

2015 No. 907

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

CHILDREN AND YOUNG PERSONS

**The Children and Young People (Scotland) Act 2014
(Consequential and Saving Provisions) Order 2015**

Made - - - - *24th March 2015*

Coming into force in accordance with article 1(2), (3) and (4)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2), (4) and (5) of the Scotland Act 1998(a).

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Children and Young People (Scotland) Act 2014 (Consequential and Saving Provisions) Order 2015.

(2) This article comes into force on the day after the day on which this Order is made.

(3) Articles 2 and 4 come into force on the same day as paragraph 4(4) of Schedule 5 (modification of enactments) to the Children and Young People (Scotland) Act 2014(b) comes into force.

(4) Article 3 comes into force on the same day as paragraph 5(2) of schedule 5 to that Act comes into force.

(5) This Order extends to England and Wales and Northern Ireland only.

Prohibition of publication of exclusion order proceedings

2.—(1) The Children (Scotland) Act 1995(c) is modified as follows.

(a) 1998 c.46.
(b) 2014 asp 8.
(c) 1995 c.36.

- (2) In section 44 (prohibition of publication of proceedings at children’s hearing)(a)—
- (a) for subsection (1) substitute—
 - “(1) No person shall publish any matter in respect of proceedings before a sheriff on an application under section 76(1) of this Act which is intended to, or is likely to, identify—
 - (a) the child concerned in, or any other child connected (in any way) with, the proceedings; or
 - (b) any address or school as being that of any such child.”;
 - (b) in subsection (5)—
 - (i) omit paragraphs (b) and (c);
 - (ii) in the full-out, omit “, the Court or the Secretary of State as the case may be”.
- (3) In section 93(2) (interpretation of Part II)(b)—
- (a) in paragraph (a) after “Part” insert “and section 44”;
 - (b) in paragraph (b) for “Chapters 2 and” substitute “Chapter 2 (except section 44) and Chapter”.

Definition of secure accommodation

3. In section 44(11) of the Criminal Procedure (Scotland) Act 1995 (detention of children)(c), in the definition of “secure accommodation” for “2000 Act” in each place where it occurs substitute “Care Standards Act 2000(d)”.

Saving provision

4. Despite article 2, section 44 of the Children (Scotland) Act 1995 continues to have effect on or after the date on which article 2 comes into force as it had effect immediately before that date in relation to any proceedings or appeal mentioned in subsection (1) of that section which—

- (a) have or has concluded as at that date; or
- (b) are or is continuing on that date.

David Mundell
Parliamentary Under Secretary of State
Scotland Office

Dover House,
London
24th March 2015

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- (a) Section 44 was amended for Scotland by the Criminal Justice (Scotland) Act 2003 (asp 7), section 52(a); the Adoption and Children (Scotland) Act 2007 (asp 4), schedule 2, paragraph 9(5); and by the Children and Young People (Scotland) Act 2014 (asp 8), schedule 5, paragraph 4(4). Section 44 was amended for England and Wales and Northern Ireland by S.I. 2011/1740, Schedule 2, Part 1, paragraph 3(2).
 - (b) Section 93(2) was amended for Scotland by the Criminal Justice (Scotland) Act 2003 (asp 7), section 52(b); the Children’s Hearing’s (Scotland) Act 2011 (asp 1), schedule 5, paragraph 2(11) and schedule 6; and by S.S.I. 2013/211, Schedule 2. Section 93(2) was amended for England and Wales and Northern Ireland by S.I. 2013/1465, Schedule 2, Part 2.
 - (c) 1995 c.46. The definition of “secure accommodation” in section 44(11) was substituted by S.I. 2013/1465, Schedule 3 paragraph 2(d) and subsequently amended for Scotland by the Children and Young People (Scotland) Act 2014 (asp 8), schedule 5, paragraph 5(2).
 - (d) 2000 c.14.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision consequential on the Children and Young People (Scotland) Act 2014 (asp 8) (the “2014 Act”).

Article 1 contains provision relating to citation, commencement and extent. The Order extends to England and Wales and Northern Ireland only.

Article 2(2) modifies section 44 of the Children (Scotland) Act 1995 (c.36) (the “1995 Act”) so that the publishing restrictions in that provision only apply to proceedings before a sheriff on an application under section 76(1) of the 1995 Act (exclusion orders). This is in consequence of paragraph 4(4) of schedule 5 to the 2014 Act which makes the same modifications for Scotland. Section 44 of the 1995 Act extends to Scotland, England and Wales and Northern Ireland by virtue of section 105 of the 1995 Act.

Article 2(3) amends section 93(2) of the 1995 Act so that “child” for the purposes of section 44 of that Act means a person under the age of eighteen years in England and Wales and Northern Ireland as well as in Scotland.

Article 3 amends the definition of “secure accommodation” in section 44(11) of the Criminal Procedure (Scotland) Act 1995 (c.46). This is in consequence of paragraph 5(2) of schedule 5 to the 2014 Act which makes the same amendment for Scotland. Section 44 of that Act extends to Scotland, England and Wales and Northern Ireland by virtue of section 309 of the Criminal Procedure (Scotland) Act 1995.

Article 4 makes a saving provision so that, despite article 2, section 44 of the 1995 Act continues to have effect on or after the date on which article 2 comes into force (the “date”) as it had effect immediately before that date in relation to any proceedings or appeals mentioned in section 44(1) (prior to its modification by article 2) which have or has concluded, or are or is continuing, on that date.

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£4.25

UK2015032419 03/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/907>

ISBN 978-0-11-113531-0



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