



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 20

#### GENERAL

##### *Interpretation*

#### **202 Interpretation**

- (1) In this Act, unless the context otherwise requires—
- “the 1995 Act” means the Children (Scotland) Act 1995 (c.36),
  - “affirmative procedure” is to be construed in accordance with section 197,
  - “CHS” means Children's Hearings Scotland,
  - “chief social work officer” means the officer appointed under section 3 of the Social Work (Scotland) Act 1968 (c.49) by—
    - (a) in relation to a compulsory supervision order or an interim compulsory supervision order, the implementation authority,
    - (b) in relation to a medical examination order or a warrant to secure attendance, the relevant local authority for the child to whom the order or warrant relates,
  - “child assessment order” means an order mentioned in section 35,
  - “child protection order” means an order mentioned in section 37,
  - “compulsory supervision order” has the meaning given by section 83,
  - “contact order” has the meaning given by section 11(2)(d) of the 1995 Act,
  - “crime” has the meaning given in section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c.46),
  - “functions” includes powers and duties; and “confer”, in relation to functions, includes impose,
  - “grounds determination” has the meaning given by section 110(1),
  - “grounds hearing” has the meaning given by section 90,
  - “implementation authority”—
    - (a) in relation to a compulsory supervision order, has the meaning given by section 83(1)(b),

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- (b) in relation to an interim compulsory supervision order, has the meaning given by section 86(1)(b),
- “interim compulsory supervision order” has the meaning given by section 86,
- “interim variation”, in relation to a compulsory supervision order, has the meaning given by section 140,
- “medical examination order” has the meaning given by section 87,
- “movement restriction condition” has the meaning given by section 84,
- “negative procedure” is to be construed in accordance with section 196,
- “officer of law” has the meaning given by section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c.46),
- “parental responsibilities” has the meaning given by section 1(3) of the 1995 Act,
- “parental rights” has the meaning given by section 2(4) of the 1995 Act,
- “permanence order” has the meaning given by section 80(2) of the Adoption and Children (Scotland) Act 2007 (asp 4),
- “place of safety”, in relation to a child, means—
- (a) a residential or other establishment provided by a local authority,
  - (b) a community home within the meaning of section 53 of the Children Act 1989 (c.41),
  - (c) a police station,
  - (d) a hospital or surgery, the person or body of persons responsible for the management of which is willing temporarily to receive the child,
  - (e) the dwelling-house of a suitable person who is so willing, or
  - (f) any other suitable place the occupier of which is so willing,
- “pre-hearing panel” has the meaning given by section 79(2)(a),
- “prosecutor” has the meaning given by section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c.46),
- “residential establishment” means—
- (a) an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) which provides residential accommodation for children for the purposes of this Act, the 1995 Act or the Social Work (Scotland) Act 1968 (c.49),
  - (b) a home in England or Wales that is—
    - (i) a community home within the meaning of section 53 of the Children Act 1989 (c.41),
    - (ii) a voluntary home within the meaning of that Act, or
    - (iii) a private children's home within the meaning of that Act, or
  - (c) [<sup>F1</sup>an establishment in Northern Ireland that is—
    - (i) a private children's home within the meaning of the Children (Northern Ireland) Order 1995 ( S.I. 1995/755 ),
    - (ii) an authority home provided under Part VII of that Order, or
    - (iii) a voluntary home provided under Part VIII of that Order.]
- “safeguarder” has the meaning given by section 30(1),
- “school age” has the meaning given by section 31 of the Education (Scotland) Act 1980 (c.44),
- “secure accommodation” means accommodation provided [<sup>F2</sup>for the purpose of restricting the liberty of children which—

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- (a) in Scotland, is provided in a residential establishment approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010 (asp 8) ,
- (b) in England, is provided in a children's home (within the meaning of the Care Standards Act 2000 (c.14) ("the 2000 Act")) in respect of which a person is registered under Part 2 of that Act, except that before the coming into force of section 107(2) of the Health and Social Care (Community Health Standards) Act 2003 (c.43) , "secure accommodation" means accommodation in relation to England which—
  - (i) is provided in a children's home (within the meaning of the 2000 Act) in respect of which a person is registered under Part 2 of that Act, and
  - (ii) is approved by the Secretary of State for the purpose of restricting the liberty of children,
- (c) in Wales, is provided in a children's home (within the meaning of the 2000 Act) in respect of which a person is registered under Part 2 of that Act.]

"secure accommodation authorisation" has the meaning given by section 85,

"statement of grounds" has the meaning given by section 89(3),

"subordinate legislation" means—

- (a) an order,
- (b) regulations, or
- (c) rules,

"super-affirmative procedure" is to be construed in accordance with section 198,

[<sup>F3</sup>"supporting facts" has the meaning given by section 90(1D),]

"warrant to secure attendance" has the meaning given by section 88, and

"working day" means every day except—

- (a) Saturday and Sunday,
- (b) 25 and 26 December,
- (c) 1 and 2 January.

- (2) References in this Act to a decision of a children's hearing are references to a decision of a majority of the members of a children's hearing.

[<sup>F4</sup>(2A) References in this Act to a determination of a pre-hearing panel are references to a determination of a majority of the members of a pre-hearing panel.]

- (3) References in this Act to varying a compulsory supervision order, an interim compulsory supervision order or a medical examination order include varying the order by adding or removing measures.

#### Textual Amendments

- F1** Words in s. 202(1) substituted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 21(a)(i)**
- F2** Words in s. 202(1) substituted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 21(a)(ii)**
- F3** Words in s. 202(1) inserted (26.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **Sch. 5 para. 12(9)**; S.S.I. 2014/353, art. 2(2)(3), Sch.
- F4** S. 202(2A) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 21(b)**

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**Modifications etc. (not altering text)**

- C1** S. 202 modified (24.6.2022) by [The Cross-border Placements \(Effect of Deprivation of Liberty Orders\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/225\)](#), regs. 1, **13(12)**

**Changes to legislation:**

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

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

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)