



Health And Social Services And Social Security Adjudications Act 1983

1983 CHAPTER 41

PART II

CHILDREN AND YOUNG PERSONS

8 Secure accommodation for children in Scotland.

[^{F1}(1) In section 32 of the ^{M1}Social Work (Scotland) Act 1968 (requisite conditions for compulsory measures of care for children), in subsection (2) there shall be inserted at the end—

“(i) he is in the care of a local authority and his behaviour is such that special measures are needed for his adequate care and control.”].

(2) In section 59A of the said Act of 1968 (grants in respect of secure accommodation for children), subsection (3) shall be left out.

(3) In section 60 of that Act (control of residential establishments), in subsection (1)—

(a) after paragraph (b) there shall be inserted the following paragraph—

“(bb) for the granting of approval by the Secretary of State for the provision and use of accommodation in residential establishments as secure accommodation;”

(b) after paragraph (e) there shall be inserted the following paragraph—

“(ee) for prescribing the minimum age below which a child’s liberty shall not be restricted in secure accommodation except with the Secretary of State’s consent;”

(c) after paragraph (f), after the words “classes of establishments” there shall be inserted the words “, different classes of accommodation in residential and other establishments”.

[(4) After section 58 of that Act there shall be inserted the following sections—

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“ Residence in secure accommodation.

- (1) A child who is made subject to a supervision requirement under this Act may not be placed or kept in secure accommodation, except under the provisions of this Act.
- (2) In this Act, “secure accommodation” means accommodation provided in a residential establishment in accordance with regulations made under section 60(1) of this Act for the purpose of restricting the liberty of children.
- (3) Where a children’s hearing decide, in accordance with section 44 of this Act, that a child is in need of compulsory measures of care, and they are satisfied that either—
 - (a) he has a history of absconding, and—
 - (i) he is likely to abscond unless he is kept in secure accommodation; and
 - (ii) if he absconds, it is likely that his physical, mental or moral welfare will be at risk; or
 - (b) he is likely to injure himself or other persons unless he is kept in secure accommodation,
 they may make it a condition of a supervision requirement under subsection (1)(b) of the said section 44 that the child shall be liable to be placed and kept in secure accommodation in the named residential establishment at such times as the person in charge of that establishment, with the agreement of the director of social work of the local authority required to give effect to the supervision requirement, considers it necessary that he do so.
- (4) The Secretary of State shall have power by regulations to make provision with respect to the placing in secure accommodation of any child—
 - (a) who is subject to a supervision requirement imposed under section 44 of this Act but not subject to a condition imposed under subsection (3) of this section; or
 - (b) who is not subject to such a supervision requirement but who is being cared for by a local authority or voluntary organisation in pursuance of such enactments as may be specified in the regulations,
 and such regulations shall specify the circumstances which require to pertain before a child may be so placed under regulations made under this subsection and may specify different circumstances for different cases or classes of case.

Time limits on keeping without reference to children’s hearing.

- (1) The Secretary of State shall by regulations prescribe—
 - (a) the maximum period during which a child may be kept under this Act in secure accommodation without the authority of a children’s hearing or of the sheriff;
 - (b) the period within which the case of a child placed under this Act in secure accommodation shall be referred to the reporter and different periods may be prescribed in respect of different cases or classes of case.

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- (2) The Secretary of State shall by regulations make provision to enable a child who has been placed in secure accommodation under section 58(A)(4) of this Act or his parent to require that the child's case be brought before a children's hearing within a shorter period than would otherwise apply under regulations made under subsection (1)(a) of this section.
- (3) Where, in any case, a child's hearing direct the reporter to make application to the sheriff for a finding under section 42(2) (c) of this Act (finding that grounds for referral are established), they shall have power, if they are satisfied with regard to the criteria specified in paragraph (a) or (b) of section 58A(3) of this Act, to authorise the detention or, as the case may be, further detention of the child in secure accommodation in an named residential establishment, pending the determination of the case in accordance with section 42(5) or (6) of this Act.

Review of secure accommodation condition.

- (1) A condition imposed under section 58A(3) of this Act, requiring a child to reside in secure accommodation, shall be subject to review by a children's hearing at such time as the local authority recommends and otherwise at such times and in accordance with such provisions as the Secretary of State shall by regulations prescribe.
- (2) A condition to which this section applies shall be reviewed when the supervision requirement is being reviewed, and may be reviewed separately from that review.
- (3) A condition to which this section applies shall cease to have effect at the expiry of the period of three months after it was made, unless it has been reviewed and the condition has been ordered to continue.
- (4) A condition which is continued on review shall cease to have effect at the expiry of the period of—
 - (a) nine months after it is first reviewed;
 - (b) twelve months after the second or any subsequent review,unless it has been reviewed and the condition has been ordered to continue.
- (5) Sections 44 and 48(5) of this Act shall apply to the review of conditions made under section 58A(3) of this Act as they apply to the review of supervision requirements.
- (6) The Secretary of State may from time to time make regulations to vary the periods specified in this section.

Sheriff's power to direct condition to cease to have effect.

Where under section 49(5) of this Act (appeal against decision of children's hearing) the sheriff is satisfied in a case in which there is in force a condition under section 58A(3) of this Act that the decision of the children's hearing is not justified in all the circumstances of the case he shall direct that the condition shall cease to have effect.

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Warrants to detain in secure accommodation.

- (1) Where the sheriff or a children’s hearing issues a warrant under any of sections 37, 40 and 42 of this Act (detention in a place of safety), he or they may, if satisfied with regard to the criteria specified in paragraph (a) or (b) of section 58A(3) of this Act, authorise the detention or, as the case may be, further detention of the child in secure accommodation in a named residential establishment.
- (2) For the purposes of this section, the Secretary of State may make regulations amending, varying or disapplying any of the criteria specified in the said paragraphs (a) and (b) of section 58A(3) of this Act except in relation to a warrant under section 37 of this Act.

Procedures for placing in secure accommodation.

- (1) The Secretary of State may by regulations make provision for the procedures to be applied in the placing of children in secure accommodation, and without prejudice to the foregoing generality may make provision for the referral of cases to a children’s hearing for review.
- (2) Regulations under this section may specify the duties of the reporter in relation to the placing of children in secure accommodation.
- (3) Regulations under this section may make provision for the parent of a child being informed of the placing of the child in secure accommodation.

Transitional provisions.

Regulations made under sections 58A to 58F of this Act may include such transitional provisions as the Secretary of State may consider necessary, including provisions varying the application of any provision in those sections for a transitional period, either generally, or in relation to specified classes of cases.”.]

Textual Amendments

F1 S. 8(1)(4) repealed (S.) (1.4.1997) by 1995 c. 36, s. 105(5), Sch. % (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)