

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Child Assessment and Child Protection Orders

Other emergency measures

Section 55 – Application to justice of the peace

57. This section provides an alternative procedure where application to the sheriff for a child protection order is not practicable. It provides for a justice of the peace to apply the same considerations set out for the sheriff under sections 38 and 39 above. Subsections (4) and (5) place time restrictions on orders made by a justice of the peace. The maximum possible subsistence of such an order is 24 hours. Subsection (6) provides the Principal Reporter with powers to terminate an order made by a justice of the peace where the Principal Reporter is satisfied that the conditions for the making of the order are no longer satisfied or that it is no longer in the best interests of the child for the order to have effect.

Section 56 – Constable's power to remove child to place of safety

58. This section provides police officers with powers to remove a child to a place of safety for a period of up to 24 hours without involvement of a sheriff. The police officer must be satisfied that the conditions for the granting of a child protection order exist but it is not practicable to pursue an application to a sheriff. Subsection (4) provides that police officers must not exercise this power where a child protection order is in effect for the child or where an application for a child protection order or for an order under section 55 has been submitted to the sheriff or to a justice of the peace respectively, and that application has been refused.
59. Subsection (5) provides the Principal Reporter with powers to order the release of the child from the place of safety where they are satisfied that the conditions for placing the child there are no longer met or that it is no longer in the best interests of the child to be kept in a place of safety.

Section 57 – Sections 55 and 56: regulations

60. This section enables the Scottish Ministers to make regulations in respect of a child removed to, or kept in, a place of safety by police officers or under an order made by a justice of the peace. Subsection (2) provides that such regulations may require that specified individuals be notified of the removal of the child, the location of the child, and the cessation of an order under section 55.