of any document authorised or required by these rules to be given or issued by a reporter may be certified as a true copy by the reporter or by a person duly authorised by him.

Service of notification and other documents

29.—(1) Any notification in writing or other document and any oral notification authorised or required under these rules to be given or issued by a reporter may be given or issued by the reporter or by a person duly authorised by the reporter or by any police officer.

(2) Any notification in writing or other document authorised or required by these rules to be given or issued to a child or to a parent may be -

(a) delivered to him in person; or

(b) left for him at his dwelling-house or place of business or where he has no known dwelling-house or place of business, at any other place in which he may at the time be resident; or

(c) where he is the master of, or a seaman or other person employed in, a vessel, left with a person on board thereof and connected therewith; or

(d) sent by post in a registered or first class service recorded delivery letter to his dwelling-house or place of business.

(3) Where the reporter or a person duly authorised by him gives to any parent a notification in writing under paragraph (1) of rule 8 above, or an oral notification under that paragraph as read with paragraph (4) of that rule, he shall execute a certificate of notification in the form of Form 20.

(4) Where a notification under rule 7 or rule 8 above or a copy of such a statement as is mentioned in rule 16 above is sent by post in accordance with paragraph (2)(d) of this rule, the notification or copy shall be deemed, for the purpose of the said rule 7, 8 or 16, as the case may be, to have been given the day following the date of posting.

Reports of proceedings of children's hearings

30.—(1) In relation to the case of any child which comes before a children's hearing, it shall be the duty of the reporter to keep or cause to be kept a report of the proceedings of that hearing and the said report -

- (a) shall include the information specified in paragraph (2) below; and
(b) may include such other information about the proceedings as the reporter thinks appropriate.
- (2) The information referred to in paragraph (1)(a) above is as follows:-
- (a) particulars of the place and date of the hearing;
 - (b) the full name and address of the child and his or her sex and date of birth;
 - (c) the full name and address (so far as these can be obtained) of the father, the mother and the guardian (if any) of the child;
 - (d) a record as to which (if any) of the persons mentioned in heads (b) and (c) above was present;
 - (e) the full name and address of any representative attending the hearing;
 - (f) the full name and address of any safeguarder appointed under the Act;
 - (g) the terms of any decision disposing of the case of the child, or of any decision to issue a warrant, made by the children's hearing or any other course of action taken by them with respect to the child; and
 - (h) in any case where the children's hearing proceed in accordance with section 42 of the Act -
 - (i) particulars of which of the grounds of referral are accepted or, as the case may be, not accepted, and by whom;
 - (ii) a record of any direction under subsection (2)(c) or (7) of the said section 42 to make application to the sheriff for a finding under that section; and
 - (iii) a record of whether the children's hearing proceeded to consider the case at that hearing.

Travelling and subsistence expenses

31.—(1) Subject to paragraph (2) below, the local authority for the area of a children's hearing shall, if a claim therefor is made to them, pay to or in respect of any child, or to any parent, or to any one representative of either attending any children's hearing a sum equal to such travelling expenses and such expenses on subsistence as have, in the opinion of the local authority, been reasonably incurred by or in respect of the child or, as the case may be, by the parent or by any representative of either for the purpose of enabling the said child, parent or representative to attend that hearing.

(2) A claim under this rule shall be in writing and shall be made before the expiry of the period of one month commencing with the date of the children's hearing to which the claim relates.

Revocation of previous rules and amendments

32. The following Rules are hereby revoked:-

The Children's Hearings (Scotland) Rules 1971(a);

The Children's Hearings (Scotland) Amendment Rules 1983(b);

(a) S.I. 1971/492.
(b) S.I. 1983/1424.

The Children's Hearings (Scotland) (Amendment - Secure Accommodation etc.) Rules 1984(a);

The Children's Hearings (Scotland) (Amendment - Secure Accommodation) (No. 2) Rules 1984(b);

The Children's Hearings (Scotland) (Amendment - Safeguarders) Rules 1985(c);

The Children's Hearings (Scotland) (Amendment - Secure Accommodation) Rules 1985(d); and

The Children's Hearings (Scotland) Amendment Rules 1986(e).

Malcolm Rifkind,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
17th December 1986.

-
- (a) S.I. 1984/100.
 - (b) S.I. 1984/1867.
 - (c) S.I. 1985/843.
 - (d) S.I. 1985/1724.
 - (e) S.I. 1986/518.

SCHEDULE

Rule 3

FORM 1

Rule 7

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION OF CHILDREN'S HEARING TO CHILD REQUIRED TO ATTEND HEARING

To (name and address of child)

You have been referred to a children's hearing (state shortly the purpose of the hearing, for example "and the grounds of referral are described in the attached statement" or "for the purpose of reviewing the supervision requirement made on (date)").

You are required in terms of section 40(1) of the Social Work (Scotland) Act 1968 to attend the hearing on (date), (time), (place).

Please read the Notes set out below.

(Address of Reporter)

(date)

.....
(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

NOTES

(To be incorporated in the notification and any copies thereof.)

A children's hearing is formed by members of the children's panel for [] Region. They have been selected from many walks of life especially for their interest and concern in understanding and helping children with problems. The panel members will discuss with you and your parents difficulties which have arisen and will try to reach a decision which will be in your best interests.

During the discussion the panel will want to hear your views. You may, if you wish, bring with you to the hearing someone to help you in discussing your difficulties and what might be done. The personal expenses of this representative (but not any fees) may be refunded.

You must attend the hearing unless you have been told by me that the hearing have decided that your attendance is not necessary. If you do not attend, steps may be taken, including possibly your detention, to make sure that you do appear before a hearing. If there is a very good reason, such as illness, why you will be unable to attend the hearing, you should contact the Reporter immediately at (insert address and telephone number).

Further information on the hearing is set out in the leaflet entitled "To Tell You about the Children's Hearing", a copy of which accompanies this notification.

FORM 2

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION OF CHILDREN'S HEARING TO PARENT HAVING A DUTY TO ATTEND HEARING

To (name and address of parent)

Your child (name and address) has been referred to a children's hearing (specify the reason, eg. "on the basis of the attached grounds for referral" or "for the purpose of reviewing the supervision requirement made on (date)"). It is important that [you]*/ [both you and your wife/husband*]* should be there to take part in the discussion about the child. The hearing is on (date), (time), (place), and [you]/[both you and your wife/husband*]* are required in terms of section 41(2) of the Social Work (Scotland) Act 1968 to attend.

Please read the Notes set out below.

(Address of Reporter)

(date)

.....

(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

NOTES

(To be incorporated in the notification and any copies thereof.)

A children's hearing is formed by members of the children's panel for [] Region. They have been selected from many walks of life especially for their interest and concern in understanding and helping children with problems. The panel members will discuss with you and your child difficulties which have arisen and will try to reach a decision which will be in your child's best interests.

During the discussion the panel will want to hear your views. You may, if you wish, bring with you to the hearing someone to help you in discussing your difficulties and what might be done. The personal expenses of this representative (but not any fees) may be refunded.

You must attend the hearing unless you have been told by me that the hearing have decided that your attendance is not necessary. If there is a very good reason, such as illness, why you will be unable to attend the hearing, you should contact the Reporter immediately at (insert address and telephone number).

Further information on the hearing is set out in the leaflet entitled "To Tell You about the Children's Hearing", a copy of which accompanies this notification.

FORM 3

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION OF CHILDREN'S HEARING TO PARENT NOT
REQUIRED TO ATTEND HEARING

To (name and address of parent)

Your child (name and address) has been referred to a children's hearing (specify reason).
The children's hearing to which your child has been referred are satisfied that it would
be unreasonable to require you to attend or that your attendance is not essential.

However, if you wish, you have the right to attend the hearing on (date), (time), (place).

Please read the Notes set out below.

(Address of Reporter)

(date)

.....
(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

NOTES

(To be incorporated in the notification and any copies thereof.)

A children's hearing is formed by members of the children's panel for []
Region. They have been selected from many walks of life especially for their interest
and concern in understanding and helping children with problems. The panel members
will discuss with you and your child difficulties which have arisen and will try to reach
a decision which will be in your child's best interests.

If you do attend the hearing you may, if you wish, bring with you someone to help
you during the discussion of what is best for your child. The personal expenses of this
representative (but not any fees) may be refunded.

Further information on the hearing is set out in the leaflet which has been written
for your child entitled "To Tell you about the Children's Hearing" a copy of which
accompanies this notification.

FORM 4A

SOCIAL WORK (SCOTLAND) ACT 1968

FORM OF STATEMENT BY REPORTER OF GROUNDS FOR THE
REFERRAL OF A CASE TO A CHILDREN'S HEARING

(Conditions in section 32(2)(a) to (gg) or (i) of the Act.)

(Name and address of child) is being referred to a children's hearing for (local authority area) on the grounds of the following conditions:-

(Here specify which one or more of the conditions mentioned in section 32(2) of the Act is or are considered by the reporter to be satisfied with respect to the child, for example:-

- "(a) that he is beyond the control of his parents;
(b) that he has failed to attend school regularly without reasonable excuse; and
(c) that he has committed the two offences specified at paragraphs (3) and (4) below".)

STATEMENT OF FACTS

(Here state the facts on the basis of which it is sought to show that the condition or, as the case may be, the conditions specified as aforesaid is or are satisfied, for example:-

1. In support of condition (a) above it is stated:-

- that the said (name of child) resides in family with his father (name) and mother (name) at (address);
that on several occasions and in particular on (dates) he has been absent from home overnight without the consent of his parents;
that he is habitually absent from home until a late hour of the night;
that on one weekend (date) he absented himself from home without the knowledge or permission of his parents and was discovered in a house at (address) which was frequented by persons of doubtful character;
that he defies all his parent's efforts to guide and control him.

2. In support of condition (b) above, it is stated:-

- that as mentioned above (name of child) was born (so far as has been ascertained) on (date) and is and was at all material times a child of school age;
that he is and was at all material times a pupil enrolled in () school under the management of () education authority;
that he failed to attend the school on various occasions between (state date) or thereby and (state date) or thereby;
that during that period his absences from school amounted to (number) of half days out of a total (number) of half days, within that period, during which he was required to attend the school;
that he had no reasonable excuse for those absences.

3. In support of condition (c) above, it is stated:-

- that on (date) between the hours of () and () (state time) at (place) he (hereby specify the facts constituting the offence) contrary to section () of the Civil Government (Scotland) Act 1982.

4. In support of condition (c) above, it is further stated:-

that on (date) between the hours of () and () (state time) at (place) he stole (specify the facts constituting the further offence) being an offence of theft.)

(Address of Reporter)

.....

(date)

(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

NOTES

(To be incorporated in the notification and any copies thereof.)

At the children's hearing the child or his parents may or may not accept the grounds for bringing the child before the hearing. If the grounds are accepted by the child, and his parents, if present, the children's hearing will discuss and consider with the child and his parents what is best for the child. If any of the grounds are not accepted, the hearing may either discharge the referral or direct the reporter to apply to the sheriff for a decision as to whether or not any of the grounds exist. If this happens the child will have to appear before the sheriff at a later date. If the sheriff decides that any of the grounds do exist, the children's hearing will then discuss and consider what is best for the child, as if these grounds had been accepted. If the sheriff decides that no grounds exist, the referral will be discharged.

FORM 4B

SOCIAL WORK (SCOTLAND) ACT 1968

FORM OF STATEMENT BY REPORTER OF GROUNDS FOR THE REFERRAL OF A CASE TO A CHILDREN'S HEARING

(Condition in section 32(2)(h) of the Act.)

(Name and address of child) is being referred to a children's hearing for (local authority area) uinder section [73(1)(ii)]* [75(1)]* [75(2)]* in Part V of the Social Work (Scotland) Act 1968 as being a child subject to an order made by a court in England or Wales or Northern Ireland.

In support of this condition it is stated that on (date) the said child appeared before (insert description of English, Welsh or Irish court) and that that court made a (insert description of order, eg. supervision order, care order).

(Address of Reporter)

(date)

.....

(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

FORM 5

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OF APPLICATION TO SHERIFF FOR A FINDING AS TO WHETHER GROUNDS OF REFERRAL ARE ESTABLISHED

To (name and address of child)

[[You]* [Your parent (name and address of parent)]* did not accept]*

[The children's hearing were satisfied that you did not understand the explanation of]*

[The children's hearing were satisfied that you were not able to understand an explanation of]*

the grounds of referral set out in the attached statement, and accordingly the children's hearing directed me to apply to the sheriff who will decide whether any of these grounds are established. You will have to attend the hearing of this application by the sheriff. You will be told later of the time and place.

(Address of Reporter)

(date)

.....

(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

FORM 6

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO PARENT OF APPLICATION TO SHERIFF FOR A FINDING AS TO WHETHER GROUNDS OF REFERRAL ARE ESTABLISHED

To (name and address of parent)

[[You]* [Your husband*/wife*]* [Your child (name of child)]* did not accept]*

[The children's hearing were satisfied that your child did not understand the explanation of]*

[The children's hearing were satisfied that your child was not able to understand an explanation of]*

the grounds of referral set out in the attached statement, and accordingly the children's hearing directed me to apply to the sheriff who will decide whether any of these grounds are established. You will be told later of the time and place of the hearing by the sheriff of this application.

(Address of Reporter)

(date)

.....
(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

FORM 7

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OR PARENT OF DECISION OF CHILDREN'S HEARING TO MAKE OR NOT TO MAKE A SUPERVISION REQUIREMENT

To (name and address of child/parent)

On (date) a children's hearing for (local authority area) decided, after considering [your case]* [the case of (name of child)]*, that compulsory measures of care were [not]* necessary, and [made]* [did not make]* a supervision requirement [of which a copy is enclosed]*.

You or your parent/child* may appeal to the sheriff against the decision within a period of three weeks from the date of the decision.

You may ask me for a statement of the reasons for the decision of the children's hearing.

(Address of Reporter)

(date)

.....
(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

NOTES

(To be incorporated in the notification and any copies thereof.)

Section 88 of the Social Work (Scotland) Act 1968 requires the parents of a child placed under a supervision requirement to inform the local authority of any change of address.

FORM 8A

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OR PARENT OF DECISION OF CHILDREN'S HEARING AT A REVIEW OF A SUPERVISION REQUIREMENT

To (name and address of child/parent)

On (date) a children's hearing for (local authority area), after reviewing the supervision requirement dated () relating to [you]* [name of child]*, decided (here specify the decision in question).

You or your parent/child* may appeal to the sheriff against the decision within a period of three weeks from the date of the decision.

You may ask me for a statement of the reasons for the decision of the children's hearing.

(Address of Reporter)

(date)

.....
(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

FORM 8B

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OR PARENT OF DECISION OF CHILDREN'S HEARING AT A REVIEW OF A SUPERVISION REQUIREMENT INVOLVING THE IMPOSITION, VARIATION OR CONTINUATION OF A CONDITION AUTHORISING PLACEMENT IN SECURE ACCOMMODATION

To (name and address of child/parent)

On (date) a children's hearing for (local authority area), after reviewing the supervision requirement dated () relating to [you]* {name of child}* and being satisfied [that [you have]* [your child has]* a history of absconding and are/is* likely to abscond unless kept in secure accommodation and that if [you abscond]* [your child absconds]* it is likely that you/your child's physical, mental or moral welfare will be at risk]*

[that [you are]* [your child is]* likely to injure [yourself]* [himself]* [herself]* or other persons unless kept in secure accommodation]*,

decided (here specify the decision in question to include the decision with respect to the condition about secure accommodation).

You or your parent/child* may appeal to the sheriff against the decision within a period of three weeks from the date of the decision.

You may ask me for a statement of the reasons for the decision of the children's hearing.

(Address of Reporter)

(date)

.....
(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

FORM 8C

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OR PARENT OF DECISION OF CHILDREN'S HEARING AT A REVIEW OF SECURE ACCOMMODATION CONDITION SEPARATE FROM A REVIEW OF A SUPERVISION REQUIREMENT

To (name and address of child/parent)

On (date) a children's hearing for (local authority area), after reviewing the condition about residence in secure accommodation contained in the supervision requirement dated () relating to [you]* [name of child]* and [not]* being satisfied

[that [you have]* [your child has]* a history of absconding and are/is* likely to abscond unless kept in secure accommodation and that if [you abscond]* [your child absconds]* it is likely that you/your child's physical, mental or moral welfare will be at risk]*

[that [you are]* [your child is]* likely to injure [yourself]* [himself]* [herself]* or other persons unless kept in secure accommodation]*,

decided (here specify the decision in question with respect to the condition about secure accommodation).

You or your parent/child* may appeal to the sheriff against the decision within a period of three weeks from the date of the decision.

You may ask me for a statement of the reasons for the decision of the children's hearing.

(Address of Reporter)

(date)

.....

(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

FORM 9

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD AND PARENTS OF CHILDREN'S HEARING
TO CONSIDER APPLICATION UNDER SECTION 49(8) OF THE ACT

To (name and address of child/parents)

On (insert date) (name or names of applicant) under section 49(8) of the Social Work (Scotland) Act 1968 applied to the children's hearing for the suspension of a supervision requirement made on (date).

The application for the suspension of the said supervision requirement will be considered by the hearing on (date), (time), (place).

(Address of Reporter)

(date)

.....

(Reporter)* (On behalf of the Reporter)*

*Delete as appropriate

NOTES

In accordance with Rule 22(5) of The Children's Hearings (Scotland) Rules 1986 failure of the applicant to attend the hearing called to consider his application will mean that he will be held to have abandoned the application.

FORM 10A

SOCIAL WORK (SCOTLAND) ACT 1968

SUPERVISION REQUIREMENT

(Place and date)

A children's hearing for (local authority area), in exercise of the powers conferred by section 44(1) of the Social Work (Scotland) Act 1968, being satisfied that (child's name and address) is in need of compulsory measures of care require him/her* [to reside in (name of residential establishment)]* / [to be under the supervision of (name of local authority or other supervisor)]* subject to the conditions noted below.

[The operation of this supervision requirement is postponed until (specify date)]*.

.....
Chairman of the Children's Hearing

CONDITIONS REFERRED TO IN THE FOREGOING SUPERVISION REQUIREMENT

- †1. The child is required to observe the rules of conduct of the residential establishment.
- †2. The requirement to reside is subject to the discretion of the managers of the residential establishment to grant leave of absence from time to time.
- 3. etc.

.....
Chairman of the Children's Hearing

* Delete as appropriate

† Where a supervision requirement requires a child to reside in a residential establishment, conditions 1 and 2 shall be inserted in the supervision requirement.

FORM 10B

SOCIAL WORK (SCOTLAND) ACT 1968

SUPERVISION REQUIREMENT AUTHORISING PLACEMENT IN SECURE ACCOMMODATION

(Place and date)

A children's hearing for (local authority area) in exercise of the powers conferred by section 44(1)(b) and 58A(3) of the Social Work (Scotland) Act 1968 being satisfied (firstly) that (child's name and address) is in need of compulsory measures of care, and (secondly)

[that he/she* has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]*

[that he/she* is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

require him/her* to reside in (name of residential establishment providing secure accommodation) subject to the conditions noted below.

[The operation of this supervision requirement is postponed until (specify date).]*

.....
Chairman of the Children's Hearing

CONDITIONS REFERRED TO IN THE FOREGOING SUPERVISION REQUIREMENT

1. The child is liable to be placed and kept in secure accommodation in (name of residential establishment) at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers it necessary that the child do so.
2. The child is required to observe the rules of conduct of the residential establishment.
3. Subject to condition 1 above, the requirement to reside is subject to the discretion of the managers of the residential establishment to grant leave of absence from time to time.
4. etc.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 11A

SOCIAL WORK (SCOTLAND) ACT 1968

SUPERVISION REQUIREMENT VARYING EXISTING SUPERVISION REQUIREMENT

(Place and date)

A children's hearing for (local authority area), by way of variation of [and in substitution for]* the supervision requirement dated (date of previous supervision requirement) to which (name of child) is subject, hereby require him/her* [to reside in (name of residential establishment)]* /-[to be under the supervision of (name of local authority or other supervisor)]* subject to the conditions noted below and the said requirement dated is hereby revoked.

.....
Chairman of the Children's Hearing

CONDITIONS REFERRED TO IN THE FOREGOING SUPERVISION REQUIREMENT

- †1. The child is required to observe the rules of conduct of the residential establishment.
- †2. The requirement to reside is subject to the discretion of the managers of the residential establishment to grant leave of absence from time to time.
- 3. etc.

.....
Chairman of the Children's Hearing

* Delete as appropriate

† Where a supervision requirement requires a child to reside in a residential establishment, conditions 1 and 2 shall be inserted in the supervision requirement.

FORM 11B

SOCIAL WORK (SCOTLAND) ACT 1968

VARIATION OF SUPERVISION REQUIREMENT TO AUTHORISE PLACEMENT IN SECURE ACCOMMODATION

(Place and date)

A children's hearing for (local authority area) by way of variation of [and in substitution for]* the supervision requirement dated (date of previous supervision requirement) to which (name and address of child) is subject, being satisfied that

[that he/she* has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]*

[that he/she* is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

hereby require him/her* to reside in (name of residential establishment providing secure accommodation) subject to the conditions noted below and the said requirement dated is hereby revoked.

.....
Chairman of the Children's Hearing

CONDITIONS REFERRED TO IN THE FOREGOING SUPERVISION REQUIREMENT

1. The child is liable to be placed and kept in secure accommodation in (name of residential establishment) at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers it necessary that the child do so.
2. The child is required to observe the rules of conduct of the residential establishment.
3. Subject to condition 1 above, the requirement to reside is subject to the discretion of the managers of the residential establishment to grant leave of absence from time to time.
4. etc.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 12

SOCIAL WORK (SCOTLAND) ACT 1968

INSTRUMENT CONTINUING SUPERVISION REQUIREMENT

(Place and date)

A children's hearing for (local authority area), considering that the supervision requirement attached and docketed with reference hereto is due to expire on (insert date being one year from the making or last review of the requirement whichever last occurred), and being satisfied that it is proper so to do, hereby continue the said requirement in force.

.....
Chairman of the Children's Hearing

FORM 13

SOCIAL WORK (SCOTLAND) ACT 1968

INSTRUMENT TERMINATING SUPERVISION REQUIREMENT

(Place and date)

A children's hearing for (local authority area) hereby terminate the supervision requirement attached and docketed with reference hereto as from (date on which termination to take effect).

.....
Chairman of the Children's Hearing

FORM 14

SOCIAL WORK (SCOTLAND) ACT 1968

REQUIREMENT UNDER SECTION 43(4) OF THE ACT

(Place and date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by section 43(4) of the Social Work (Scotland) Act 1968, require (name and address) to [attend]* [reside at]* (insert name of clinic, hospital or establishment) during (insert time or period not exceeding 21 days) for the purpose of further investigation in relation to him/her* and his/her* history.

.....

Chairman of the Children's Hearing

* Delete as appropriate

FORM 15A

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION UNDER SECTION 37(4) OF THE ACT

(Place and date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by section 37(4) of the Social Work (Scotland) Act 1968, [being satisfied that the further detention of (name and address) is necessary in his/her* own interest]* [having reason to believe that (name and address) will run away during the investigation of his/her* case]* grant warrant for the detention of the said (name) in a place of safety [chosen by (local authority)]* [(or insert name of a place of safety)]* for a period from (date) to (date) both days inclusive (insert period not exceeding 21 days).

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 15B

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION IN NAMED RESIDENTIAL ESTABLISHMENT PROVIDING SECURE ACCOMMODATION UNDER SECTIONS 37(4) AND 58E(1) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by sections 37(4) and 58E(1) of the Social Work (Scotland) Act 1968,

(firstly) [being satisfied that the further detention of (child's name and address) is necessary in his/her* own interests]* [having reason to believe that (child's name and address) will run away during the investigation of his/her* case]* and

(secondly) being satisfied [that he/she* has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that he/she* is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

grant warrant ordering the detention of the said (name) in (name of residential establishment providing the secure accommodation) for the period from (date) to (date) (insert period not exceeding 21 days) both days inclusive and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers necessary.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 16A

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT UNDER SECTION 37(5) OF THE ACT RENEWING WARRANT FOR DETENTION UNDER SECTION 37(4) OF THE ACT

(Place and date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by section 37(4) of the Social Work (Scotland) Act 1968, [being satisfied that the further detention of (name and address) is necessary in his/her* own interest]* [having reason to believe that (name and address) will run away during the investigation of his/her* case]*, grant warrant for the renewal from(day) to(day) of the warrant for detention of the said (name) granted by a children's hearing on (insert date of previous warrant).

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 16B

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT UNDER SECTIONS 37(5) AND 58E(1) OF THE ACT
RENEWING WARRANT FOR DETENTION IN NAMED RESIDENTIAL
ESTABLISHMENT PROVIDING SECURE ACCOMMODATION UNDER
SECTIONS 37(4) AND 58E(1) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by sections 37(5) and 58E(1) of the Social Work (Scotland) Act 1968, having heard the reporter of the local authority, and being satisfied

[that (the child's name and address) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]*

[that (child's name and address) is likely to injure himself/herself* or other persons unless he/she is kept in secure accommodation]*,

grant warrant for the renewal from (date) to (date) (insert period not exceeding 21 days) both days inclusive, of the warrant granted by a children's hearing on (insert date of previous warrant) ordering his/her* detention in (name of residential establishment providing the secure accommodation) at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers necessary.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 17A

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR APPREHENSION UNDER SECTION 40(4) OF THE ACT

(Place and date)

A children's hearing for (local authority area) in exercise of the powers conferred on them by section 40(4) of the Social Work (Scotland) Act 1968, being satisfied that the grant of this warrant is necessary, grant warrant to officers of law to apprehend (name and address) for the purpose of securing his/her* attendance at a children's hearing.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 17B

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR APPREHENSION AND DETENTION IN NAMED
RESIDENTIAL ESTABLISHMENT PROVIDING SECURE
ACCOMMODATION UNDER SECTIONS 40(4) AND 58E(1) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by sections 40(4) and 58E(1) of the Social Work (Scotland) Act 1968, being satisfied (firstly)

[that (the child's name and address) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental and moral welfare will be at risk]*

[that (child's name and address) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

and (secondly) of the necessity for the grant of this warrant, grant warrant to officers of law to apprehend the said (name) for the purpose of securing his/her* attendance at a children's hearing, and ordering his/her* detention in (name of residential establishment providing the secure accommodation) at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers necessary.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 18A

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION UNDER SECTION 40(7) OF THE ACT

(Place and date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by section 40(7) of the Social Work (Scotland) Act 1968, having reason to believe that (child's name and address) may [not attend at a further hearing of his/her* case]* [not attend at proceedings arising from his/her* case]* [fail to comply with a requirement under section 43(4) of that Act]* and being satisfied that detention of (child's name and address) is necessary in his/her* interest, grant warrant for the said (name) to be detained in a suitable place of safety chosen by the local authority for a period not exceeding 21 days from this date.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 18B

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION IN NAMED RESIDENTIAL ESTABLISHMENT PROVIDING SECURE ACCOMMODATION UNDER SECTIONS 40(7) AND 58E(1) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by sections 40(7) and 58E(1) of the Social Work (Scotland) Act 1968,

(firstly) [having reason to believe that (child's name and address) may [not attend a further hearing of his/her* case]* [not attend at proceedings arising from his/her* case]* [fail to comply with a requirement under section 43(4) of that Act]*] * [being satisfied that detention of (child's name and address) is necessary in his/her* own interest]* and

(secondly) being satisfied [that he/she* has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that he/she* is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

grant warrant ordering the said (name) to be detained in (name of residential establishment providing the secure accommodation) from (date) to (date) (insert period not exceeding 21 days) both days inclusive and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers necessary.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 19A

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT UNDER SECTION 40(8) OF THE ACT RENEWING WARRANT
FOR DETENTION UNDER SECTION 40(7) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by section 40(8) of the Social Work (Scotland) Act 1968, having heard the reporter of the local authority, grant warrant for the renewal from (day) to (day) (insert period not exceeding 21 days) of the warrant for the detention of (name and address) granted by a children's hearing on (insert date of previous warrant).

.....
Chairman of the Children's Hearing

FORM 19B

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT UNDER SECTION 40(8) AND 58E(1) OF THE ACT RENEWING
WARRANT FOR DETENTION IN NAMED RESIDENTIAL
ESTABLISHMENT PROVIDING SECURE ACCOMMODATION UNDER
SECTIONS 40(7) AND 58E(1) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by sections 40(8) and 58E(1) of the Social Work (Scotland) Act 1968, having heard the reporter of the local authority, and being satisfied

[that (child's name and address) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]*

[that (child's name and address) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

grant warrant for the renewal from (date) to (date) (insert period not exceeding 21 days) both days inclusive, of the warrant granted by a children's hearing on (insert date of previous warrant) ordering the detention of the said (name) in (name of residential establishment providing the secure accommodation) and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers necessary.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 19C

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT UNDER REGULATION 11 OF SECURE ACCOMMODATION (SCOTLAND) REGULATIONS 1983 FOR DETENTION IN NAMED RESIDENTIAL ESTABLISHMENT PROVIDING SECURE ACCOMMODATION UNDER SECTION 58B(3) OF THE ACT

(Place and Date)

A children's hearing for (local authority area), in exercise of the powers conferred on them by section 58B(3) of the Social Work (Scotland) Act 1968, and by virtue of regulation 11 of the Secure Accommodation (Scotland) Regulations 1983, having directed that an application be made to the sheriff for a finding under section 42(2)(c) of that Act and being satisfied

[that (child's name and address) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]*

[that (child's name and address) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

grant warrant ordering the said (name) to be [detained]* [further detained]* in (name of residential establishment providing secure accommodation) from (date) to (date) (insert period not exceeding 21 days) both days inclusive and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (name of local authority), considers it necessary that the child be so detained, pending determination of his/her* case in accordance with section 42(5) or (6) of that Act.

.....
Chairman of the Children's Hearing

* Delete as appropriate

FORM 20

SOCIAL WORK (SCOTLAND) ACT 1968

CERTIFICATE OF NOTIFICATION OF CHILDREN'S HEARING TO PARENT

(to be subjoined to copy of notification)*

I, [Reporter/on behalf of the Reporter]* of (local authority) notified the within-named person by

[speaking to him in person on (date), (time), place]*

[delivering a copy of the notification to him in person on (date), (time), (place)]*

[leaving a copy of the notification for him at his [dwellinghouse/place of business*] at (address) on (date)]*

[leaving a copy of the notification for him on board (name of vessel) at (place) on (date)]*

[sending it to him in a [recorded delivery/registered*] letter and the post office receipt for the said letter accompanies this certificate]*

.....
Chairman of the Children's Hearing

* Delete as appropriate

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These rules consolidate with amendments The Children's Hearings (Scotland) Rules 1971 as amended by The Children's Hearings (Scotland) Amendment Rules 1983, The Children's Hearings (Scotland) (Amendment - Secure Accommodation etc.) Rules 1984, The Children's Hearings (Scotland) (Amendment - Secure Accommodation) (No. 2) Rules 1984, The Children's Hearings (Scotland) (Amendment - Safeguarders) Rules 1985, The Children's Hearings (Scotland) (Amendment - Secure Accommodation) Rules 1985 and The Children's Hearings (Scotland) Amendment Rules 1986.

They provide for the constitution and arrangement of children's hearings held under the Social Work (Scotland) Act 1968. Provision is also made for the procedure at hearings and relative to that procedure for the forms in which notifications, statements, applications, warrants and other documents should be made.

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