
STATUTORY INSTRUMENTS

1985 No. 1724 (S.131)

CHILDREN AND YOUNG PERSONS

**The Children's Hearings (Scotland)
(Amendment—Secure Accommodation) Rules 1985**

Made - - - - - 7th November 1985

Coming into Operation 25th November 1985

The Secretary of State in exercise of the powers conferred on him by sections 35(4) and (5), and 44(8) of the Social Work (Scotland) Act 1968(a) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following rules:—

Citation and commencement

1. These rules may be cited as the Children's Hearings (Scotland) (Amendment—Secure Accommodation) Rules 1985 and shall come into operation on 25th November 1985.

Interpretation

2. In these rules—

“the Act” means the Social Work (Scotland) Act 1968;

“the principal Rules” means the Children's Hearings (Scotland) Rules 1971(b).

Amendment of rule 25 of the principal Rules (Forms of Warrant for apprehension and for detention)

3.—(1) For paragraph (1A) of rule 25 there shall be substituted the following:—

“(1A) A warrant issued under the said section 37(4) and section 58E(1) of the Act(c) and the renewal of such a warrant under section 37(5), ordering that a child be detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children's hearing considers necessary, shall be in the form of Forms 15A and 16A respectively.”.

(a) 1968 c. 49; section 35(5)(a) was amended by the Children Act 1975 (c. 72), Schedule 3, paragraph 55.

(b) S.I. 1971/492, amended by S.I. 1983/1424, 1984/100, 1867 and 1985/843.

(c) Section 58E was inserted by section 8(4) of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) and amended by section 26 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73).

(2) For paragraph (2A) of rule 25 there shall be substituted the following paragraph:—

“(2A) A warrant issued under the said section 40(4) and the said section 58E(1) ordering that a child be apprehended and detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children’s hearing considers necessary, shall be in the form of Form 17A.”.

(3) For paragraphs (4) and (5) of rule 25 the following paragraphs shall be substituted respectively:—

“(4) A warrant issued under the said section 40(7) and the said section 58E(1), and the renewal of such a warrant under section 40(8), ordering that a child be detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children’s hearing considers necessary, shall be in the form of Forms 18A and 19A respectively.

(5) A warrant issued under regulation 11 of the 1983 regulations and section 58B(3) of the Act(a) ordering that a child be detained in a named residential establishment, and that said detention shall be in secure accommodation there at such times as the person in charge of the establishment with the agreement of the director of social work for the area of the children’s hearing considers necessary, shall be in the form of Form 19B.”.

Amendment to Schedule to principal Rules

4. For Forms 15A, 16A, 17A, 18A, 19A and 19B in the Schedule to the principal Rules, there shall be substituted respectively the Forms set out in the Schedule to these rules.

New St Andrew’s House,
Edinburgh.
7th November 1985.

John Mackay,
Parliamentary Under Secretary of State,
Scottish Office.

(a) Section 58B(3) was inserted by section 8(4) of the Health and Social Services and Social Security Adjudications Act 1983 and amended by section 26 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.

SCHEDULE

Rule 4

*Forms to be inserted in the Schedule to the principal
Rules as Forms of that Schedule*

FORM 15A

Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968

**WARRANT FOR DETENTION IN NAMED RESIDENTIAL ESTABLISHMENT
PROVIDING SECURE ACCOMMODATION UNDER
SECTIONS 37(4) AND 58E(1) OF THE ACT**

(Place and Date)

A children's hearing for (*local authority area*), in exercise of the powers conferred on them by sections 37(4) and 58E(1) of the Social Work (Scotland) Act 1968,

(*firstly*) [being satisfied that the further detention of (*child's name and address*) is necessary in his/her* own interest]* [having reason to believe that (*child's name and address*) will run away during the investigation of his/her* case]* and

(*secondly*) being satisfied [that he/she* has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that he/she* is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

grant warrant ordering the detention of the said (*name*) in (*name of residential establishment providing the secure accommodation*) for the period from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (*name of local authority*), considers it necessary that the child be so detained.

.....
Chairman of the Children's Hearing

*Delete as appropriate.

FORM 16A

Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968**WARRANT UNDER SECTIONS 37(5) AND 58E(1) OF THE ACT
RENEWING WARRANT FOR DETENTION IN NAMED
RESIDENTIAL ESTABLISHMENT PROVIDING SECURE
ACCOMMODATION UNDER SECTIONS 37(4) AND
58E(1) OF THE ACT***(Place and Date)*

A children's hearing for (*local authority area*), in exercise of the powers conferred on them by sections 37(5) and 58E(1) of the Social Work (Scotland) Act 1968, having heard the reporter of the local authority, and being satisfied [that (*child's name and address*) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that (*child's name and address*) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*, grant warrant for the renewal from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive, of the warrant granted by a children's hearing on (*insert date of previous warrant*) ordering his/her* detention in (*name of residential establishment providing the secure accommodation*) and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (*name of local authority*), considers it necessary that the child be so detained.

.....
Chairman of the Children's Hearing

*Delete as appropriate.

FORM 17A

Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968
WARRANT FOR APPREHENSION AND DETENTION IN NAMED
RESIDENTIAL ESTABLISHMENT PROVIDING SECURE
ACCOMMODATION UNDER SECTIONS 40(4) AND
58E(1) OF THE ACT

(*Place and Date*)

A children's hearing for (*local authority area*) in exercise of the powers conferred on them by sections 40(4) and 58E(1) of the Social Work (Scotland) Act 1968, being satisfied

(*firstly*) [that (*child's name and address*) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that (*child's name and address*) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*, and

(*secondly*) of the necessity for the grant of this warrant,

grant warrant to officers of law to apprehend the said (*name*) for the purpose of securing his/her* attendance at a children's hearing, and ordering his/her* detention in (*name of residential establishment providing the secure accommodation*) and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (*name of local authority*), considers it necessary that the child be so detained.

.....
Chairman of the Children's Hearing

*Delete as appropriate.

SOCIAL WORK (SCOTLAND) ACT 1968
WARRANT FOR DETENTION IN NAMED RESIDENTIAL
ESTABLISHMENT PROVIDING SECURE ACCOMMODATION
UNDER SECTIONS 40(7) AND 58E(1) OF THE ACT

(Place and Date)

A children's hearing for (*local authority area*), in exercise of the powers conferred on them by sections 40(7) and 58E(1) of the Social Work (Scotland) Act 1968,

(*firstly*) [having reason to believe that (*child's name and address*) may [not attend a further hearing of his/her* case]* [not attend at proceedings arising from his/her* case]* [fail to comply with a requirement under section 43(4) of that Act]*] [being satisfied that detention of (*child's name and address*) is necessary in his/her* own interest]* and

(*secondly*) being satisfied [that he/she* has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that he/she* is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*,

grant warrant ordering the said (*name*) to be detained in (*name of residential establishment providing the secure accommodation*) from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (*name of local authority*), considers it necessary that the child be so detained.

.....
Chairman of the Children's Hearing

*Delete as appropriate.

FORM 19A

Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968
WARRANT UNDER SECTIONS 40(8) AND 58E(1) OF THE ACT
RENEWING WARRANT FOR DETENTION IN NAMED
RESIDENTIAL ESTABLISHMENT PROVIDING SECURE
ACCOMMODATION UNDER SECTIONS 40(7) AND
58E(1) OF THE ACT

(Place and Date)

A children's hearing for (*local authority area*), in exercise of the powers conferred on them by sections 40(8) and 58E(1) of the Social Work (Scotland) Act 1968, having heard the reporter of the local authority, and being satisfied [that (*child's name and address*) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that (*child's name and address*) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*, grant warrant for the renewal from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive, of the warrant granted by a children's hearing on (*insert date of previous warrant*) ordering the detention of the said (*name*) in (*name of residential establishment providing the secure accommodation*) and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (*name of local authority*), considers it necessary that the child be so detained.

.....
Chairman of the Children's Hearing

*Delete as appropriate.

FORM 19B

Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968
WARRANT UNDER REGULATION 11 OF SECURE ACCOMMODATION
(SCOTLAND) REGULATIONS 1983 FOR DETENTION IN
NAMED RESIDENTIAL ESTABLISHMENT PROVIDING SECURE
ACCOMMODATION UNDER SECTION 58B(3) OF THE ACT

(Place and Date)

A children's hearing for (*local authority area*), in exercise of the powers conferred on them by section 58B(3) of the Social Work (Scotland) Act 1968, and by virtue of regulation 11 of the Secure Accommodation (Scotland) Regulations 1983, having directed an application be made to the sheriff for a finding under section 42(2)(c) of that Act and being satisfied [that (*child's name and address*) has a history of absconding and is likely to abscond unless he/she* is kept in secure accommodation, and that if he/she* absconds it is likely that his/her* physical, mental or moral welfare will be at risk]* [that (*child's name and address*) is likely to injure himself/herself* or other persons unless he/she* is kept in secure accommodation]*, grant warrant ordering the said (*name*) to be [*detained*]* [*further detained*]* in (*name of residential establishment providing secure accommodation*) from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive and said detention there shall be in secure accommodation at such times as the person in charge of the residential establishment, with the agreement of the director of social work of (*name of local authority*), considers it necessary that the child be so detained, pending determination of his/her* case in accordance with section 42(5) or (6) of that Act.

.....
Chairman of the Children's Hearing

*Delete as appropriate.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These rules provide for amendments to the Children's Hearings (Scotland) Rules 1971 following the enactment of amendments to sections 58B(3) and 58E(1) of the Social Work (Scotland) Act 1968 in the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985. They further modify the procedures at children's hearings by prescribing revised forms of warrant, for issue by children's hearings which order a child's detention in secure accommodation at such times as the person in charge of the residential establishment named in the warrant, with the agreement of the director of social work for the local authority area considers it necessary.

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