



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 16

#### ENFORCEMENT OF ORDERS

#### 168 Enforcement of orders

- (1) Subsection (2) applies where a relevant order authorising the keeping of a child in a particular place (an “authorised place”) is in force in relation to a child.
- (2) An officer of law may enforce the order—
  - (a) by searching for and apprehending the child,
  - (b) by taking the child to the authorised place,
  - (c) where—
    - (i) it is not reasonably practicable to take the child immediately to the authorised place, and
    - (ii) the authorised place is not a place of safety, by taking the child to and detaining the child in a place of safety for as short a period of time as is practicable, and
  - (d) so far as is necessary, by breaking open shut and lockfast places.
- (3) In this section, “relevant order” means—
  - (a) a child assessment order,
  - (b) a child protection order,
  - (c) an order under section 55,
  - (d) a compulsory supervision order,
  - (e) an interim compulsory supervision order,
  - (f) a medical examination order.

#### 169 Child absconding from place

- (1) This section applies where—
  - (a) a child requires to be kept in a particular place by virtue of—
    - (i) a child assessment order,

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- (ii) a child protection order,
  - (iii) an order under section 55,
  - (iv) section 56,
  - (v) section 65,
  - (vi) a compulsory supervision order,
  - (vii) an interim compulsory supervision order,
  - (viii) a medical examination order,
  - (ix) a warrant to secure attendance, or
  - (x) section 143, and
  - (b) the child absconds from that place or, at the end of a period of leave, fails to return to that place.
- (2) The child may be arrested without warrant and taken to that place.
- (3) If a court is satisfied that there are reasonable grounds for believing that the child is within premises, the court may grant a warrant authorising an officer of law to—
- (a) enter premises, and
  - (b) search for the child.
- (4) The court may authorise the officer of law to use reasonable force for those purposes.
- (5) Where the child is returned to the place mentioned in subsection (1), but the occupier of that place is unwilling or unable to receive the child—
- (a) the officer of law returning the child must immediately notify the Principal Reporter of that fact, and
  - (b) the child must be kept in a place of safety until the occurrence of the relevant event.
- (6) In subsection (5), the relevant event is—
- (a) in the case mentioned in sub-paragraph (i) of subsection (1)(a), the end of the period specified in the child assessment order,
  - (b) in the case mentioned in sub-paragraph (ii) of that subsection, whichever of the following first occurs—
    - (i) the children's hearing arranged under section 45 or 69,
    - (ii) the termination of the child protection order,
  - (c) in the case mentioned in sub-paragraph (iii) of that subsection, whichever of the following first occurs—
    - (i) the order ceasing to have effect under section 55(4) or (5),
    - (ii) the determination by the sheriff of an application for a child protection order in respect of the child,
  - (d) in the case mentioned in sub-paragraph (iv) of that subsection, whichever of the following first occurs—
    - (i) the giving of notice under subsection (5) of section 56, or
    - (ii) the end of the period mentioned in subsection (3) of that section,
  - (e) in the case mentioned in sub-paragraph (v) of that subsection, whichever of the following first occurs—
    - (i) the giving of a direction by the Principal Reporter under section 68(2) or 72(2)(a), or
    - (ii) the children's hearing arranged by virtue of section 69(2),

- (f) in the case mentioned in sub-paragraph (vi) of that subsection, the children's hearing arranged by virtue of section 131(2)(b),
- (g) in the cases mentioned in sub-paragraphs (vii) and (ix) of that subsection whichever of the following first occurs—
  - (i) the next children's hearing that has been arranged in relation to the child,
  - (ii) the next hearing before the sheriff relating to the child that is to take place by virtue of this Act,
- (h) in the cases mentioned in sub-paragraphs (viii) and (x) of that subsection, the next children's hearing that has been arranged in relation to the child.

## **170 Child absconding from person**

- (1) This section applies where—
  - (a) a person has (or is authorised to have) control of a child by virtue of—
    - (i) a child assessment order,
    - (ii) a child protection order,
    - (iii) an order under section 55,
    - (iv) section 56,
    - (v) section 65,
    - (vi) a compulsory supervision order,
    - (vii) an interim compulsory supervision order,
    - (viii) a medical examination order,
    - (ix) a warrant to secure attendance, or
    - (x) section 143, and
  - (b) the child absconds from that person.
- (2) The child may be arrested without warrant and taken to that person.
- (3) If a court is satisfied that there are reasonable grounds for believing that the child is within premises, the court may grant a warrant authorising an officer of law to—
  - (a) enter premises, and
  - (b) search for the child.
- (4) The court may authorise the officer of law to use reasonable force for those purposes.
- (5) Where the child is returned to the person mentioned in subsection (1), but the person is unwilling or unable to receive the child—
  - (a) the officer of law returning the child must immediately notify the Principal Reporter of that fact, and
  - (b) the child must be kept in a place of safety until the occurrence of the relevant event.
- (6) In subsection (5), the relevant event is—
  - (a) in the case mentioned in sub-paragraph (i) of subsection (1)(a), the end of the period specified in the child assessment order,
  - (b) in the case mentioned in sub-paragraph (ii) of that subsection, whichever of the following first occurs—
    - (i) the children's hearing arranged under section 45 or 69,
    - (ii) the termination of the child protection order,

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- (c) in the case mentioned in sub-paragraph (iii) of that subsection, whichever of the following first occurs—
  - (i) the order ceasing to have effect under section 55(4) or (5),
  - (ii) the determination by the sheriff of an application for a child protection order in respect of the child,
- (d) in the case mentioned in sub-paragraph (iv) of that subsection, whichever of the following first occurs—
  - (i) the giving of notice under subsection (5) of section 56, or
  - (ii) the end of the period mentioned in subsection (3) of that section,
- (e) in the case mentioned in sub-paragraph (v) of that subsection, whichever of the following first occurs—
  - (i) the giving of a direction by the Principal Reporter under section 68(2) or 72(2)(a), or
  - (ii) the children's hearing arranged by virtue of section 69(2),
- (f) in the case mentioned in sub-paragraph (vi) of that subsection, the children's hearing arranged by virtue of section 131(2)(b),
- (g) in the cases mentioned in sub-paragraphs (vii) and (ix) of that subsection whichever of the following first occurs—
  - (i) the next children's hearing that has been arranged in relation to the child,
  - (ii) the next hearing before the sheriff relating to the child that is to take place by virtue of this Act,
- (h) in the cases mentioned in sub-paragraphs (viii) and (x) of that subsection, the next children's hearing that has been arranged in relation to the child.

## **171 Offences related to absconding**

- (1) This section applies where—
  - (a) a child requires to be kept in a particular place by virtue of—
    - (i) a child assessment order,
    - (ii) a child protection order,
    - (iii) a compulsory supervision order,
    - (iv) an interim compulsory supervision order,
    - (v) a medical examination order, or
    - (vi) a warrant to secure attendance, or
  - (b) a person has (or is authorised to have) control of a child by virtue of such an order or warrant.
- (2) A person commits an offence if the person—
  - (a) knowingly assists or induces the child to abscond from the place or person,
  - (b) knowingly harbours or conceals a child who has absconded from the place or person, or
  - (c) knowingly prevents a child from returning to the place or person.
- (3) The person is liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding 6 months or to both.
- (4) This section is subject to—
  - (a) section 38(3) and (4) of the 1995 Act,

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- (b) section 51(5) and (6) of the Children Act 1989 (c.41), and
- (c) Article 70(5) and (6) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)).