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STATUTORY INSTRUMENTS

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**1988 No. 294 (S.28)**

**CHILDREN AND YOUNG PERSONS**

**RESIDENTIAL AND OTHER ESTABLISHMENTS, SCOTLAND**

**The Residential Care Order (Secure Accommodation) (Scotland) Regulations 1988**

<i>Made</i>	- - - -	<i>5th February 1988</i>
<i>Laid before Parliament</i>		<i>1st March 1988</i>
<i>Coming into force</i>	- -	<i>1st April 1988</i>

The Secretary of State, in exercise of the powers conferred on him by section 413(5) of the Criminal Procedure (Scotland) Act 1975(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Residential Care Order (Secure Accommodation) (Scotland) Regulations 1988 and shall come into force on 1st April 1988.

**Interpretation**

2.—(1) In these Regulations—

“the 1975 Act” means the Criminal Procedure (Scotland) Act 1975;

“appropriate local authority” has the meaning assigned to it by section 413(3) of the 1975 Act;

“child” has the meaning assigned to it by section 462 of the 1975 Act;

“managers” means

- (a) in the case of a voluntary organisation, the management committee to whom powers are delegated within the organisation for management of the residential establishment providing secure accommodation;
- (b) in the case of a local authority, those officers having delegated powers under section 2 of the Social Work (Scotland) Act 1968 as read with section 56 of the Local Government (Scotland) Act 1973(2) for the management of the residential establishment providing secure accommodation;

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(1) 1975 c. 21; section 413 is substituted by section 59(1) of the Criminal Justice (Scotland) Act 1987 (c. 41)

(2) 1973 c. 65

“residential establishment” has the meaning assigned to it by section 94(1) of the Social Work (Scotland) Act 1968(3);

“secure accommodation” means accommodation provided in a residential establishment for the purpose of restricting the liberty of children.

(2) In these Regulations any reference to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

### **Application**

3. These Regulations apply where a child is detained in the care of the appropriate local authority in accordance with an order under section 413(1) of the 1975 Act.

### **Detention in secure accommodation**

4.—(1) A child to whom these Regulations apply shall be liable to be detained in secure accommodation only where the Director of Social Work of the appropriate local authority and the person in charge of the residential establishment providing that secure accommodation are satisfied that—

- (a) he has a history of absconding, and—
  - (i) is likely to abscond unless he is kept in secure accommodation; and
  - (ii) if he absconds, it is likely that his physical, mental or moral welfare will be at risk; or
- (b) he is likely to injure himself or other persons unless he is kept in secure accommodation; and in either case it is in the child’s best interests that he be kept in secure accommodation.

(2) Where paragraph (1) applies, the child shall be placed in secure accommodation only at such times as the person in charge of the residential establishment providing the secure accommodation with the agreement of the Director of Social Work considers necessary.

### **Review of the use of secure accommodation**

5.—(1) The Director of Social Work of the appropriate local authority, in consultation with the person in charge of the residential establishment providing the secure accommodation, shall ensure that, where a child has become liable to be detained in secure accommodation by virtue of regulation 4, arrangements are made by them to review the case of such a child—

- (a) at such times as appear to them necessary or appropriate in the light of the child’s progress; and
- (b) in any event at intervals of not more than 3 months;

and the child shall remain liable to be detained in secure accommodation only where, upon such review, the Director of Social Work and the person in charge of the residential establishment are satisfied that it is in the best interests of the child.

(2) In conducting such a review the Director of Social Work and the person in charge of the residential establishment providing this secure accommodation shall have regard to all relevant circumstances including—

- (a) the matters specified at regulation 4(1)(a) and (b); and
- (b) where practicable, the opinion of the child and the opinion of his parents.

### **Welfare of children detained in secure accommodation**

6. The managers of the residential establishment providing secure accommodation, in consultation with the person in charge, shall ensure that a child placed and kept in such accommodation receives care appropriate to his needs.

### **Records to be kept in respect of a child in secure accommodation**

7.—(1) The person in charge of the residential establishment providing the secure accommodation in which a child is placed shall ensure that a record is kept with respect to the child's placement in such accommodation, which shall include a record of—

- (a) the child's full name, sex and date of birth;
- (b) the date and time of his placement in secure accommodation, the reasons for, and the names of the persons authorising, the placement;
- (c) reviews undertaken by virtue of regulation 5 above;
- (d) the date and time of his release.

(2) These records shall be available for inspection by the Secretary of State who may require that copies of them be sent to him.

New St Andrew's House,  
Edinburgh  
5th February 1988

*Michael B Forsyth*  
Parliamentary Under Secretary of State, Scottish  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are concerned with the use in Scotland of secure accommodation for children who are ordered by a court to be detained in residential care under section 413 of the Criminal Procedure (Scotland) Act 1975, as substituted by section 59(1) of the Criminal Justice (Scotland) Act 1987 (regulation 3).

The Regulations provide that a child subject to a section 413 order shall be liable to detention in secure accommodation only where the Director of Social Work of the relevant local authority and the person in charge of the residential establishment providing the secure accommodation together are satisfied that it is in the child's best interests, having regard to certain circumstances prescribed in the Regulations, and that when he is liable to such detention a child should be placed in secure accommodation within the residential establishment only at such times as the person in charge with the agreement of the relevant Director of Social Work considers necessary (regulation 4).

Regulation 5 prescribes arrangements for a review of the decision to use secure accommodation. Regulation 6 requires the managers in consultation with the person in charge of the residential establishment to ensure that a child placed in secure accommodation receives care appropriate to his needs. Arrangements for keeping records of a child being placed in secure accommodation are dealt with in regulation 7.