



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART V

RETURN AND REMOVAL OF CHILDREN WITHIN UNITED KINGDOM

Absence without leave

- 69 Abscondment from a place of safety, or from the control of a person imposed by a supervision requirement**
- (1) If a child—
- (a) absconds from a place of safety in which he has been detained by virtue of this Act, or
 - (b) absconds from the control of a person under which he has been placed by a supervision requirement or by virtue of rules made by the Secretary of State under section 45 of this Act,
- he may be arrested without a warrant in any part of the United Kingdom or the Channel Islands.
- (2) A child arrested in pursuance of this section shall be brought back—
- (a) in a case falling within paragraph (a) of subsection (1), to the place of safety,
 - (b) in a case falling within paragraph (b) of that subsection, to the person under whose control he has been placed.
- (3) If, in the case of a child required to be brought back in pursuance of the last foregoing subsection—
- (a) the occupier of the place of safety, or
 - (b) the person under whose control he has been placed,
- is unwilling or unable to receive him, the child shall be detained in a place of safety until the reporter has considered, in pursuance of section 37 of this Act, whether the child may be in need of compulsory measures of care, or as the case may be, until he can be brought before a children's hearing for the consideration of his case or for a review of the supervision requirement to which he is subject.

Status: This is the original version (as it was originally enacted).

- (4) A children's hearing arranged for the purposes of the last foregoing subsection shall meet within a period of seven days from the date of the commencement of the detention of the child, and no child shall be detained under that subsection after the hearing have met or beyond that period.
- (5) In this and the next following section any reference to a child absconding includes a reference to his being unlawfully taken away.

70 Abscondment from residential establishments

If a child who is required by a supervision requirement to reside in a residential establishment—

- (a) absconds from the establishment in which he resides ; or
- (b) absconds from any hospital or other institution in which he is temporarily residing; or
- (c) being absent on leave from the residential establishment, either runs away from the person in whose charge he is or fails to return to the establishment at the end of his leave ;

he may be arrested without a warrant in any part of the United Kingdom or the Channel Islands and brought back—

- (i) in a case falling within paragraph (b) to the place from which he absconded ; or
- (ii) where he has run away from the person mentioned in paragraph (c), to that person; or
- (iii) in any case, to the residential establishment.

71 Harboursing

Any person who knowingly—

- (a) assists or induces or persistently attempts to induce a child so to act as to be liable to be brought back in pursuance of either of the two last foregoing sections, or
- (b) harbours or conceals a child so liable or prevents him from returning to a place or person mentioned in either of those sections,

shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Transfer

72 Supervision of children moving to England or Wales or Northern Ireland

- (1) Where a children's hearing are satisfied that a child in respect of whom a supervision requirement under section 44(1)(a) of this Act is in force proposes to reside or is residing in England or Wales or in Northern Ireland they may either—
- (a) discharge the supervision requirement; or
 - (b) send notification of the requirement to a juvenile court acting for the petty sessions area in which the child proposes to reside or is residing.
- (2) The juvenile court to which notification of a supervision requirement is sent under this section may make in respect of the child subject to that requirement a supervision order

placing him under the supervision of a probation officer for a period not exceeding one year beginning with the day on which the notification was sent; and the provisions of the Children and Young Persons Acts 1933 to 1963 or, as the case may be, of the Children and Young Persons Act (Northern Ireland) 1950 shall apply to any such order as those provisions respectively apply to a supervision order within the meaning of section 5 of the Children and Young Persons Act 1963 or to a supervision order within the meaning of section 63(1)(d) of the said Act of 1950.

- (3) Where a case is disposed of by a juvenile court in pursuance of this section in respect of a child subject to a supervision requirement, the requirement shall cease to have effect.
- (4) In this section " petty sessions area " includes a division of the metropolitan area referred to in Part II of Schedule 2 to the Children and Young Persons Act 1963 and in relation to Northern Ireland means " petty sessions district " within the meaning of Part III of the Magistrates' Courts Act (Northern Ireland) 1964.

73 Supervision of children moving to Scotland

- (1) Where a juvenile court in England or Wales or in Northern Ireland is satisfied that a child in respect of whom a probation order or a supervision order is in force proposes to reside or is residing in Scotland, the court may either—
 - (a) discharge the probation order or supervision order; or
 - (b) send notification of that order to the reporter of the local authority for the area in which the child proposes to reside or is residing;and on the receipt of such a notification it shall be the duty of the reporter to arrange a children's hearing for the consideration and determination of the case under Part III of this Act.
- (2) For the purposes of a children's hearing arranged in pursuance of the foregoing subsection the notification by a juvenile court of a probation order or supervision order shall be conclusive evidence of the existence of that order in relation to the child.
- (3) When a children's hearing have disposed of a case referred to them under this section the probation order or the supervision order in respect of the child shall cease to have effect.

74 Parent of a child in a residential establishment under a supervision requirement moving to England or Wales or Northern Ireland

- (1) Where a children's hearing are satisfied that the parent of a child who is required to reside in a residential establishment under a supervision requirement made under section 44(1)(b) of this Act proposes to reside or is residing in England or Wales or in Northern Ireland they shall review the requirement, and on such review they may as they think proper—
 - (a) discharge the supervision requirement;
 - (b) continue the supervision requirement;
 - (c) vary the supervision requirement by making a supervision requirement under subsection (1)(a) of the said section 44 and send notification of that requirement in accordance with section 72(1)(b) of this Act; or
 - (d) make a report on the case to the Secretary of State with a recommendation for the transfer of the child in accordance with the following provisions of this section.

Status: This is the original version (as it was originally enacted).

- (2) If the Secretary of State is for any reason unable to accept a recommendation for the transfer of a child made under paragraph (d) of subsection (1) of this section, he may refer the matter back to the children's hearing for their reconsideration of the case, or himself discharge the supervision requirement.
- (3) Where such a recommendation is made and is not dealt with under subsection (2) of this section, the Secretary of State may make an order transferring the child to the care of the managers of a school in England or Wales or in Northern Ireland, being an approved school within the meaning of the Children and Young Persons Act 1933 or, as the case may be, a training school within the meaning of the Children and Young Persons Act (Northern Ireland) 1950 or, if he thinks fit, committing him to the care of the local authority or, as the case may be, of the welfare authority in whose area the parent of the child proposes to reside or is residing.
- (4) The provisions of the Children and Young Persons Acts 1933 to 1963 or, as the case may be, of the said Act of 1950 shall apply to any order under this section transferring a child to the care of the managers of an approved school or of a training school as if it were an approved school or a training school order made by a court on the date on which the supervision requirement was originally made under section 44 of this Act in respect of the child:

Provided that—

- (a) notwithstanding anything in section 71 of the said Act of 1933 or section 75 of the said Act of 1950, the order under this section shall not be authority for his detention in an approved school or in a training school after he has attained the age of eighteen years,
 - (b) the contributions to be made in respect of him under section 90 of the said Act of 1933 or under section 126 of the said Act of 1950 shall be made by such council as may be named in the order under this section, being the council within whose district his parent proposes to reside or is residing at the time of the order.
- (5) The provisions of the Acts of 1933 to 1963 or, as the case may be, of the said Act of 1950 shall apply to any order under this section committing a child to the care of a local authority or, as the case may be, of a welfare authority as if it were an order made by a court under those Acts or that Act.

75 Parent of a child subject to an approved school order or a committal order moving to Scotland

- (1) Where the Secretary of State or the Minister of Home Affairs for Northern Ireland is satisfied that the parent of a child who is subject to an approved school or training school order proposes to reside or is residing in Scotland, he may refer the case to the reporter of the local authority of the area in which the parent of the child is proposing to reside or is residing and if the case is so referred the reporter shall arrange a children's hearing for the consideration and determination of the case under Part III of this Act.
- (2) Where a child has been committed to the care of a local authority in England or Wales under Parts III or IV of the Children and Young Persons Act 1933 or Part II of the Education Act 1944, or committed to the care of a welfare authority in Northern Ireland under Part III of the Children and Young Persons Act (Northern Ireland) 1950 or Part I of the Education Act (Northern Ireland) 1947 and that authority are satisfied that the parent of the child proposes to reside or is residing in Scotland, the authority may

make the like reference of the case as mentioned in the foregoing subsection and the reporter shall arrange a children's hearing accordingly.

- (3) Any reference under subsection (1) or subsection (2) of this section shall include particulars of the approved school or training school order or, as the case may be, of the order committing the child to the care of the local or welfare authority;

and for the purposes of any children's hearing arranged pursuant to the reference those particulars shall be conclusive evidence of the existence of that order in relation to the child.

- (4) When a children's hearing have disposed of a case referred to them under this section the order of the court in England or Wales or in Northern Ireland in respect of the child shall cease to have effect.

76 Procedure

- (1) A children's hearing or juvenile court, in exercising any jurisdiction under this Part of this Act in respect of a child, may proceed in the absence of the child or his parent or both.
- (2) It shall be the duty of the reporter at any children's hearing arranged for the purposes of section 72 of this Act and of the clerk to any juvenile court referring a case to a reporter for the purposes of section 73 of this Act to ensure that all documents relating to the case or certified copies thereof are transmitted to the juvenile court or, as the case may be, to the reporter to which the case stands referred.
- (3) Where a child is to be transferred from a residential establishment in Scotland to any place in England or Wales or in Northern Ireland under this Part of this Act, it shall be the duty of the local authority responsible for the child to ensure the transfer of the child to that place.
- (4) Where a children's hearing is arranged under this Part of this Act in respect of a child subject to an approved school or training school order or committed to the care of a local authority in England or Wales or of a welfare authority in Northern Ireland, it shall be the duty of the managers of the approved school or of the training school or, as the case may be, of that local or welfare authority to ensure the transfer of the child to the place notified to them by the reporter.

77 Meaning of child for the purposes of this Part of this Act

- (1) " Child " in this Part of this Act means—
- (a) for the purpose of sections 69 to 71, a child within the meaning of Part III of this Act,
 - (b) for the purposes of section 73, a person under sixteen and
 - (c) for any other purpose, a person under eighteen.
- (2) " Parent " in this Part of this Act includes a guardian.