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STATUTORY INSTRUMENTS

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**1988 No. 841 (S.85)**

**CHILDREN AND YOUNG PERSONS**

**RESIDENTIAL AND OTHER ESTABLISHMENTS, SCOTLAND**

**The Secure Accommodation (Scotland)  
Amendment Regulations 1988**

<i>Made</i>	- - - -	<i>4th May 1988</i>
<i>Laid before Parliament</i>		<i>11th May 1988</i>
<i>Coming into force</i>	- -	<i>1st June 1988</i>

The Secretary of State, in exercise of the powers conferred on him by sections 5(2), 58A(4), 58C(1) and (6), 58F and 60(1) of the Social Work (Scotland) Act 1968(1) and of all other powers enabling him in that behalf, and after consulting the Council on Tribunals, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Secure Accommodation (Scotland) Amendment Regulations 1988 and shall come into force on 1st June 1988.

**Interpretation**

2. In these Regulations, “the principal Regulations” means the Secure Accommodation (Scotland) Regulations 1983(2).

**Amendment of regulation 2 of the principal Regulations**

3. In regulation 2(1) of the principal Regulations (interpretation), there shall be inserted at the appropriate place in alphabetical order the following entries:—

““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;

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(1) 1968 c. 49; section 5(2) was substituted by the Children Act 1975 (c. 72), Schedule 3, paragraph 49; sections 58A to 58G were inserted by section 8(4), and section 60(1) was amended by section 8(3), of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41)

(2) S.I.1983/1912

- (b) in the case of a local authority, those officers exercising powers standing referred to the Social Work Committee under section 2(2) of the 1968 Act or subject to an arrangement under section 161(3) of, and Schedule 20 to, the Local Government (Scotland) Act 1973(3) for the management of the residential establishment providing secure accommodation;”;

““person in charge” means the person in charge of a residential establishment providing secure accommodation who is responsible to the managers of that establishment;”;

““the 1987 Regulations” means the Social Work (Residential Establishments-Child Care) (Scotland) Regulations 1987(4);”.

#### **Substitution of new regulation 4 in the principal Regulations**

4. For regulation 4 of the principal Regulations there shall be substituted the following:—

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

4.—(1) Subject to paragraph (2) below, the managers in consultation with the person in charge of a residential establishment providing secure accommodation shall ensure that a child placed and kept in such accommodation receives such provision for his care, development and control as shall be conducive to the child’s best interests.

(2) For the purposes of paragraph (1) above the managers and person in charge shall comply with such requirements of Part II of the 1987 Regulations as apply to them and their establishments.”.

#### **Amendment of regulation 6 of the principal Regulations**

5. At the end of regulation 6(1) of the principal Regulations (children subject to certain supervision requirements-interim detention) the following words shall be added:—

“and the director of social work shall, in addition, satisfy himself, in relation to the placing of the child in the residential establishment providing the secure accommodation, of the matters specified in paragraphs (b) and (c) of regulation 18 of the 1987 Regulations.”.

#### **Amendment of regulations 7, 13 and 14 of the principal Regulations**

6. In the principal Regulations, in each of regulations 7(1) (children in care under Part II of the 1968 Act-interim detention), regulation 13 (children cared for under the 1975 Act) and regulation 14(1) (secure accommodation as a place of safety under the 1968 Act), for the words “are satisfied with respect to the matters referred to and mentioned at regulation 6(1)(a) and (b) above” there shall be substituted “are each satisfied with respect to the same matters as to which regulation 6(1) above requires him to be satisfied”.

#### **New regulation 9A in the principal Regulations**

7. After regulation 9 of the principal Regulations there shall be inserted the following new regulation:—

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(3) 1973 c. 65  
(4) S.I. 1987/2233

**“Information provided to a children’s hearing by a local authority in relation to the use of secure accommodation**

**9A.** Where a children’s hearing are considering whether to impose a condition under section 58A(3) of the 1968 Act, or to authorise detention in secure accommodation under section 58B(3) or 58E(1) of that Act<sup>(5)</sup>, as the case may be, a local authority may submit a report (which shall be in writing) to the children’s hearing recommending that the child be placed in a named residential establishment subject to such condition or such authority only if they have complied in respect of that placement with regulation 26(1) of the 1987 Regulations and they are satisfied that it is in the best interests of the child to be subject to such condition or such authority.”.

**Substitution of new regulation 12, and new regulation 12A, in the principal Regulations**

**8.** For regulation 12 of the principal Regulations there shall be substituted the following regulations:—

**“Review of secure accommodation condition**

**12.**—(1) Reviews of the type required by section 58C(1) of the 1968 Act shall take place at intervals of no more than 3 months.

(2) In calculating intervals for the purposes of paragraph (1) of this regulation, any review required by virtue of section 48 of the 1968 Act or in accordance with regulation 12A below, which reviews a condition to which section 58C applies, shall be taken into account.

(3) The periods specified in section 58C(4) of the Act shall be varied from nine months and twelve months and shall in each case be three months.

**12A.** Subject to the provisions of section 58C of the 1968 Act and regulation 12 above, where—

- (a) a condition imposed under section 58A(3) of the 1968 Act with respect to a child’s residence in secure accommodation has been in effect for more than 6 weeks, but
- (b) the child has not been placed in secure accommodation by virtue thereof at any time in a period of 6 weeks immediately preceding the written requirement after mentioned,

the child or his parent may, in writing, require the reporter under section 48(5) of the 1968 Act to have the condition reviewed by a children’s hearing within 21 days of receipt by the reporter of that written requirement.”.

**Amendment of regulation 13 of the principal Regulations**

**9.** In regulation 13(a) of the principal Regulations (children cared for under the 1975 Act), for the words “23, 24 or 297” there shall be substituted “23, 24, 297 or 329<sup>(6)</sup>”

**Amendment of regulation 15 of the principal Regulations**

**10.** In regulation 15(1) of the principal Regulations, after sub-paragraph (b) there shall be inserted—

“and

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(5) Section 58B(3) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), section 26(a) and Schedule 2, paragraph 10; section 58E(1) was amended by section 26(b) of the said 1985 Act.  
(6) Sections 23 and 329 of the Criminal Procedure (Scotland) Act 1975 (c. 21) are not yet in force.

- (c) the director of social work is satisfied, in relation to the placing of the child in the residential establishment providing the secure accommodation, of the matters specified in paragraphs (b) and (c) of regulation 18 of the 1987 Regulations.”

**Amendment of regulation 16 of the principal Regulations**

**11.**—(1) At the beginning of paragraph (1) of regulation 16 of the principal Regulations (records to be kept in respect of a child in secure accommodation) there shall be inserted the words “The managers in consultation with”.

(2) In sub-paragraph (1)(e), for the words “regulation 12” there shall be substituted “regulation 12A”.

**Transitional provisions**

**12.** In relation to children who at 1st June 1988 are subject to a secure accommodation condition as part of a supervision requirement imposed by a children’s hearing under section 44 of the 1968 Act, these Regulations shall have effect either after the expiry of a period of 3 months following that date or on the occasion of a review of a condition to which section 58C of the 1968 Act applies, whichever is the earlier.

St Andrew’s House,  
Edinburgh  
4th May 1988

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

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## EXPLANATORY NOTE

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

These Regulations amend the Secure Accommodation (Scotland) Regulations 1983 (“the principal Regulations”) which are concerned with the provision and use in Scotland of secure accommodation for restricting the liberty of children in certain circumstances. The amendments take account of changes resulting from the Social Work (Residential Establishments-Child Care) (Scotland) Regulations 1987 (“the 1987 Regulations”) which also come into force on 1st June 1988.

Regulation 3 extends regulation 2 of the principal Regulations to include definitions of “managers” and “person in charge”.

Regulation 4 substitutes a new provision in the principal Regulations relating to the welfare of children in secure accommodation and lays a new duty on the managers of a residential establishment providing secure accommodation to ensure, in consultation with the person in charge, provision of appropriate standards of care for children within secure accommodation in establishments they provide, having regard to the provisions of Part II of the 1987 Regulations.

Regulation 5 extends the duty of directors of social work under regulation 6 of the principal Regulations in reaching a decision on the placement of a child in secure accommodation subject to a supervision requirement but without a specific condition to that effect. Under this amendment the director of social work, in following the prescribed procedures, is now in addition required to satisfy himself as to the matters set out at regulation 18(b) and (c) of the 1987 Regulations.

Regulation 6 extends regulations 7, 13 and 14 of the principal Regulations and ensures that a child may be placed in secure accommodation only if the director of social work and the person in charge of the residential establishment are satisfied in respect to the matters now prescribed at regulation 6 of the principal Regulations.

Regulation 7 inserts a new regulation 9A in the principal Regulations to the effect that, where a children’s hearing are considering whether a condition should be applied to a supervision requirement authorising detention of a child in secure accommodation (including those cases where interim detention has already been agreed by the director of social work), a local authority may recommend such a condition only if they are satisfied that such a placement is in the child’s best interests in accordance with the procedures set out at regulation 26(1) of the 1987 Regulations.

Regulation 8 substitutes new regulations 12 and 12A in the principal Regulations. Regulation 12 provides for the review at intervals of 3 months of a condition authorising secure accommodation as part of a supervision requirement made by a children’s hearing under section 58C of the 1968 Act. The regulation requires that, in calculating the prescribed interval of 3 months, account shall be taken of any review for other purposes under the 1968 Act which also reviews such a condition. Regulation 12A gives a child or his parents the right to require a review by a children’s hearing within 21 days of a written request to that effect where a condition imposed by the hearing has been ineffective for a continuous period of 6 weeks.

Regulation 9 makes a minor technical adjustment to the terms of regulation 13 of the principal Regulations which deals with the placement in secure accommodation of children being cared for by a local authority under various provisions of the Criminal Procedure (Scotland) Act 1975.

Regulation 10 amends regulation 15 of the principal Regulations dealing with a number of situations where a child may be detained in a place of safety under a warrant issued by a hearing or a sheriff which does not authorise the use of secure accommodation under section 58E of the 1968 Act. The amendment requires the director of social work, in following the prescribed procedures, to be

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satisfied additionally as to the matters set out in regulation 18(b) and (c) of the 1987 Regulations for placing a child in secure accommodation.

Regulation 11 makes minor consequential amendments to regulation 16 of the principal Regulations dealing with requirements on record keeping.

Regulation 12 is a transitional provision which provides, in the case of existing supervision requirements to which a secure accommodation condition is attached, that these Regulations shall have effect either after the expiry of a period of 3 months after 1st June 1988 or on the occasion of the first review of the condition following that date, whichever is the earlier.