



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 18

#### MISCELLANEOUS

PROSPECTIVE

#### *Rehabilitation of offenders*

#### **187 Rehabilitation of Offenders Act 1974: treatment of certain disposals by children's hearings**

- (1) The Rehabilitation of Offenders Act 1974 (c.53) is amended as follows.
- (2) In section 8B (protection afforded to spent alternatives to prosecution: Scotland)—
  - (a) after subsection (1) insert—

“(1A) For the purposes of this Act, a person has also been given an alternative to prosecution in respect of an offence if (whether before or after the commencement of this section) in proceedings before a children's hearing to which subsection (1B) applies—

- (a) a compulsory supervision order (as defined in section 83 of the 2011 Act) has been made or, as the case may be, varied or continued in relation to the person, or
- (b) the referral to the children's hearing has been discharged (whether wholly or in relation to the ground that the person committed the offence).

(1B) This subsection applies to proceedings if the proceedings were taken in relation to the person on the ground (whether alone or with other grounds) that the person had committed the offence and—

- (a) the ground was accepted for the purposes of the 2011 Act by—
  - (i) the person, and

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Children's Hearings (Scotland) Act 2011, Cross Heading: Rehabilitation of offenders is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (ii) any person who was a relevant person as respects those proceedings, or
  - (b) the ground was established or treated as established for the purposes of the 2011 Act.
- (1C) In subsections (1A) and (1B)—
- “the 2011 Act” means the Children's Hearings (Scotland) Act 2011,
  - “relevant person”—
    - (a) has the meaning given by section 200 of the 2011 Act, and
    - (b) includes a person who was deemed to be a relevant person by virtue of section 81(3), 160(4)(b) or 164(6) of that Act.
- (1D) For the purposes of this Act, a person has also been given an alternative to prosecution in respect of an offence if (whether before or after the commencement of this section) in proceedings before a children's hearing to which subsection (1E) applies—
- (a) a supervision requirement has been made or, as the case may be, varied or continued under the Children (Scotland) Act 1995 (“the 1995 Act”) in relation to the person, or
  - (b) the referral to the children's hearing has been discharged (whether wholly or in relation to the ground that the person committed the offence).
- (1E) This subsection applies to proceedings if the proceedings were taken in relation to the person on the ground (whether alone or with other grounds) that the person had committed the offence and—
- (a) the ground was accepted for the purposes of the 1995 Act by the person and, where necessary, the relevant person (as defined in section 93(2) of that Act), or
  - (b) the ground was established, or deemed to have been established, for the purposes of that Act.”, and
- (b) in subsection (2), for “subsection (1)” substitute “ subsections (1), (1A) and (1D) ”.
- (3) In Schedule 3 (protection for spent alternatives to prosecution: Scotland), after subparagraph (1)(a) of paragraph 1 insert—
- “(aa) in the case of—
    - (i) a compulsory supervision order referred to in paragraph (a) of subsection (1A) of that section, the period of 3 months beginning on the day the compulsory supervision order is made or, as the case may be, varied or continued, or
    - (ii) a discharge referred to in paragraph (b) of subsection (1A) of that section, the period of 3 months beginning on the day of the discharge,
  - (ab) in the case of—
    - (i) a supervision requirement referred to in paragraph (a) of subsection (1D) of that section, the period of 3 months

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- beginning on the day the supervision requirement is made or, as the case may be, varied or continued, or
- (ii) a discharge referred to in paragraph (b) of subsection (1D) of that section, the period of 3 months beginning on the day of the discharge,”.

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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\(5\)\(b\)](#)