



# Criminal Justice (Scotland) Act 1987

## 1987 CHAPTER 41

### PART II

#### MISCELLANEOUS

##### *Detention of children*

#### [<sup>F1</sup>59] **Detention of children in summary proceedings.**

- (1) For section 413 of the 1975 Act (committal for residential training) there shall be substitute the following new section—

**“ Detention of children.**

- (1) Where a child appears before the sheriff in summary proceedings and pleads guilty to, or is found guilty of, an offence to which this section applies, the sheriff may order that he be detained in residential care by the appropriate local authority for such period, not exceeding one year, as the sheriff may determine in such place (in any part of the United Kingdom) as the local authority may, from time to time, consider appropriate.
- (2) This section applies to any offence in respect of which it is competent to impose imprisonment on a person of the age of 21 years or more.
- (3) In this section—

“the appropriate local authority” means—

- (a) where the child usually resides in Scotland, the regional or islands council for the area in which he usually resides;
- (b) in any other case, the regional or islands council for the area in which the offence was committed;

“care” shall be construed in accordance with section 32(3) of the 1968 Act, and the provisions of that Act specified in section 44(5) of that Act shall apply in respect of a child who

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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Cross Heading: Detention of children. (See end of Document for details)

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is detained in residential care in pursuance of this section as they apply in respect of a child who is subject to a supervision requirement;

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

- (4) Where a child in respect of whom an order is made under this section is also subject to a supervision requirement within the meaning of the 1968 Act, subject to subsection (6) below, the supervision requirement shall be of no effect during any period for which he is required to be detained under the order.
- (5) The Secretary of State may, by regulations made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as he considers necessary as regards the detention in secure accommodation (within the meaning of the 1968 Act) of children in respect of whom orders have been made under this section.
- (6) Section 20A of the 1968 Act (review of children in care) shall apply to a child detained in residential care in pursuance of an order under this section as if the references to care in that section were references to care within the meaning of this section; and, without prejudice to their duty to do so by virtue of the said section 20A, the local authority may, at any time, review the case of such a child and may, in consequence of such a review and after having regard to the best interests of the child and the need to protect members of the public, release the child—
- (a) for such period and on such conditions as they consider appropriate; or
  - (b) unconditionally,
- and where a child who is released unconditionally is subject to a supervision requirement within the meaning of the 1968 Act, the effect of the supervision requirement shall, in the case of a supervision requirement imposed during the period of detention, commence or, in any other case, resume upon such release.
- (7) Where a local authority consider it appropriate that a child in respect of whom an order has been made under subsection (1) above should be detained in a place in any part of the United Kingdom outside Scotland, the order shall be a like authority as in Scotland to the person in charge of the place to restrict the child’s liberty to such an extent as that person may consider appropriate having regard to the terms of the order.”.
- (2) In section 463 of the 1975 Act—
- (a) in subsection (1)(b) for the words “and 390” there shall be substituted the words “, 390 and 413”; and
  - (b) in subsection (1A) for the words “and 374” there shall be substituted the words “, 374 and 413”.
- (3) Notwithstanding the repeal by this Act of section 58A of the <sup>M1</sup>Children and Young Persons (Scotland) Act 1937, any child who, before the commencement of this section, has been ordered to be detained pursuant to the directions of the Secretary of State under section 413 of the 1975 Act—
- (a) shall, while so detained after such commencement, continue to be deemed to be in legal custody; and

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- (b) may at any time be released conditionally or unconditionally by the Secretary of State, and any such child conditionally released shall be liable to recall on the directions of the Secretary of State and if he fails to comply with any conditions of his release he may be apprehended without warrant and taken to the place from which he was released.]

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**Textual Amendments**

**F1** Ss. 56-68 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch. 5 (with Sch. 3 paras. 1, 3, 6, 16 and 17)

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**Marginal Citations**

**M1** 1937 c.37.

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