



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

## 1985 CHAPTER 73

### *Provisions relating to the care of children*

#### **24 Power to increase size of Children's Panel Advisory Committees**

After paragraph 3 of Schedule 3 to the Social Work (Scotland) Act 1968 there shall be inserted the following paragraph—

- “3A The Secretary of State may, at the request of the local authority provide for an increase in the membership of the Children's Panel Advisory Committee for the area of the authority by such number, not exceeding 5, of additional members as the authority specify in relation to their request, the additional members to be nominated as follows—
- (a) the first, second and fourth additional members, by the Secretary of State;
  - (b) the third and fifth additional members, by the local authority”.

#### **25 Amendment of provisions about detention of children**

- (1) In section 42(3) of the Social Work (Scotland) Act 1968 (which, amongst other things, limits to 7 days the period of detention, pending disposal of the case, of a child who has failed to attend before the sheriff in an application to him in respect of the grounds of referral of the child to a children's hearing) for the words from " for ", where last occurring, to the end there shall be substituted the words " after whichever is the earlier of the following—
  - (a) the expiry of 14 days beginning with the day on which he was first detained ;
  - (b) the disposal of the application by the sheriff."
- (2) In section 42(6) of the Social Work (Scotland) Act 1968 (remission of case from sheriff to reporter where the sheriff is satisfied that grounds of referral have been established)
  - (a) after the word "established" there shall be inserted " (a) "; and

- (b) after the word " case ", where secondly occurring, there shall be inserted “; and
  - (b) if he is satisfied that detention of the child is necessary in his own interest or has reason to believe that the child will run away before the children's hearing sit to consider the case, he may issue a warrant requiring the detention of the child until the children's hearing sit to consider the case, but a child shall not be detained under this subsection after whichever is the earlier of the following—
    - (i) the expiry of 3 days beginning with the day on which he was first detained ;
    - (ii) the consideration of his case by the children's hearing.”

## 26 **Amendment of power to detain children in secure accommodation**

In the Social Work (Scotland) Act 1968—

- (a) in section 58B(3) (power to detain child in secure accommodation) for the words from "authorise" to the end there shall be substituted the words " order that, pending the determination of his case in accordance with section 42(5) or (6) of this Act, the child shall be liable to be placed and kept in secure accommodation in a 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 for the area of the children's hearing, considers necessary. "
- (b) In section 58E(1) (warrant to detain child in secure accommodation) for the words from "authorise" to the end there shall be substituted the words " order that the child shall be liable to be placed and kept in secure accommodation in a 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, considers necessary. The local authority referred to in this subsection is, in the case of a warrant issued or renewed by the sheriff, the local authority for the area of the children's hearing which was dealing with the child in respect of whom the warrant was issued and, in the case of a warrant issued or renewed by a children's hearing, the local authority for the area of that children's hearing. "

## 27 **Requirement of children's hearing for pre-adoptive supervision not to constitute making arrangements for adoption for purposes of Adoption (Scotland) Act 1978**

In section 65(3) of the Adoption (Scotland) Act 1978 (which deems certain actings to constitute the making of arrangements for the adoption of a child, the making of such arrangements being, in certain circumstances, an offence under section 11 of that Act) there shall be inserted at the end the following— " but the making, under section 44 of the Social Work (Scotland) Act 1968, by a children's hearing of a supervision requirement which, in respect that it provides as to where he is to reside, facilitates his being placed for adoption by an adoption agency, shall not constitute the making of such arrangements. "

**28 Child subject to supervision requirement to be regarded as in the care of the local authority for the purposes of his being freed for adoption under section 18 of the Adoption (Scotland) Act 1978**

In section 44(5) of the Social Work (Scotland) Act 1968 (which, amongst other things, provides that, for the purposes of the enactments set out there, a child subject to a supervision requirement shall be in the care of the local authority) after the word " Act", where first occurring, there shall be inserted the words " and section 18 of the Adoption (Scotland) Act 1978 (which, amongst other things, provides that an application by an adoption agency to dispense with parental agreement to the freeing of a child for adoption is competent only where the child is in the care of the agency). "

**29 Reporter's power to arrange review by children's hearing of supervision requirement**

In section 48 of the Social Work (Scotland) Act 1968 (review by children's hearing of supervision requirements) after subsection (4) there shall be inserted the following subsection—

“(4A) If a supervision requirement has not been reviewed under this section during the period of nine months following the date when it was made or last reviewed (whichever is the later), the reporter may arrange for it to be reviewed.”.