



Criminal Justice (Scotland) Act 2003

2003 asp 7

PART 7

CHILDREN

51 Physical punishment of children

- (1) Where a person claims that something done to a child was a physical punishment carried out in exercise of a parental right or of a right derived from having charge or care of the child, then in determining any question as to whether what was done was, by virtue of being in such exercise, a justifiable assault a court must have regard to the following factors—
- (a) the nature of what was done, the reason for it and the circumstances in which it took place;
 - (b) its duration and frequency;
 - (c) any effect (whether physical or mental) which it has been shown to have had on the child;
 - (d) the child's age; and
 - (e) the child's personal characteristics (including, without prejudice to the generality of this paragraph, sex and state of health) at the time the thing was done.
- (2) The court may also have regard to such other factors as it considers appropriate in the circumstances of the case.
- (3) If what was done included or consisted of—
- (a) a blow to the head;
 - (b) shaking; or
 - (c) the use of an implement,
- the court must determine that it was not something which, by virtue of being in exercise of a parental right or of a right derived as is mentioned in subsection (1), was a justifiable assault; but this subsection is without prejudice to the power of the court so to determine on whatever other grounds it thinks fit.
- (4) In subsection (1), “child” means a person who had not, at the time the thing was done, attained the age of sixteen years.

- (5) In section 12 of the Children and Young Persons (Scotland) Act 1937 (c. 37) (cruelty to persons under sixteen)—
- (a) in subsection (1), the words “assaults,” and “assaulted,” are repealed; and
 - (b) subsection (7) is repealed.

52 Prohibition of publication of proceedings at children’s hearing etc.

In the Children (Scotland) Act 1995 (c. 36)—

- (a) in section 44 (prohibition of publication of proceedings at children’s hearing), in subsection (1)—
 - (i) after the word “publish” there is inserted “any matter in respect of a case about which the Principal Reporter has from any source received information or”; and
 - (ii) in paragraph (a), for the words “any child concerned in the” there is substituted “the child concerned in, or any other child connected (in any way) with, the case,”; and
- (b) in section 93 (interpretation of Part II), in subsection (2)—
 - (i) in paragraph (a), after the word “Part” there is inserted “and section 44”; and
 - (ii) in paragraph (b), for the words “Chapters 2 and” there is substituted “Chapter 2 (except section 44) and Chapter”.

53 Provision by Principal Reporter of information to victims

- (1) Where the Principal Reporter has received information about a case in which it appears that an offence has been committed by a child, the Principal Reporter may provide any information about the case as is mentioned in subsection (2) to any person mentioned in subsection (3) if (and only if)—
 - (a) the information is requested by the person; and
 - (b) the Principal Reporter is satisfied that—
 - (i) the provision of the information would not be detrimental to the best interests of the child concerned in, or any other child connected (in any way) with, the case; and
 - (ii) it is appropriate in the circumstances of the case to provide the information.
- (2) The information is information as to—
 - (a) what action the Principal Reporter has taken in the case; and
 - (b) any disposal of the case,
 in so far as the information relates to the offence.
- (3) The persons are—
 - (a) any person against whom the offence appears to have been committed or, where that person is a child, any relevant person; and
 - (b) any other person or class of persons, subject to such conditions, as may be prescribed.
- (4) In this section—

“child” means a person who has not attained the age of eighteen years;

“the Principal Reporter” has the same meaning as it has in Part II of the Children (Scotland) Act 1995 (c. 36);

“relevant person” in relation to a child means—

- (a) any parent enjoying parental responsibilities or parental rights under Part I of that Act;
- (b) any person in whom parental responsibilities or rights are vested by, under or by virtue of that Act; and
- (c) any person who appears to be a person who ordinarily (and other than by reason only of that person’s employment) has charge of, or control over, the child.