Health And Social Services And Social Security Adjudications Act 1983

1983 CHAPTER 41

PART II

CHILDREN AND YOUNG PERSONS

[F1**7**   **Access to children in care—Scotland.**

(1) In section 16 of the M1Social Work (Scotland) Act 1968 (assumption of parental rights and powers), in subsection (5)—

   (a)   the words from "unless" to "resolution" where it third occurs shall be left out; and

   (b)   for the words "that person's whereabouts" there shall be substituted the words "the whereabouts of the person whose parental rights and powers have under the resolution vested in the local authority or in the voluntary organisation as the case may be".

(2) The following sections shall be inserted in the said Act of 1968 after section 17 of that Act—

" **Termination of access to child subject to resolution under section 16.**

(1) A local authority or voluntary organisation may not terminate arrangements for access to a child who is the subject of a resolution under section 16 of this Act by his parent or guardian or refuse to make such arrangements unless they have first given the parent or guardian notice of termination or refusal in a form prescribed by order made by the Secretary of State.

(2) A notice under this section shall contain a statement that the parent or guardian has a right to apply to the sheriff for an order under section 17B of this Act.

(3) A notice terminating access shall state that access will be terminated as from the date of service of the notice.

(4) A local authority or voluntary organisation are not to be taken to terminate arrangements for access for the purposes of this section in a case where they propose to substitute new arrangements for access for existing arrangements.

(5) A local authority or voluntary organisation are not to be taken to refuse to make arrangements for access for the purposes of this section in a case where they postpone access for such reasonable period as appears to them to be necessary to enable them to consider what arrangements for access (if any) are to be made.

(6) A notice under this section may be served on a parent or guardian either by delivering it to him or by leaving it at his proper address or by sending it by post.

(7) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person shall be his last known address.

Access Orders.

(1) A parent or guardian on whom a notice under section 17A of this Act is served may apply by way of summary application to the sheriff (in the case of a local authority, the sheriff having jurisdiction in their area) for an order under this section (hereinafter referred to as an "access order").

(2) An access order shall be in order requiring the authority or organisation to allow the child's parent or guardian access to the childsubject to such conditions as the order may specify with regard tocommencement, frequency, duration or place of access or to any other matter for which it appears to the sheriff that provision ought to be made in connection with the requirement to allow access.

(3) Where an access order has been made—
      (a)   the parent or guardian in the order; or
      (b)   the local authority or voluntary organisation

may apply by way of summary application to the sheriff for the variation or discharge of the order.

Emergency order.

(1) The sheriff may make an order under this subsection where he is satisfied that continued access to a child by his parent or guardian in accordance with the terms of an access order will put the child's welfare seriously at risk.

(2) Subject to subsection (3) below, an order under subsection (1) of this section shall be an order suspending the operation of the access order for 7 days beginning with the date of the order under subsection (1) of this section, or for such shorter period beginning with that date as may be specified in that order.

(3) If during the period for which the operation of the access order is suspended the local authority or voluntary organisation make an application for its variation or discharge to the sheriff, its operation shall be suspended until the date on which the application to vary or discharge it is determined or abandoned.

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Changes to legislation: Health And Social Services And Social Security Adjudications Act 1983, Section 7 is up to date with all changes known to be in force on or before 11 September 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

Safeguarding of interest of child.

A court to which an application for an access order or any other application under section 17B or 17C of this Act or any appeal relating thereto is made shall regard the welfare of the child as the first and paramount consideration in determining the matter.

Code of practice.

(1) The Secretary of State shall prepare, and from time to time revise, a code of practice with regard to access to children who are in care or who are subject to a supervision requirement under section 44 of this Act.

(2) Before preparing the code or making any alteration in it the Secretary of State shall consult such bodies as appear to him to be concerned.

(3) The Secretary of State shall lay copies of the code and of any alteration in the code before Parliament; and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Secretary of State shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn.

(4) No resolution shall be passed by either House of Parliament under subsection (3) above in respect of a code or alteration after the expiration of the period of forty days beginning with the day on which a copy of the code or alteration was laid before that House; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(5) The Secretary of State shall publish the code as for the time being in force.".

(3) In section 18A of the Act (safeguarding of interests of child), in subsection (1), after the words "16A(3)" there shall be inserted the words ", 17B, 17C".**]**

Textual Amendments
F1 S. 7 repealed (S.) (1.4.1997) by 1995 c. 36, s. 105(5), **Sch. 5** (with Sch. 3 paras. 4, 6); S.I. 1996/3201, **art. 3(7)** (as substituted (7.3.1997) by S.I. 1997/744, **art. 2**)

Marginal Citations
M1 1968 c. 49.

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Commencement Orders yet to be applied to the Health And Social Services And Social Security Adjudications Act 1983
Commencement Orders bringing legislation that affects this Act into force:

– S.I. 2004/288 art. 2-6 commences (2003 c. 43)
– S.I. 2004/480 art. 2-5 commences (2003 c. 43)
– S.I. 2004/1009 art. 2 commences (2003 c. 43)
– S.I. 2004/1019 art. 2 commences (2003 c. 43)
– S.I. 2005/2897 art. 2 commences (2002 c. 38)
– S.I. 2005/2925 art. 24-11 commences (2003 c. 43)
– S.I. 2006/345 art. 2-7 commences (2003 c. 43)
– S.I. 2009/3074 art. 23 commences (2008 c. 4)
– S.I. 2011/849 art. 2 commences (2010 nawm 2)
– S.S.I. 2009/267 art. 2 commences (2007 asp 4)