



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

PROMOTION OF CHILDREN'S WELFARE BY LOCAL AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

CHAPTER 2

CHILDREN'S HEARINGS

Constitution of children's hearings

^{F1}39 Formation of children's panel and children's hearings.

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Textual Amendments

- F1** Ss. 39-43, 45-74 repealed (S.) (24.6.2013) by [Children's Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 6](#) (with s. 186) (as amended to exclude s. 44 from the range of repealed provisions (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), Sch. 5 para. 12(10) (a); S.S.I. 2015/317, art. 2, Sch.) (with savings and transitional provisions in [S.S.I. 2013/150](#), arts. 13-18, 25, 28-30); [S.S.I. 2013/195](#), arts. 2, 3(e)(ii))

Modifications etc. (not altering text)

- C1** Ss. 39-74: saving for effects of 2011 asp 1, sch. 6 (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Consequential and Transitional Provisions and Savings\) Order 2013 \(S.I. 2013/1465\)](#), arts. 1(2), 4(2)
- C2** Ss. 39-74: savings for effects of 2011 asp 1, sch. 6 (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Transitional, Savings and Supplementary Provisions\) Order 2013 \(S.S.I. 2013/150\)](#), arts. 1(1), 13-18, 25, 28-30 (with art. 4(2)); [S.S.I. 2013/195](#)

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Qualifications, employment and duties of reporters

^{F1}40 Qualification and employment of reporters.

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Safeguards for children

^{F1}41 Safeguarding child’s interests in proceedings.

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Textual Amendments

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Conduct of proceedings at and in connection with children’s hearing

F1 42 Power of Secretary of State to make rules governing procedure at children’s hearing etc.

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Textual Amendments

- F1** Ss. 39-43, 45-74 repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), [s. 206\(2\)](#), [sch. 6](#) (with [s. 186](#)) (as amended to exclude s. 44 from the range of repealed provisions (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), Sch. 5 para. 12(10) (a); S.S.I. 2015/317, art. 2, Sch.) (with savings and transitional provisions in [S.S.I. 2013/150](#), arts. 13-18, 25, 28-30); [S.S.I. 2013/195](#), arts. 2, 3(e)(ii)

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F1 43 Privacy of proceedings at and right to attend children’s hearing.

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Textual Amendments

- F1** Ss. 39-43, 45-74 repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), [s. 206\(2\)](#), [sch. 6](#) (with [s. 186](#)) (as amended to exclude s. 44 from the range of repealed provisions (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), Sch. 5 para. 12(10) (a); S.S.I. 2015/317, art. 2, Sch.) (with savings and transitional provisions in [S.S.I. 2013/150](#), arts. 13-18, 25, 28-30); [S.S.I. 2013/195](#), arts. 2, 3(e)(ii)

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44 Prohibition of publication of proceedings at children’s hearing.

F2^{F3}(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

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- (b) any address or school as being that of any such child.]
- (2) Any person who contravenes subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale in respect of each such contravention.
- (3) It shall be a defence in proceedings for an offence under this section for the accused to prove that he did not know, and had no reason to suspect, that the published matter was intended, or was likely, to identify the child or, as the case may be, the address or school.
- (4) In this section “to publish” includes, without prejudice to the generality of that expression,—
- (a) to publish matter in a programme service, as defined by section 201 of the ^{M1}Broadcasting Act 1990 (definition of programme service); and
 - (b) to cause matter to be published.
- (5) The requirements of subsection (1) above may, in the interests of justice, be dispensed with by—
- (a) the sheriff in any proceedings before him;
 - ^{F4F5}(b)
 - ^{F4F5}(c)
- to such extent as the sheriff ^{F6F7} ... considers appropriate.
- ^{F8}^{F9}(6) The requirements of subsection (1) do not apply in relation to the publication by or on behalf of a local authority or an adoption agency (within the meaning of the Adoption and Children (Scotland) Act 2007 (asp 4)) of information about a child for the purposes of making arrangements in relation to the child under this Act or that Act.]

Textual Amendments

- F2** S. 44(1) substituted (S.) (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **sch. 5 para. 4(4)(a)**; S.S.I. 2015/317, art. 2, sch. (with art. 3)
- F3** S. 44(1) substituted (E.W.N.I.) (30.9.2015) by The Children and Young People (Scotland) Act 2014 (Consequential and Saving Provisions) Order 2015 (S.I. 2015/907), arts. 1(3), **2(2)(a)** (with art. 4)
- F4** S. 44(5)(b)(c) omitted (E.W.N.I.) (30.9.2015) by virtue of The Children and Young People (Scotland) Act 2014 (Consequential and Saving Provisions) Order 2015 (S.I. 2015/907), arts. 1(3), **2(2)(b)(i)** (with art. 4)
- F5** S. 44(5)(b)(c) omitted (S.) (30.9.2015) by virtue of Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **sch. 5 para. 4(4)(b)(i)**; S.S.I. 2015/317, art. 2, sch. (with art. 3); S.S.I. 2015/317, art. 2, sch. (with art. 3)
- F6** Words in s. 44(5) omitted (S.) (30.9.2015) by virtue of Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **sch. 5 para. 4(4)(b)(ii)**; S.S.I. 2015/317, art. 2, sch. (with art. 3)
- F7** Words in s. 44(5) omitted (E.W.N.I.) (30.9.2015) by virtue of The Children and Young People (Scotland) Act 2014 (Consequential and Saving Provisions) Order 2015 (S.I. 2015/907), arts. 1(3), **2(2)(b)(ii)** (with art. 4)
- F8** S. 44(6) inserted (S.) (7.4.2008) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(1), 121(2), **Sch. 2 para. 9(5)**; S.S.I. 2008/130, **art. 2**, Sch.
- F9** S. 44(6) inserted (E.W.N.I.) (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 para. 3(2)**

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Marginal Citations

M1 1990 c.42.

F145 Attendance of child and relevant person at children’s hearing.

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Textual Amendments

F1 Ss. 39-43, 45-74 repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), [s. 206\(2\)](#), [sch. 6](#) (with [s. 186](#)) (as amended to exclude s. 44 from the range of repealed provisions (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), Sch. 5 para. 12(10) (a); S.S.I. 2015/317, art. 2, Sch.) (with savings and transitional provisions in [S.S.I. 2013/150](#), arts. 13-18, 25, 28-30); [S.S.I. 2013/195](#), arts. 2, 3(e)(ii)

Modifications etc. (not altering text)

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F146 Power to exclude relevant person from children’s hearing.

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Textual Amendments

F1 Ss. 39-43, 45-74 repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), [s. 206\(2\)](#), [sch. 6](#) (with [s. 186](#)) (as amended to exclude s. 44 from the range of repealed provisions (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), Sch. 5 para. 12(10) (a); S.S.I. 2015/317, art. 2, Sch.) (with savings and transitional provisions in [S.S.I. 2013/150](#), arts. 13-18, 25, 28-30); [S.S.I. 2013/195](#), arts. 2, 3(e)(ii)

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F147 Presumption and determination of age.

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Transfer etc. of cases

F1 48 Transfer of case to another children’s hearing.

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Textual Amendments

- F1** Ss. 39-43, 45-74 repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), [s. 206\(2\)](#), [sch. 6](#) (with [s. 186](#)) (as amended to exclude s. 44 from the range of repealed provisions (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), Sch. 5 para. 12(10) (a); S.S.I. 2015/317, art. 2, Sch.) (with savings and transitional provisions in [S.S.I. 2013/150](#), arts. 13-18, 25, 28-30); [S.S.I. 2013/195](#), [arts. 2, 3\(e\)\(ii\)](#)

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- C3** S. 48 excluded (24.6.2013) by [The Children s Hearings \(Scotland\) Act 2011 \(Transitional, Savings and Supplementary Provisions\) Order 2013 \(S.S.I. 2013/150\)](#), [arts. 1\(1\), 2\(3\)](#) (with [art. 4\(2\)](#)); [S.S.I. 2013/195](#)

F10 49

Textual Amendments

- F10** S. 49 repealed (1.4.1996) by [1995 c. 40, ss. 6, 7\(2\)](#), [Sch. 5](#) (with [Sch. 3 paras. 1, 3, 16, 17](#))

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F150 Treatment of child’s case on remission by court.

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Textual Amendments

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Appeals

F151 Appeal against decision of children’s hearing or sheriff.

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Textual Amendments

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to [legislation.gov.uk](#). These Regulations never came into effect, having been revoked before coming into force by [S.I. 2010/1906, reg. 2](#))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(3A)(ba) inserted by [2009 c. 24 Sch. 6 para. 25](#)
- s. 4B inserted by [2020 asp 16 s. 28\(2\)](#)
- s. 6(1A)-(1D) inserted by [2020 asp 16 s. 1\(2\)\(b\)](#)
- s. 10(1A) inserted by [2024 asp 2 Sch. 1 para. 18\(b\)](#)
- s. 11(14) inserted by [2020 asp 16 s. 10\(2\)\(b\)](#)
- s. 11B11C inserted by [2020 asp 16 s. 8\(2\)](#)
- s. 11B(2) power to amend conferred by [2020 asp 16 s. 32](#)
- s. 11D inserted by [2020 asp 16 s. 17\(2\)](#)
- s. 11D(3) power to amend conferred by [2020 asp 16 s. 32](#)
- s. 11E inserted by [2020 asp 16 s. 18\(2\)](#)
- s. 11F inserted by [2020 asp 16 s. 20\(2\)](#)
- s. 11G inserted by [2020 asp 16 s. 22\(2\)](#)
- s. 11ZA11ZB inserted by [2020 asp 16 s. 1\(4\)](#)
- s. 11ZA(2A) inserted by [2020 asp 16 s. 30\(2\)](#)
- s. 11ZA(3)(f) inserted by [2020 asp 16 s. 16\(2\)](#)
- s. 16(1A) inserted by [2020 asp 16 s. 30\(3\)](#)
- s. 16(2)-(2B) substituted for s. 16(2) by [2020 asp 16 s. 1\(6\)](#)
- s. 100A inserted by [2020 asp 16 s. 21\(2\)](#)
- s. 101D inserted by [2020 asp 16 s. 11\(2\)](#)
- s. 101E inserted by [2020 asp 16 s. 12\(2\)](#)