



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART III

CHILDREN IN NEED OF COMPULSORY MEASURES OF CARE

30 Definition of child and parent for Part III

- (1) Except where otherwise expressly provided, a child for the purposes of this Part of this Act means—
 - (a) a child who has not attained the age of sixteen years;
 - (b) a child over the age of sixteen years who has not attained the age of eighteen years and in respect of whom a supervision requirement of a children's hearing is in force under this Part of this Act;
 - (c) a child whose case has been referred to a children's hearing in pursuance of Part V of this Act.
- (2) For the said purposes the expression "parent" includes a guardian.

31 Restriction on prosecution of children for offences

- (1) No child shall be prosecuted for any offence except on the instructions of the Lord Advocate, or at his instance; and no court, other than the High Court of Justiciary and the sheriff court, shall have jurisdiction over a child for an offence.
- (2) The case of any child liable to prosecution in respect of any act committed or omission made, but against whom proceedings have not been instituted before the commencement of this Act, shall be dealt with in accordance with the law as in force after the said commencement.
- (3) Part IV of the Children and Young Persons (Scotland) Act 1937 shall have effect subject to the amendments set out in Schedule 2 to this Act.

Status: This is the original version (as it was originally enacted).

32 Children in need of compulsory measures of care

- (1) A child may be in need of compulsory measures of care within the meaning of this Part of this Act if any of the conditions mentioned in the next following subsection is satisfied with respect to him.
- (2) The conditions referred to in subsection (1) of this section are that—
 - (a) he is beyond the control of his parent; or
 - (b) through lack of parental care he is falling into bad associations or is exposed to moral danger; or
 - (c) the lack of care as aforesaid is likely to cause him unnecessary suffering or seriously to impair his health or development; or
 - (d) any of the offences mentioned in Schedule 1 to the Children and Young Persons (Scotland) Act 1937 has been committed in respect of him or in respect of a child who is a member of the same household; or
 - (e) the child, being a female, is a member of the same household as a female in respect of whom an offence which constitutes the crime of incest has been committed by a member of that household ; or
 - (f) he has failed to attend school regularly without reasonable excuse; or
 - (g) he has committed an offence ; or
 - (h) he is a child whose case has been referred to a children's hearing in pursuance of Part V of this Act.
- (3) For the purposes of this Part of this Act " care " includes protection, control, guidance and treatment.

33 Formation of children's panels

- (1) A panel (to be called " the children's panel") shall be formed for every local authority area for the purposes of this Part of this Act.
- (2) Schedule 3 to this Act shall have effect with respect to the number, qualifications, appointment and tenure of office of members of a children's panel.
- (3) A local authority shall cause to be published a list of the names and addresses of members of the children's panel for their area, and that list shall be open for public inspection at all reasonable times at the offices of the director of social work of the local authority, and at any place where an electors list for the locality is exhibited.

34 Children's hearings

- (1) Sittings of members of the children's panel, hereinafter referred to as children's hearings, shall be constituted from the panel in accordance with the provisions of this section to perform, in respect of children who may require compulsory measures of care, the functions assigned to those hearings by this Part of this Act.
- (2) A children's hearing shall consist of a chairman and two other members and shall have both a man and a woman among the members.
- (3) It shall be the duty of a local authority to provide suitable accommodation and facilities dissociated from criminal courts and police stations for children's hearings for their area, and such accommodation and faculties may be provided in the area of another local authority.

35 Provisions as to time, place, privacy and notification of children's hearings

- (1) Any children's hearing shall be conducted in private, and, subject to the provisions of any rules made under this section, no person other than a person whose presence is necessary for the proper consideration of the case which is being heard, or whose presence is permitted by the chairman, shall be present.
- (2) The chairman shall take all reasonable steps to ensure that the number of persons present at a children's hearing at any one time is kept to a minimum.
- (3) Nothing in the foregoing provisions of this section, or in any rules made thereunder, shall operate to prevent a member of the Council on Tribunals, or of the Scottish Committee of that Council, attending any children's hearing, or shall authorise the exclusion of bona fide representatives of a newspaper or news agency.
- (4) The Secretary of State may make rules for the constituting and arranging of children's hearings and for regulating the procedure of those hearings.
- (5) Without prejudice to the generality of the last foregoing subsection, rules under that subsection may make provision with respect to —
 - (a) notification of the time and place of a children's hearing to the child and his parent;
 - (b) the statement of the grounds for the referral of the case to a children's hearing and the rights of the child and his parent to dispute the said grounds ;
 - (c) the right to appeal to the sheriff against a decision of a children's hearing and the notification of the procedure before him;
 - (d) the right of the child and his parent to be represented at the children's hearing;
 - (e) the entitlement of the child and his parent to the refund of such expenses as may be prescribed in connection with the children's hearing and any proceedings arising therefrom;
 - (f) persons whose presence shall be permitted at a children's hearing;
 - (g) the continuation of a children's hearing for further investigation of a case before that hearing and the number and duration of such continuations.

36 The reporter and deputies

- (1) For the purpose of arranging children's hearings and for the performance of such other functions in relation to the children's panel or to children's hearings as may be assigned to him by this Part of this Act, a local authority shall, in accordance with the provisions of this section, appoint an officer, whole-time or part-time, to be known as the reporter, and such other officers as deputies of the reporter as may be required.
- (2) Any vacancy in the appointment of reporter shall be advertised by the local authority, and copies of all the applications for the vacancy shall be forwarded by them to the Secretary of State who shall compile a list of those applicants whom he considers suitable for the appointment and if he considers none of the applicants to be suitable for appointment, he shall require the local authority to re-advertise the vacancy, and the local authority shall comply with the requirement with or without any change in the terms and conditions of service offered.
- (3) The Secretary of State shall send any such list as aforesaid to the local authority who submitted the applications from which the list was compiled, and the local authority shall appoint a person from among those named on that list, or, if they do not wish to

Status: This is the original version (as it was originally enacted).

appoint a person so nominated, a person nominated on a subsequent list compiled as aforesaid after re-advertisement of the vacancy.

- (4) A reporter may not be removed from office by a local authority or be required to resign except with the consent of the Secretary of State.
- (5) A reporter of a local authority shall not, except with the consent of the Secretary of State, be employed by that or any other local authority in any capacity other than that of a reporter.
- (6) A local authority shall secure the provision of adequate staff for assisting the reporter in the performance of his functions.
- (7) The provisions as to remuneration and tenure of office contained in sections 82 and 92 of the Local Government (Scotland) Act 1947, so far as these provisions are not inconsistent with any of the foregoing provisions of this section, shall apply to reporters and their staffs.
- (8) The Secretary of State may make rules in relation to the duties of the reporter.

37 Reports of cases of children who may require compulsory measures of care and the interim detention of such children in places of safety

- (1) Where any person has reasonable cause to believe that a child may be in need of compulsory measures of care he may give to the reporter such information about the child as he may have been able to discover.
- (2) A constable or any person authorised by any court or by any justice of the peace may take to a place of safety any child in respect of whom any of the offences mentioned in Schedule 1 to the Children and Young Persons (Scotland) Act 1937 or any offence under section 21(1) of that Act has been or is believed to have been committed, and any child so taken to a place of safety or any child who has taken refuge in a place of safety may be detained there until arrangements can be made for him to be brought before a children's hearing under the following provisions of this Part of this Act, and, where a child is so detained, the constable or the person authorised as aforesaid or the occupier of the place of safety shall forthwith inform the reporter of the case.
- (3) A child shall not continue to be detained under the last foregoing subsection—
 - (a) where the reporter considers the child does not require compulsory measures of care, or
 - (b) after the day on which a children's hearing first sit to consider his case in pursuance of the next following subsection, or
 - (c) for a period exceeding seven days.
- (4) Where a child has been detained in a place of safety under subsection (2) of this section or under section 40(3) or 47(1) of the said Act of 1937, and the reporter considers that the child may be in need of compulsory measures of care, he shall, wherever practicable, arrange a children's hearing to sit not later than in the course of the first lawful day after the commencement of the child's detention to consider the case under this Part of this Act, and, if that hearing are unable to dispose of the case and are satisfied that his further detention is necessary in his own interest, or have reason to believe that he will run away during the investigation of his case, they may issue a warrant requiring the child to be detained in any place of safety for such a period not exceeding twenty-one days as may be necessary.

- (5) On cause shown a warrant authorising detention under the last foregoing subsection may be renewed, on one occasion only, for the period mentioned in that subsection on the application of the reporter.
- (6) In this section any reference to a justice of the peace includes a reference to a sheriff and to a magistrate.

38 Initial investigation of cases by reporter

- (1) Where a reporter receives information from any source of a case which may require a children's hearing to be arranged he shall, after making such initial investigation as he may think necessary, proceed with the case in accordance with the provisions of the next following section.
- (2) Paragraph (b) of section 17(1) of the Police (Scotland) Act 1967 shall, in relation to a child to whom this Part of this Act applies, have effect as if that paragraph imposed a requirement on constables of a police force to make the reports required thereby to the appropriate reporter in addition to the appropriate prosecutor.

39 Action on initial investigation by reporter

- (1) Where the reporter decides that no further action on the case is required, he shall, where he considers this to be the proper course, so inform the child and his parent and the person who brought the case to his notice, or any of those persons.
- (2) Where the reporter considers it to be the proper course, he shall refer the case to the local authority with a view to their making arrangements for the advice, guidance and assistance of the child and his family in accordance with Part II of this Act.
- (3) Where it appears to the reporter that the child is in need of compulsory measures of care, he shall arrange a children's hearing to whom the case shall stand referred for consideration and determination.
- (4) Where the reporter has arranged a children's hearing in pursuance of the last foregoing subsection, he shall request from the local authority a report on the child and his social background and it shall be the duty of the authority to supply the report which may contain information from any such person as the reporter or the local authority may think fit.
- (5) Where the reporter has decided that no further action on the case is required, or has taken action in pursuance of subsection (2) of this section, he shall not thereafter take action under subsection (3) of this section in relation to the same facts.

40 Attendance of child at children's hearing

- (1) Where a child has been notified by virtue of section 35 of this Act that his case has been referred to a children's hearing, he shall be under an obligation to attend that hearing in accordance with the notification.
- (2) Without prejudice to the provisions of section 42(1) of this Act, where a children's hearing are satisfied in a case concerned with an offence mentioned in Schedule 1 to the Children and Young Persons (Scotland) Act 1937 that the attendance of a child is not necessary for the just hearing of that case, or in any case where they are satisfied

Status: This is the original version (as it was originally enacted).

that it would be detrimental to the interest of the child to be present at the hearing of his case, the case, in whole or in part, may be considered in the absence of the child.

- (3) The reporter shall be responsible for securing the attendance of a child at the hearing of his case before a children's hearing and at any subsequent hearing to which the case is continued.
- (4) For the purpose of the last foregoing subsection, or where a child fails to attend at any hearing of his case, a children's hearing may, at the instance of the reporter on cause shown, or, as the case may be, of their own motion, issue a warrant for the apprehension of the child if satisfied of the necessity for such a course, and any warrant so issued shall be authority for bringing him before a children's hearing and for his detention in a place of safety.
- (5) A child shall not continue to be detained under the last foregoing subsection—
 - (a) after the day on which a children's hearing first sit to consider his case in pursuance of the next following subsection, or
 - (b) for a period exceeding seven days.
- (6) Where a child is apprehended in pursuance of subsection (4) of this section, and he cannot immediately be brought before a children's hearing, the reporter shall, wherever practicable, arrange a children's hearing to sit not later than in the course of the first lawful day after the apprehension of the child.
- (7) Where a children's hearing before whom a child is brought are unable to dispose of his case and have reason to believe that the child may not attend at any hearing of his case, or at any proceedings arising from the case, or may fail to comply with a requirement under section 43(4) of this Act, they may issue a warrant requiring the child to be detained in any place of safety for such a period not exceeding twenty-one days as may be necessary.
- (8) On cause shown a warrant authorising detention under the last foregoing subsection for securing the attendance of a child at the hearing of his case, or at any proceedings arising from his case, may be renewed, on one occasion only, for the period mentioned in that subsection on the application of the reporter.
- (9) A warrant of apprehension issued under this Part of this Act may be executed in like manner as a warrant of apprehension of an accused person issued by a court of summary jurisdiction, and any enactment relating to the execution of a warrant of apprehension issued by a court of summary jurisdiction shall, with any necessary modifications, apply in relation to the execution of a warrant of apprehension issued under this Part of this Act as it applies to a warrant of apprehension issued by a court of summary jurisdiction.

41 Attendance of parent at children's hearing

- (1) A parent of a child shall have a right to attend at all stages of a children's hearing who are considering the case of his child.
- (2) When a child's case is being considered by a children's hearing his parent shall attend at all stages of the hearing unless the children's hearing are satisfied that it would be unreasonable to require his attendance or that his attendance would be unnecessary to the consideration of the case.

- (3) Any person who fails to comply with the provisions of the foregoing subsection shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding fifty pounds.

42 Conduct of children's hearing and application to sheriff for findings

- (1) Subject to the provisions of subsections (7) and (8) of this section, at the commencement of a children's hearing, and before proceeding to the consideration of the case, it shall be the duty of the chairman to explain to the child and his parent the grounds stated by the reporter for the referral of the case for the purpose of ascertaining whether these grounds are accepted in whole or in part by the child and his parent.
- (2) Thereafter—
- (a) where the child and his parent accept the grounds stated by the reporter for the referral the hearing shall proceed;
 - (b) where the child and his parent accept those grounds in part and the children's hearing consider it proper so to do the hearing may proceed in respect of the grounds so accepted; and
 - (c) in any other case, unless they decide to discharge the referral, the children's hearing shall direct the reporter to make application to the sheriff for a finding as to whether such grounds for the referral, as are not accepted by the child or his parent, are established having regard to the provisions of section 32 of this Act.
- (3) It shall be the duty of the chairman of a children's hearing who have made a direction under the last foregoing subsection to explain to the child and his parent the purpose for which the application to the sheriff is being made, and to inform the child that he is under an obligation to attend the hearing of the application, and where a child fails to attend at the hearing of the application the sheriff may issue a warrant for the apprehension of the child; and any warrant so issued shall be authority for bringing him before the sheriff and for his detention in a place of safety until the sheriff can hear the application, but a child shall not be detained under this subsection for a period exceeding seven days or after the sheriff has disposed of the application.
- (4) An application under subsection (2) of this section shall be heard by the sheriff in chambers within twenty-eight days of the lodging of the application and, without prejudice to their right to legal representation, a child or his parent may be represented at any diet fixed by the sheriff for the hearing of the application.
- (5) Where a sheriff decides that none of the grounds in respect of which the application has been made has been established for the referral of a case to a children's hearing, he shall dismiss the application and discharge the referral in respect of those grounds.
- (6) Where the sheriff is satisfied on the evidence before him that any of the grounds in respect of which the application has been made has been established he shall remit the case to the reporter to make arrangements for a children's hearing for consideration and determination of the case, and where a ground for the referral of the case is the condition referred to in section 32(2)(g) of this Act, the sheriff in hearing the application shall apply to the evidence relating to that ground the standard of proof required in criminal procedure.
- (7) Where a children's hearing are satisfied that the child for any reason is not capable of understanding the explanation of the grounds of referral required by subsection (1)

of this section, or in the course of, or at the conclusion of that explanation, it appears not to be understood by the child, the hearing shall, unless they decide to discharge the referral, direct the reporter to make application to the sheriff for a finding as to whether any of the grounds for the referral have been established, and the provisions of this section relating to an application to the sheriff under subsection (2)(c) thereof shall apply as they apply to an application under that subsection.

- (8) The acceptance by a parent of the grounds of referral shall not be a requirement to proceeding with a case under this section where the parent is not present.

43 Discharge of referral and power of children's hearing to order further investigation after consideration of the facts

- (1) When a children's hearing have considered the grounds for the referral of a case, accepted or established under the last foregoing section, the report obtained under section 39(4) of this Act and such other relevant information as may be available to them, they shall proceed in accordance with the subsequent provisions of this section to consider on what course they should decide in the best interests of the child.
- (2) Where a children's hearing decide that no further action is required they shall discharge the referral.
- (3) Where a children's hearing consider that further investigation in relation to a child and his history is necessary to complete their consideration of his case they may continue the case to a subsequent hearing.
- (4) For the purpose of such an investigation as aforesaid, a children's hearing may require a child to attend or reside at any clinic, hospital or establishment during a period not exceeding twenty-one days.
- (5) Where a child fails to fulfil a requirement made in pursuance of the last foregoing subsection it shall be the duty of the reporter to arrange a children's hearing to consider the issue of a warrant for his detention under section 40 of this Act.

44 Disposal of case by children's hearing other than by discharge of referral

- (1) Subject to the provisions of this Part of this Act a children's hearing, where, after the consideration of his case, they decide that a child is in need of compulsory measures of care, may make a requirement, in this Act referred to as a supervision requirement, requiring him—
- (a) to submit to supervision in accordance with such conditions as they may impose ; or
 - (b) to reside in a residential establishment named in the requirement and be subject to such conditions as they may impose;
- and a condition imposed by virtue of head (a) of this subsection may be a condition as to the place where the child is to reside, being a place other than a residential establishment, and the place may be a place in England or Wales where arrangements have been made in that behalf.
- (2) In making a supervision requirement requiring a child to reside in a residential establishment a children's hearing shall have regard to the religious persuasion of the child.

- (3) Without prejudice to the provisions of this Part of this Act relating to the review of supervision requirements, a children's hearing may, where they are satisfied that such a course is proper, postpone the operation of a supervision requirement, but otherwise a supervision requirement shall have effect as from the date it is made.
- (4) Where it appears to a children's hearing that the functions of the education authority under section 63 of the Education (Scotland) Act 1962 (ascertainment of children suffering from disability) may require to be exercised, they shall, in addition to any other course which they may take under this section, send a report to that effect to the education authority concerned.
- (5) It shall be the duty of the local authority to give effect to a supervision requirement made by a children's hearing for their area, and a child who is subject to such a supervision requirement shall, for the purposes of sections 16 to 18, 20, 24 to 26, 28 and 29 of this Act, be in their care:

Provided that where the performance of a function under any of the said sections in relation to the child requires, or would be facilitated by, the variation or discharge of the supervision requirement, the local authority shall recommend a review of the requirement under this Part of this Act.
- (6) In any case of urgent necessity in the interests of the child, or of the other children in a place, a director of social work may direct that a child who is required to reside in that place under this section be transferred to another place.
- (7) Any child transferred under the last foregoing subsection shall have his case reviewed by a children's hearing within seven days of his transfer, in accordance with the following provisions of this Act.
- (8) A supervision requirement shall be in such form as the Secretary of State may prescribe.

45 Rules as respects transmission of information and conveyance of children to residential establishments etc.

The Secretary of State may make rules providing for the transmission of information regarding children who are the subject of supervision requirements to the persons who are to be in charge of them, for the temporary accommodation, where necessary, of such children, and for the conveyance of such children to residential establishments and to other places where they may be required to reside.

46 Children to whom Part IV of the Mental Health (Scotland) Act 1960 may apply

- (1) Where a children's hearing are of the opinion, after considering the case of any child, that an application for admission to hospital or a guardianship application under Part IV of the Mental Health (Scotland) Act 1960 should be made to the sheriff in respect of the child, they shall make a report to that effect to the mental health officer concerned.
- (2) Nothing in the provisions of the foregoing subsection shall affect the saving for arrangements for the voluntary treatment of mental disorder contained in section 23(3) of the said Act of 1960.

Status: This is the original version (as it was originally enacted).

47 Duration of supervision requirements and their variation

- (1) No child shall continue to be subject to a supervision requirement for any time longer than is necessary in his interest; and where they consider that such a requirement in respect of a child should cease to have effect or should be varied, the local authority shall refer his case to their reporter for review of that requirement by a children's hearing and, if the hearing think proper, they may terminate the requirement, or continue or vary the requirement, and in the last event they may make any such supervision requirement as may be made under section 44 of this Act.
- (2) A supervision requirement shall cease to have effect in respect of a child when he attains the age of eighteen years and accordingly, within a period of three months ending on the day on which such a requirement will cease to have effect under this subsection, the local authority concerned shall refer the case to the reporter so that a children's hearing may advise whether the child still requires supervision or guidance, and in the event of the hearing so advising, the local authority shall provide such supervision or guidance as he is prepared to accept.
- (3) Unless the context otherwise requires, any reference in this section and in the following provisions of this Act to a supervision requirement shall be construed as a reference to a supervision requirement which is for the time being in force in respect of a child.

48 Review of requirement of children's hearing

- (1) A supervision requirement shall be subject to review by a children's hearing in accordance with the following provisions of this section.
- (2) A supervision requirement shall be reviewed by a children's hearing where a local authority so recommends.
- (3) No supervision requirement shall remain in force without review for a period extending beyond one year, and where a supervision requirement is not reviewed within the period of one year from the making or continuing of the requirement it shall cease to have effect at the expiration of that period.
- (4) At any time after the expiration of any of the following periods, that is to say—
 - (a) a period of three months from the date of the making of a supervision requirement; or
 - (b) a period of three months from the date of a review of a supervision requirement where such a review varies a previous requirement; or
 - (c) a period of six months from the date of a review of a supervision requirement which is continued by that review,a child or his parent may require a review of the requirement.
- (5) It shall be the duty of the reporter to ensure that any review required by this section is duly made and to make any necessary arrangements arising therefrom.
- (6) Section 44 of this Act shall apply in relation to the disposal of a case by a children's hearing under this section as it applies to the disposal of a case under that section.

49 Appeal against decision of a children's hearing

- (1) A child or his parent or both may, within a period of three weeks beginning with the date of any decision of a children's hearing, appeal to the sheriff in chambers against

that decision, and the child or his parent or both shall be heard by the sheriff as to the reasons for the appeal.

- (2) In any such appeal it shall be the duty of the reporter to ensure that all reports and statements available to the hearing along with the reports of their proceedings and the reasons for their decision are lodged with the sheriff clerk.
- (3) The sheriff may examine the reporter and the authors or compilers of any reports or statements, and may call for any further report which he considers may assist him in deciding the appeal.
- (4) Where the sheriff decides that an appeal under this section has failed, he shall confirm the decision of the children's hearing.
- (5) Where the sheriff is satisfied that the decision of the children's hearing is not justified in all the circumstances of the case he shall allow the appeal, and—
 - (a) where the appeal is against the issue of a warrant for detention he shall recall the warrant, and
 - (b) in any other case, he may, as he thinks fit, remit the case with the reasons for his decision to the children's hearing for reconsideration of their decision or discharge the child from any further hearing or other proceedings in relation to the grounds for the referral of the case.
- (6) Where the sheriff is satisfied that an appeal under this section against the decision of a children's hearing at a review is frivolous, he may order that no appeal against a decision to continue the supervision requirement, which was the subject of that appeal, made on a subsequent review shall lie until the expiration of a period of twelve months beginning with the date of the order.
- (7) An appeal under this section in respect of the issue of a warrant by a children's hearing shall be disposed of within three days of the lodging of the appeal, and failing such disposal the warrant shall forthwith cease to have effect.
- (8) Where a child or his parent appeals under this section against a decision of a children's hearing in relation to a supervision requirement, the child or his parent may make application to a children's hearing for the suspension of the requirement appealed against, and it shall be the duty of the reporter forthwith to arrange a children's hearing to consider the application, and thereafter the hearing may grant or refuse the application.

50 Appeal to Court of Session

- (1) Subject to the provisions of this section, an appeal shall lie to the Court of Session, by way of stated case on a point of law or in respect of any irregularity in the conduct of the case, at the instance of a child or his parent or both or of a reporter acting on behalf of a children's hearing, from any decision of the sheriff under this Part of this Act, and no other or further appeal shall be competent.
- (2) An application to the sheriff to state a case for the purpose of the foregoing subsection shall be made within a period of twenty-eight days beginning with the date of his decision.
- (3) On deciding the appeal the Court of Session shall remit the case to the sheriff for disposal in accordance with such directions as the Court may give.

Status: This is the original version (as it was originally enacted).

- (4) No appeal shall lie under this section in respect of a decision of a children's hearing imposing a supervision requirement where the sole ground of the objection to that requirement is that the treatment prescribed thereby is inappropriate for the child.

51 Reconsideration by hearing after appeal, and subsequent appeal

- (1) Where the sheriff, by virtue of either of the last two foregoing sections, has remitted a case to a children's hearing for reconsideration of their decision the reporter shall arrange a children's hearing for that purpose.
- (2) A child or his parent may, within a period of seven days beginning with the date of the decision of a children's hearing on a case remitted as aforesaid, appeal against the decision, and the provisions of subsections (2) to (8) of section 49 of this Act shall apply to such an appeal as they apply to an appeal under subsection (1) of the said section.

52 Power of Secretary of State to terminate a supervision requirement

Where, having regard to all the circumstances of a case and the interests of a child, the Secretary of State is satisfied that a supervision requirement in force in respect of the child should be terminated, he may by order terminate the requirement.

53 Legal aid in proceedings before the sheriff and any appeals to the Court of Session

In any proceedings before the sheriff or in any subsequent appeal to the Court of Session where such proceedings are in respect of a decision of a children's hearing or of an application made in pursuance of section 42 of this Act, legal aid shall be available to a child or his parent in accordance with the provisions of the Legal Aid (Scotland) Act 1967, and for the purposes of this section that Act shall have effect subject to the amendments set out in Schedule 4 to this Act.

54 Transfer of case to another children's hearing

- (1) Where a children's hearing are satisfied, in a case being heard before them, that the case could be better considered by a children's hearing for the area of another local authority, they may at any time during the course of the hearing request the reporter to arrange with the reporter of the other local authority, should he so agree, for a children's hearing to dispose of the case.
- (2) Where a case has been transferred in pursuance of the last foregoing subsection, the grounds of referral accepted or established for the case shall not require to be further accepted or established for the purpose of the children's hearing to which the case has been transferred.

55 Presumption and determination of age

Where a person is brought before a children's hearing they shall make inquiry as to his age, and, if it appears to the hearing that the person is a child, they shall proceed with the case, and no decision or requirement of the hearing shall be invalidated by any subsequent proof that the age of that person has not been correctly stated to the hearing, and the age presumed or declared by the hearing to be the age of the person so

brought before them shall, for the purposes of this Part of this Act, be deemed to be the true age of that person, and, where it appears to the hearing that the person so brought before them has attained the age of sixteen years, that person shall, for the purposes of this Part of this Act, be deemed not to be a child except as the Act otherwise provides.

56 Reference and remit of children's cases by courts to children's hearings

- (1) Where a child who is not subject to a supervision requirement is charged with an offence and pleads guilty to, or is found guilty of, that offence the court—
 - (a) instead of making an order on that plea or finding, may remit the case to the reporter of the local authority to arrange for the disposal of the case by a children's hearing; or
 - (b) on that plea or finding may request the reporter of the local authority to arrange a children's hearing for the purposes of obtaining their advice as to the treatment of the child.
- (2) Where a court has acted in pursuance of paragraph (b) of the foregoing subsection, the court, after consideration of the advice received from the children's hearing may, as it thinks proper, itself dispose of the case or remit the case as aforesaid.
- (3) Where a child who is subject to a supervision requirement is charged with an offence and pleads guilty to, or is found guilty of, that offence the court shall request the reporter of the local authority to arrange a children's hearing for the purpose of obtaining their advice as to the treatment of the child, and on consideration of that advice may, as it thinks proper, itself dispose of the case or remit the case as aforesaid.
- (4) Where a court has remitted a case to the reporter under this or the next following section, the jurisdiction of the court in respect of the child or person shall cease, and his case shall stand referred to a children's hearing.
- (5) Where a court has remitted a case of a child or person as aforesaid, a certificate signed by the clerk of the court stating that the child or person has pleaded guilty to, or has been found guilty of, the offence to which the remit relates shall be conclusive evidence for the purpose of the remit that that offence has been committed by the child or person.
- (6) Nothing in the provisions of this or the next following section shall apply to a case in respect of an offence the sentence for which is fixed by law.

57 Reference and remit of cases of certain young persons by courts to children's hearings

- (1) Where a person who is not subject to a supervision requirement but is a person over the age of sixteen, and is not within six months of attaining the age of eighteen, is charged summarily with an offence and pleads guilty to, or has been found guilty of, that offence the court on that plea or finding may request the reporter of the local authority to arrange a children's hearing for the purpose of obtaining their advice as to the treatment of the person, and on consideration of that advice, the court may, as it thinks proper, itself dispose of the case or, where the hearing have so advised, remit the case to the reporter of the local authority for the disposal of the case by a children's hearing.
- (2) Where a court has remitted a case under the foregoing subsection the provisions of this Part of this Act shall apply to that person as if he were a child.

Status: This is the original version (as it was originally enacted).

58 Prohibition of publication of proceedings

- (1) Subject to the provisions of this section, no report of any proceedings in any children's hearing, or of any proceedings before the sheriff under section 42 of this Act, or of any appeal under this Part of this Act, which is made in a newspaper or a sound or television broadcast shall—
 - (a) reveal the name, address or school; or
 - (b) include any particulars calculated to lead to the identification, of any child in any way concerned in a hearing and no picture shall be published in any newspaper or television broadcast as being or including a picture of a child concerned as aforesaid.
- (2) Any person guilty of any offence against this section shall on summary conviction be liable to a fine not exceeding two hundred and fifty pounds in respect of each offence.
- (3) The Secretary of State may in any case, if satisfied that it is in the interests of justice to do so, by order dispense with the requirements of subsection (1) of this section to such extent as may be specified in the order.
- (4) This section shall extend to England and Wales.