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STATUTORY INSTRUMENTS

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**2013 No. 1465**

**The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013**

**Citation and commencement**

1.—(1) This Order may be cited as the Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013.

(2) This Order comes into force on the same day as section 7 (holding of children’s hearing) of the 2011 Act comes into force.

**Interpretation**

2.—(1) Subject to paragraph (3), in this Order unless the context otherwise requires—

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986(1);

“the 1989 Act” means the Children Act 1989(2);

“the 1995 Act” means the Children (Scotland) Act 1995(3);

“the 1995 Order” means the Children (Northern Ireland) Order 1995(4);

“the 2011 Act” means the Children’s Hearings (Scotland) Act 2011(5);

“child” has the meaning given by section 199 of the 2011 Act;

“child assessment order” means an order mentioned in section 35 of the 2011 Act;

“child protection order” means an order mentioned in section 37 of the 2011 Act;

“children’s hearing” is to be construed in accordance with section 5 of the 2011 Act;

“compulsory supervision order” has the meaning given by section 83 of the 2011 Act;

“constable” includes a constable within the meaning of section 43A of the Interpretation Act (Northern Ireland) 1954(6);

“court”, in relation to Northern Ireland, means a court of summary jurisdiction;

“interim compulsory supervision order” has the meaning given by section 86 of the 2011 Act;

“local authority” means—

(a) in relation to England, the council of a county, a metropolitan district, a London borough or the Common Council of the City of London;

(b) in relation to Wales, the council of a county or a county borough;

(c) in relation to Northern Ireland, a Health and Social Care Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(7) and

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(1) S.I. 1986/594 (N.I. 3).

(2) 1989 c.41.

(3) 1995 c.36.

(4) S.I. 1995/755 (N.I. 2).

(5) 2011 asp 1.

(6) 1954 c.33 (N.I.).

(7) S.I. 1991/194 (N.I. 1).

renamed by section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009<sup>(8)</sup>; and

- (d) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(9)</sup>;

“medical examination order” has the meaning given by section 87 of the 2011 Act;

“place of safety”, in relation to a child, means—

- (a) a residential or other establishment provided by a local authority;
- (b) a community home within the meaning of section 53 of the 1989 Act;
- (c) a police station;
- (d) a hospital or surgery in England or Wales, the person or body of persons responsible for the management of which is willing temporarily to receive the child;
- (e) a hospital in Northern Ireland under the management of a Health and Social Care Trust<sup>(10)</sup>, the body or persons responsible for the management of which is willing temporarily to receive the child;
- (f) the dwelling-house of a suitable person who is so willing; or
- (g) any other suitable place, the occupier of which is so willing;

“pre-hearing panel” has the meaning given by section 79(2)(a) of the 2011 Act;

“residential establishment” means—

- (a) an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) which provides residential accommodation for children for the purposes of the 2011 Act, the 1995 Act or the Social Work (Scotland) Act 1968<sup>(11)</sup>;
- (b) a home in England or Wales that is—
  - (i) a community home within the meaning of section 53 of the 1989 Act;
  - (ii) a voluntary home within the meaning of that Act; or
  - (iii) a private children’s home within the meaning of that Act; or
- (c) an establishment in Northern Ireland that is—
  - (i) a private children’s home, within the meaning of the 1995 Order<sup>(12)</sup>;
  - (ii) an authority home provided under Part VII of that Order<sup>(13)</sup>; or
  - (iii) a voluntary home provided under Part VIII of that Order;

“secure accommodation” means accommodation provided for the purpose of restricting the liberty of children which—

- (a) in Scotland, is provided in a residential establishment approved in accordance with regulations made under section 78(2) of the Public Service Reform (Scotland) Act 2010<sup>(14)</sup>;

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<sup>(8)</sup> 2009 c.1 (N.I.). Pursuant to Article 2(3) of the 1995 Order and S.R. 1994 No. 64 (as amended by S.R. 1996 No. 439), references in the 1995 Order to an “authority” are construed as references to a Health and Social Care Trust.

<sup>(9)</sup> 1994 c.39.

<sup>(10)</sup> Established by Article 10 of S.I. 1991/194 (N.I. 1) and renamed by section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

<sup>(11)</sup> 1968 c.49.

<sup>(12)</sup> Relevant amending instrument is S.I. 2003/431 (N.I. 9).

<sup>(13)</sup> Pursuant to Article 2(3) of the 1995 Order and S.R. 1994 No. 64 (as amended by S.R. 1996 No. 439), references in the 1995 Order to an “authority” are construed as references to a Health and Social Care Trust.

<sup>(14)</sup> 2010 asp 8.

- (b) in England, is provided in a children’s home within the meaning of the Care Standards Act 2000(15) (“the 2000 Act”) in respect of which a person is registered under Part 2 of that Act, except that before the coming into force of section 107(2) of the Health and Social Care (Community Health Standards) Act 2003(16), “secure accommodation” means accommodation in relation to England which—
    - (i) is provided in a children’s home, within the meaning of the 2000 Act, in respect of which a person is registered under Part 2 of that Act; and
    - (ii) is approved by the Secretary of State for the purpose of restricting the liberty of children;
  - (c) in Wales, is provided in a children’s home within the meaning of the 2000 Act in respect of which a person is registered under Part 2 of that Act; and  
“warrant to secure attendance” has the meaning given by section 88 of the 2011 Act.
- (2) Any notification mentioned in article 13(1)(c) or 14(1)(c) or consent mentioned in article 13(1)(d) or 14(1)(d) which must be done in writing may be made in electronic form which is—
- (a) sent by electronic means; and
  - (b) capable of being reproduced in legible form.
- (3) For the purpose of article 4, the definition of “place of safety” in paragraph (1) does not apply.

### **Extent**

- 3.—(1) Except as provided in paragraphs (2) to (6) below, this Order extends to England and Wales, Scotland and Northern Ireland.
- (2) The modifications made by the Schedules have the same extent as the provisions being modified.
  - (3) Articles 7, 13 and 16 extend to England and Wales and Scotland only.
  - (4) Articles 10, 11 and 12 extend to England and Wales and Northern Ireland only.
  - (5) Article 14 extends to Scotland and Northern Ireland only.
  - (6) Article 20 extends to England and Wales only.

### **Transitional provisions and savings**

- 4.—(1) Section 70(4) of the 1995 Act (disposal of referral by children’s hearing: supervision requirements, including residence in secure accommodation) continues to have effect where a supervision requirement has been or is made under section 70 of that Act before or after section 7 of the 2011 Act comes into force.
- (2) Section 74 of the 1995 Act (further provision as respects children subject to supervision requirements) and the Children’s Hearings (Transmission of Information etc.) (Scotland) Regulations 1996(17) continue to have effect in respect of a child subject to a supervision requirement made under that Act before or after section 7 of the 2011 Act comes into force.
- (3) Section 82 of the 1995 Act (recovery of certain fugitive children) continues to have effect in respect of a child who is required or who continues to be required to be kept in a place of safety, relevant place or with any person under Part 2 of the 1995 Act before or after section 7 of the 2011 Act comes into force.
- (4) In paragraph (3)—

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(15) 2000 c.14.

(16) 2003 c.43.

(17) S.I. 1996/3260.

“relevant place” has the same meaning as in section 82(1)(b) of the 1995 Act; and

“person” has the same meaning as in section 82(1)(c) and (3) of the 1995 Act.

(5) Section 83 of the 1995 Act (harbouring) continues to have effect in respect of a child who by virtue of paragraph (3) continues to be liable to arrest under section 82(1) or (3) of that Act.

(6) The definitions of “local government area”, “place of safety”, “compulsory measures of supervision”, “relevant local authority” and “supervision requirement” in section 93(1) of the 1995 Act (interpretation of Part 2) continue to have effect for the purposes of paragraphs (1) to (5).

### **Enforcement of orders**

**5.—**(1) Paragraph (2) applies where a relevant order authorising the keeping of a child in a particular place (an “authorised place”) is in force in relation to a child and that child is in England, Wales or Northern Ireland.

(2) A constable may enforce the order—

- (a) by searching for the child;
- (b) by apprehending the child;
- (c) by taking the child to the authorised place;
- (d) where it is not reasonably practicable to take the child immediately to the authorised place, by taking the child to, and detaining the child in, a place of safety for as short a period of time as is practicable; and
- (e) by entering premises if the constable has reasonable grounds for believing the child is on those premises.

(3) A constable may use reasonable force, if necessary, in the exercise of the powers set out in paragraph (2)(a) to (e).

(4) In this article, “relevant order” means—

- (a) a child assessment order;
- (b) a child protection order;
- (c) an order under section 55 of the 2011 Act;
- (d) a compulsory supervision order;
- (e) an interim compulsory supervision order; or
- (f) a medical examination order.

### **Warrants to secure attendance**

**6.—**(1) Paragraph (2) applies where a warrant to secure attendance is in force in relation to a child, and that child is in England, Wales or Northern Ireland.

(2) A constable may enforce the warrant—

- (a) by searching for the child;
- (b) by apprehending the child;
- (c) by taking the child to, and detaining the child in, a place of safety;
- (d) by bringing the child before the relevant proceedings; and
- (e) so far as is necessary for the execution of the warrant, by entering premises if the constable has reasonable grounds for believing the child is on those premises.

(3) A constable may use reasonable force, if necessary, in the exercise of the powers set out in paragraph (2)(a) to (e).

(4) In this article, “relevant proceedings”, in relation to a warrant to secure attendance, means the children’s hearing or, as the case may be, proceedings before the sheriff in respect of which it is granted.

### **Compulsory supervision orders and interim compulsory supervision orders**

7.—(1) Where a compulsory supervision order or interim compulsory supervision order contains a requirement of the type mentioned in section 83(2)(a) of the 2011 Act (meaning of “compulsory supervision order”), the place specified in that requirement may be a place in England or Wales.

(2) Where a compulsory supervision order or interim compulsory supervision order contains a direction of the type mentioned in section 83(2)(b) of the 2011 Act and the place at which the child is required to reside in accordance with the order is a place in England or Wales, the order is authority for the person in charge of that place to restrict the child’s liberty to the extent that the person considers appropriate having regard to the measures included in the order.

### **Child absconding from place**

8.—(1) This article applies where—

(a) a child requires to be kept in a particular place by virtue of—

- (i) a child assessment order;
- (ii) a child protection order;
- (iii) an order under section 55 of the 2011 Act;
- (iv) section 56 of the 2011 Act;
- (v) section 65 of the 2011 Act;
- (vi) a compulsory supervision order;
- (vii) an interim compulsory supervision order;
- (viii) a medical examination order;
- (ix) a warrant to secure attendance; or
- (x) section 143 of the 2011 Act; and

(b) the child absconds from that place or, at the end of a period of leave, fails to return to that place and is in another place and that other place is in England, Wales or Northern Ireland.

(2) The child may be arrested without warrant and taken to the place mentioned in paragraph (1).

(3) If a court is satisfied that there are reasonable grounds for believing that the child is within premises in that court’s jurisdiction, the court may grant a warrant authorising a constable to—

- (a) enter those premises; and
- (b) search for the child.

(4) The court may authorise the constable to use reasonable force for those purposes.

(5) Where the child is returned to the place mentioned in paragraph (1), but the occupier of that place is unwilling or unable to receive the child—

- (a) the constable returning the child must immediately notify the Principal Reporter(18) of that fact; and
- (b) the child must be kept in a place of safety until the occurrence of the relevant event.

(6) In paragraph (5), the relevant event is—

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(18) Section 14 of the 2011 Act provides that there continues to be an officer known as the Principal Reporter.

- (a) in the case mentioned in paragraph (1)(a)(i), the end of the period specified in the child assessment order;
- (b) in the case mentioned in paragraph (1)(a)(ii), whichever of the following first occurs—
  - (i) the children’s hearing arranged under section 45 or 69 of the 2011 Act; or
  - (ii) the termination of the child protection order;
- (c) in the case mentioned in paragraph (1)(a)(iii), whichever of the following first occurs—
  - (i) the order ceasing to have effect under section 55(4) or (5) of the 2011 Act; or
  - (ii) the determination by the sheriff of an application for a child protection order in respect of the child;
- (d) in the case mentioned in paragraph (1)(a)(iv), whichever of the following first occurs—
  - (i) the giving of notice under section 56(5) of the 2011 Act; or
  - (ii) the end of the period mentioned in section 56(3) of that Act;
- (e) in the case mentioned in paragraph (1)(a)(v), whichever of the following first occurs—
  - (i) the giving of a direction by the Principal Reporter under section 68(2) or 72(2)(a) of the 2011 Act; or
  - (ii) the children’s hearing arranged by virtue of section 69(2) of the 2011 Act;
- (f) in the case mentioned in paragraph (1)(a)(vi), the children’s hearing arranged by virtue of section 131(2)(b) of the 2011 Act;
- (g) in the cases mentioned in paragraph (1)(a)(vii) and (ix), whichever of the following first occurs—
  - (i) the next children’s hearing that has been arranged in relation to the child; or
  - (ii) the next hearing before the sheriff relating to the child that is to take place by virtue of the 2011 Act; or
- (h) in the cases mentioned in paragraph (1)(a)(viii) and (x), the next children’s hearing that has been arranged in relation to the child.

### **Child absconding from person**

- 9.—(1) This article applies where—
- (a) a person has (or is authorised to have) control of a child by virtue of—
    - (i) a child assessment order;
    - (ii) a child protection order;
    - (iii) an order under section 55 of the 2011 Act;
    - (iv) section 56 of the 2011 Act;
    - (v) section 65 of the 2011 Act;
    - (vi) a compulsory supervision order;
    - (vii) an interim compulsory supervision order;
    - (viii) a medical examination order;
    - (ix) a warrant to secure attendance; or
    - (x) section 143 of the 2011 Act; and
  - (b) the child absconds from that person and the child is in a place in England, Wales or Northern Ireland.
- (2) The child may be arrested without warrant and taken to that person.

- (3) If a court is satisfied that there are reasonable grounds for believing that the child is within premises in that court's jurisdiction, the court may grant a warrant authorising a constable to—
- (a) enter those premises; and
  - (b) search for the child.
- (4) The court may authorise the constable to use reasonable force for those purposes.
- (5) Where the child is returned to the person mentioned in paragraph (1), but the person is unwilling or unable to receive the child—
- (a) the constable returning the child must immediately notify the Principal Reporter of that fact; and
  - (b) the child must be kept in a place of safety until the occurrence of the relevant event.
- (6) In paragraph (5), the relevant event is—
- (a) in the case mentioned in paragraph (1)(a)(i), the end of the period specified in the child assessment order;
  - (b) in the case mentioned in paragraph (1)(a)(ii), whichever of the following first occurs—
    - (i) the children's hearing arranged under section 45 or 69 of the 2011 Act; or
    - (ii) the termination of the child protection order;
  - (c) in the case mentioned in paragraph (1)(a)(iii), whichever of the following first occurs—
    - (i) the order ceasing to have effect under section 55(4) or (5) of the 2011 Act; or
    - (ii) the determination by the sheriff of an application for a child protection order in respect of the child;
  - (d) in the case mentioned in paragraph (1)(a)(iv), whichever of the following first occurs—
    - (i) the giving of notice under section 56(5) of the 2011 Act; or
    - (ii) the end of the period mentioned in section 56(3) of that Act;
  - (e) in the case mentioned in paragraph (1)(a)(v), whichever of the following first occurs—
    - (i) the giving of a direction by the Principal Reporter under section 68(2) or 72(2)(a) of the 2011 Act; or
    - (ii) the children's hearing arranged by virtue of section 69(2) of the 2011 Act;
  - (f) in the case mentioned in paragraph (1)(a)(vi), the children's hearing arranged by virtue of section 131(2)(b) of the 2011 Act;
  - (g) in the cases mentioned in paragraph (1)(a)(vii) and (ix) whichever of the following first occurs—
    - (i) the next children's hearing that has been arranged in relation to the child; or
    - (ii) the next hearing before the sheriff relating to the child that is to take place by virtue of the 2011 Act; or
  - (h) in the cases mentioned in paragraph (1)(a)(viii) and (x), the next children's hearing that has been arranged in relation to the child.

### **Offences relating to absconding**

- 10.—**(1) This article applies where—
- (a) a child requires to be kept in a particular place by virtue of—
    - (i) a child assessment order;
    - (ii) a child protection order;

- (iii) a compulsory supervision order;
  - (iv) an interim compulsory supervision order;
  - (v) a medical examination order; or
  - (vi) a warrant to secure attendance; or
- (b) a person has (or is authorised to have) control of a child by virtue of such an order or warrant.
- (2) A person commits an offence if the person—
- (a) knowingly assists or induces the child to abscond from the place or person (mentioned in paragraph (1));
  - (b) knowingly harbours or conceals a child who has absconded from that place or person; or
  - (c) knowingly prevents a child from returning to that place or person.
- (3) The person is liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding 3 months, or to both.
- (4) This article is subject to—
- (a) section 38(3) and (4) of the 1995 Act;
  - (b) section 51(5) and (6) of the 1989 Act; and
  - (c) Article 70(5) and (6) of the 1995 Order.

#### **Offence of intentional obstruction**

- 11.**—(1) A person commits an offence if the person intentionally obstructs—
- (a) a person acting under a child assessment order;
  - (b) a person acting under a child protection order;
  - (c) a person acting under an order under section 55 of the 2011 Act; or
  - (d) a constable acting under section 56(1) of the 2011 Act.
- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Publishing restrictions**

- 12.**—(1) A person must not publish protected information if the publication of the information is intended, or is likely, to identify—
- (a) a child mentioned in the protected information; or
  - (b) an address or school as being that of such a child.
- (2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) It is a defence for a person (“P”) charged with a contravention of paragraph (1) to show that P did not know or have reason to suspect that the publication of the protected information was likely to identify a child mentioned in the protected information, or, as the case may be, an address or school of such a child.
- (4) The prohibition in paragraph (1) does not apply in relation to the publication, by or on behalf of a local authority or an adoption agency, of information about a child for the purposes of making

arrangements in relation to the child under the 2011 Act or the Adoption and Children (Scotland) Act 2007<sup>(19)</sup>.

(5) In paragraph (4), “adoption agency” has the meaning given by the Adoption and Children (Scotland) Act 2007.

(6) In this article—

“protected information” means—

(a) information in relation to—

- (i) a children’s hearing or a pre-hearing panel;
- (ii) an appeal against a decision of a children’s hearing or a determination of a pre-hearing panel;
- (iii) proceedings before the sheriff under Part 10 or 15 of the 2011 Act; or
- (iv) an appeal from any decision of the sheriff or sheriff principal made under the 2011 Act; and

(b) information given to the Principal Reporter in respect of a child in reliance on, or satisfaction of, a provision of the 2011 Act or any other enactment; and

“publish” includes in particular—

- (a) to publish matter in a programme service, as defined by section 201 of the Broadcasting Act 1990<sup>(20)</sup>; and
- (b) to cause matter to be published.

### **Transfer of child from Scotland to England or Wales: effect of compulsory supervision order**

**13.**—(1) This article applies where—

- (a) a child is subject to a compulsory supervision order and notification is given under section 134(2) of the 2011 Act (duty to initiate review if child taken out of Scotland) that it is proposed to move the child to England or Wales;
- (b) a children’s hearing continues the compulsory supervision order under section 138 of the 2011 Act (powers of children’s hearing on review) following a review initiated under section 134(3) of that Act;
- (c) the Principal Reporter has notified in writing the local authority in England or Wales under whose care, supervision or education supervision the child would be, and in whose area it is proposed the child will reside, after the proposed transfer; and
- (d) the local authority has consented to the proposed transfer by informing the Principal Reporter in writing.

(2) The 1989 Act applies, in relation to a compulsory supervision order to which section 145(1) of the 2011 Act applies (duty where order requires child to reside in certain place), as it applies in relation to a supervision order (as defined in section 31(11) of the 1989 Act).

(3) The 1989 Act applies, in relation to a compulsory supervision order to which section 145(1) of the 2011 Act does not apply, as it applies in relation to a care order (as defined in section 31(11) of the 1989 Act).

(4) The 1989 Act applies, in relation to a compulsory supervision order which falls within paragraph (5), as it applies in relation to an education supervision order (as defined in section 36(2) of the 1989 Act).

(5) A compulsory supervision order falls within this paragraph if—

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<sup>(19)</sup> 2007 asp 4.

<sup>(20)</sup> 1990 c.42.

- (a) the child to whom the order relates is of compulsory school age (as determined in accordance with section 8 of the Education Act 1996); and
  - (b) the order was made after acceptance or establishment of the ground mentioned in section 67(2)(o) of the 2011 Act (failure to attend school regularly).
- (6) Where paragraph (2), (3) or (4) applies, the compulsory supervision order ceases to have effect for the purposes of the law of Scotland.
- (7) The reference in paragraph (5)(b) to the ground mentioned in section 67(2)(o) of the 2011 Act being accepted or established includes a reference to the ground being accepted or established by virtue of section 70(2)(a) (requirement under Antisocial Behaviour etc. (Scotland) Act 2004) or 71(3)(a) (case remitted under section 49 of the Criminal Procedure (Scotland) Act 1995) of the 2011 Act.

### **Transfer of child from Scotland to Northern Ireland: effect of compulsory supervision order**

**14.**—(1) This article applies where—

- (a) a child is subject to a compulsory supervision order (other than where the only ground which is established is that listed in section 67(2)(j) of the 2011 Act (offence ground)) and notification is given under section 134(2) of that Act that it is proposed to move the child to Northern Ireland;
  - (b) a children’s hearing continues the compulsory supervision order under section 138 of the 2011 Act following a review initiated under section 134(3) of that Act;
  - (c) the Principal Reporter has notified in writing the local authority in Northern Ireland, under whose care, supervision or education supervision the child will be, and in whose area it is proposed the child will reside, of the proposed transfer; and
  - (d) the local authority has consented to the proposed transfer by informing the Principal Reporter in writing.
- (2) The 1995 Order applies, in relation to a compulsory supervision order to which section 145(1) of the 2011 Act applies as it applies in relation to a supervision order as defined in Article 49(1) of the 1995 Order.
- (3) The 1995 Order applies, in relation to a compulsory supervision order to which section 145(1) of the 2011 Act does not apply, as it applies in relation to a care order (as defined in Article 49(1) of the 1995 Order).
- (4) The 1995 Order applies, in relation to a compulsory supervision order which falls within paragraph (5), as it applies in relation to an education supervision order (as defined in Article 49(1) of the 1995 Order).
- (5) A compulsory supervision order falls within this paragraph if—
- (a) the child to whom the order relates is of compulsory school age within the meaning of Article 46 of the 1986 Order<sup>(21)</sup>; and
  - (b) the order was made after acceptance or establishment of the ground mentioned in section 67(2)(o) of the 2011 Act.
- (6) Where paragraph (2), (3) or (4) applies, the compulsory supervision order ceases to have effect for the purposes of the law of Scotland.
- (7) The reference in paragraph (5)(b) to the ground mentioned in section 67(2)(o) of the 2011 Act being accepted or established includes a reference to the ground being established by virtue of section 70(2)(a) (requirement under Antisocial Behaviour etc. (Scotland) Act 2004) or 71(3)(a) (case remitted under section 49 of the Criminal Procedure (Scotland) Act 1995) of the 2011 Act.

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(21) Article 46 was substituted by article 156 of [S.I. 1989/2406 \(N.I. 20\)](#).

### **Transfer of child from England, Wales or Northern Ireland to Scotland: effect of orders made in England, Wales and Northern Ireland**

15.—(1) Where regulation 3(2) or 4(2) (effect of orders made in England and Wales) of the Children’s Hearings (Scotland) Act 2011 (Transfer of Children to Scotland – Effect of Orders made in England, Wales and Northern Ireland) Regulations 2013(22) applies, the care order, supervision order or education supervision order ceases to have effect for the purposes of the law of England and Wales.

(2) Where regulation 5(2) or 6(2) (effect of orders made in Northern Ireland) of the Children’s Hearings (Scotland) Act 2011 (Transfer of Children to Scotland – Effect of Orders made in England, Wales and Northern Ireland) Regulations 2013 applies, the care order, supervision order or education supervision order ceases to have effect for the purposes of the law of Northern Ireland.

### **Child placed in secure accommodation: decision of the head of unit**

16.—(1) This article applies where—

- (a) a child is subject to a relevant order or warrant that includes a secure accommodation authorisation; and
- (b) the person in charge of the residential establishment containing the secure accommodation in which the child is to be placed (the “head of unit”) has been consulted by the chief social work officer and has received notice of the chief social work officer’s decision to place the child in secure accommodation and the reasons for making that decision.

(2) The head of unit must, in coming to a decision on whether to consent to the placement of the child in secure accommodation, comply with the requirements in paragraph (3)(a) and, having made the decision, comply with the requirements in paragraph (3)(b) and (c).

(3) The requirements are—

- (a) to assess whether placement in secure accommodation within the residential establishment managed by the head of unit would—
  - (i) be appropriate to the child’s needs, having regard to that establishment’s statement of purpose; and
  - (ii) not, in the opinion of the head of unit, be detrimental to the other children residing in that unit;
- (b) to record—
  - (i) the decision; and
  - (ii) the reasons for reaching that decision; and
- (c) to send the chief social work officer, within 48 hours from receiving notification of the chief social work officer’s decision to place the child in secure accommodation, notice of the head of unit’s decision and reasons for reaching that decision.

(4) In this article—

- (a) “relevant order or warrant” means—
  - (i) a compulsory supervision order;
  - (ii) an interim compulsory supervision order; or
  - (iii) a warrant to secure attendance;
- (b) “secure accommodation authorisation” has the meaning given by section 85 of the 2011 Act; and

- (c) references to the chief social work officer are to the chief social work officer who may implement a secure accommodation authorisation under section 151 of the 2011 Act.

**Modifications: general**

17.—(1) The modifications in Parts 1 and 2 of Schedule 1 have effect.

(2) The enactments specified in Part 3 of Schedule 1 are repealed or, as the case may be, revoked to the extent specified.

**Modifications extending to England and Wales and Northern Ireland**

18.—(1) The modifications in Part 1 of Schedule 2 have effect.

(2) The enactments specified in Part 2 of Schedule 2 are repealed or, as the case may be, revoked to the extent specified.

**Modifications extending to Scotland and England and Wales**

19. The modifications in Schedule 3 have effect.

**Repeal extending to England and Wales**

20. Section 70(4) of the 1995 Act is repealed.

Dover House,  
London  
11th June 2013

*David Mundell*  
Parliamentary Under Secretary of State  
Scotland Office