



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

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

CHAPTER 3

PROTECTION AND SUPERVISION OF CHILDREN

Fugitive children and harbouring

82 Recovery of certain fugitive children

- (1) A child who absconds—
- (a) from a place of safety in which he is being kept under or by virtue of this Part of this Act;
 - (b) from a place (in this section referred to as a “relevant place”) which, though not a place of safety such as is mentioned in paragraph (a) above, is a residential establishment in which he is required to reside by virtue of section 70(3)(a) of this Act or a hospital or other institution in which he is temporarily residing while subject to such a requirement; or
 - (c) from a person who, by virtue of a supervision requirement or of section 74 of this Act, has control over him while he is being taken to, is awaiting being taken to, or (whether or not by reason of being on leave) is temporarily away from, such place of safety or relevant place,

may be arrested without warrant in any part of the United Kingdom and taken to the place of safety or as the case may be the relevant place; and a court which is satisfied that there are reasonable grounds for believing that the child is within any premises may, where there is such power of arrest, grant a warrant authorising a constable to enter those premises and search for the child using reasonable force if necessary.

- (2) Without prejudice to the generality of subsection (1) above, a child who at the end of a period of leave from a place of safety or relevant place fails to return there shall, for the purposes of this section, be taken to have absconded.
- (3) A child who absconds from a person who, not being a person mentioned in paragraph (c) of subsection (1) above, is a person who has control over him by virtue of a supervision requirement may, subject to the same provisions as those to which an arrest under that subsection is subject, be arrested as is mentioned in that subsection and returned to that person; and the provision in that subsection for a warrant to be granted shall apply as respects such a child as it applies as respects a child mentioned in that subsection.
- (4) If a child—
- (a) is taken under subsection (1) above to a place of safety or relevant place; or
 - (b) is returned under subsection (3) above to a person,
- but the occupier of that place of safety or of that relevant place, or as the case may be that person, is unwilling or unable to receive him, that circumstance shall be intimated forthwith to the Principal Reporter.
- (5) Where intimation is required by subsection (4) above as respects a child, he shall be kept in a place of safety until—
- (a) in a case where he is subject to a supervision requirement, he can be brought before a children’s hearing for that requirement to be reviewed; or
 - (b) in any other case, the Principal Reporter has, in accordance with section 56(6) of this Act, considered whether compulsory measures of supervision are required in respect of him.

83 Harboursing

A person who—

- (a) knowingly assists or induces a child to abscond in circumstances which render the child liable to arrest under subsection (1) or (3) of section 82 of this Act;
- (b) knowingly and persistently attempts to induce a child so to abscond;
- (c) knowingly harbours or conceals a child who has so absconded; or
- (d) knowingly prevents a child from returning—
 - (i) to a place mentioned in paragraph (a) or (b) of the said subsection (1);
 - (ii) to a person mentioned in paragraph (c) of that subsection, or in the said subsection (3),

shall, subject to section 38(3) and (4) of this Act, to section 52(5) and (6) of the Children Act 1989 and to Article 70(5) and (6) of the Children (Northern Ireland) Order 1995 (analogous provision for England and Wales and for Northern Ireland), be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.