STATUTORY INSTRUMENTS

1984 No. 100 (S. 6)

CHILDREN AND YOUNG PERSONS

LOCAL GOVERNMENT, SCOTLAND

The Children's Hearings (Scotland) (Amendment—Secure Accommodation etc.) Rules 1984

Made - - - -	*27th January* 1984
Coming into Operation	*30th January* 1984

In exercise of the powers conferred on me by sections 35(4) and (5), 36(8) and 44(8) and 94(1) of the Social Work (Scotland) Act 1968(**a**) and of all other powers enabling me in that behalf, and after consultation with the Council on Tribunals, I hereby make the following rules:—

Citation and commencement

1. These Rules may be cited as the Children's Hearings (Scotland) (Amendment—Secure Accommodation etc.) Rules 1984 and shall come into operation on 30th January 1984.

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 2 of the principal Rules

3. In rule 2(1) of the principal Rules (interpretation) there shall be inserted at the appropriate place in alphabetical order, the following entries:—

" "the 1983 regulations" means the Secure Accommodation (Scotland) Regulations 1983(**c**);";

" "secure accommodation" means accommodation provided in a residential establishment in accordance with the 1983 regulations for the purpose of restricting the liberty of children.".

(**a**) 1968 c. 49; section 35(5) was amended by the Children Act 1975 (c. 72), Schedule 3, paragraph 55; section 94(1) was amended by the Children and Young Persons Act 1969 (c. 54), Schedule 5, paragraph 64(1)*(b)*.
(**b**) S.I. 1971/492, amended by S.I. 1983/1424.
(**c**) S.I. 1983/1912.

Amendment of rule 6 of principal Rules

4. In rule 6(1) of the principal Rules (notification of hearings to chairman and members)—

(a) at the begining there shall be inserted the words "Subject to the 1983 regulations,"; and

(b) after the words "the hearing and" there shall be inserted the words ", subject as aforesaid".

Amendment of rule 7 of the principal Rules

5.—(1) After subparagraph *(a)* of rule 7(1) of the principal Rules (notification of hearings to children) there shall be inserted the following subparagraph:—

"*(aa)* to consider and determine under Part III of the Act in pursuance of a referral, the case of a child placed in secure accommodation under regulation 7 or 9 of the 1983 regulations; or".

(2) In subparagraph *(b)* of that rule, for the words "the Act; or" there shall be substituted the words "the Act or placed in secure accommodation under regulation 6 of the 1983 regulations; or".

(3) After subparagraph *(c)* of that rule there shall be inserted the following subparagraph:—

"*(cc)* to review a condition imposed under section 58A(3) of the Act(**a**) with respect to residence in secure accommodation, being a review required by a child under regulation 12 of the 1983 regulations; or".

(4) In rule 7(2) of the principal Rules, after the words "the reporter shall," there shall be inserted the words "subject to the 1983 regulations,".

Amendment of rule 8 of principal Rules

6. In rule 8(4) of the principal Rules (notification of hearings to parents etc.) after the word "and" there shall be inserted the words ", subject to the 1983 regulations".

Amendment of rules 9 and 13 of principal Rules

7. In the principal Rules, in each of rule 9(3)*(a)* (functions of chairman of children's hearing) and rule 13(1) (application of Part IV of the principal Rules), after the words "supervision requirement" there shall be inserted the words "or a condition imposed under section 58A(3) of the Act with respect to residence in secure accommodation".

Amendment of rule 14 of principal Rules

8. In rule 14(1) of the principal Rules (notification of statement of grounds

(**a**) 1968 c. 49; section 58A(3) was inserted by section 8(4) of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

of referral), at the beginning of subparagraph *(b)* there shall be inserted the words "subject to the 1983 regulations,".

Amendment of rule 18 of, and Schedule to, principal Rules

9.—(1) In rule 18(2) of the principal Rules (notification of decisions of hearings), for the words "Form 7 or Form 8" there shall be substituted the words "Form 7, 8, 8A or 8B".

(2) After Form 8 in the Schedule to the principal Rules, there shall be inserted as Form 8A and Form 8B the Forms respectively bearing those numbers set out in Schedule 1 to these Rules.

Amendment of rule 21 of principal Rules

10. At the beginning of rule 21 of the principal Rules (social background report where child in interim detention) there shall be inserted the words "Subject to the 1983 regulations,".

Amendment of rule 22(1) of, and Schedule to, principal Rules

11.—(1) At the beginning of paragraph (1) of rule 22 of the principal Rules (form of supervision requirement) there shall be inserted the words "Subject to paragraph (1A) below,".

(2) After that paragraph (1) there shall be inserted the following paragraph:—

"(1A) A supervision requirement under section 44(1) of the Act with a condition under section 58A(3) of the Act (residence in secure accommodation) shall be in the form of Form 10A.".

(3) After Form 10 in the Schedule to the principal Rules there shall be inserted as Form 10A the Form bearing that number set out in Schedule 1 to these Rules.

Amendment of rule 22(2) of, and Schedule to, principal Rules

12.—(1) At the beginning of paragraph (2) of rule 22 of the principal Rules (form of variation supervision requirement) there shall be inserted the words "Subject to paragraph (2A) below,".

(2) After that paragraph (2) there shall be inserted the following paragraph:—

"(2A) A supervision requirement under section 44(1) of the Act, as so applied, and with a condition under section 58A(3) of the Act, shall be in the form of Form 11A.".

(3) After Form 11 in the Schedule to the principal Rules there shall be inserted as Form 11A the Form bearing that number set out in Schedule 1 to these Rules.

Amendment of rule 23 of principal Rules

13. In rule 23(1) of the principal Rules (procedure relating to warrants etc.) before the words "or a" there shall be inserted the words "or a warrant under regulation 11 of the 1983 regulations (authorisation of detention in secure accommodation under section 58B(3) of the Act)".

Amendment of rule 25(1) of, and Schedule to, principal Rules

14.—(1) At the beginning of paragraph (1) of rule 25 of the principal Rules (forms of warrants under section 37(4) and (5) of the Act) there shall be inserted the words "Subject to paragraph (1A) below,".

(2) After that paragraph (1) there shall be inserted the following paragraph:—

"(1A) A warrant under the said section 37(4) authorising detention in secure accommodation under section 58E of the Act(**a**) and a warrant under the said section 37(5) authorising such detention shall be in the form of Forms 15A and 16A respectively.".

(3) After Form 15 in the Schedule to the principal Rules there shall be inserted as Form 15A the Form bearing that number set out in Schedule 1 to these Rules; and after Form 16 in the first mentioned Schedule there shall be inserted as Form 16A the Form bearing that number as so set out.

Amendment of rule 25(2) of, and Schedule to, principal Rules

15.—(1) At the beginning of paragraph (2) of rule 25 (form of warrant for apprehension) there shall be inserted the words "Subject to paragraph (2A) below,".

(2) After that paragraph (2) there shall be inserted the following paragraph:—

"(2A) A warrant under the said section 40(4) authorising detention in secure accommodation under the said section 58E shall be in the form of Form 17A.".

(3) After Form 17 in the Schedule to the principal Rules there shall be inserted as Form 17A the Form bearing that number set out in Schedule 1 to these Rules.

Amendment of rule 25(3) of, and Schedule to, principal Rules

16.—(1) At the beginning of paragraph (3) of rule 25 (form of warrant under section 40(7) and (8) of the Act) there shall be inserted the words "Subject to paragraph (4) below,".

(2) After that paragraph (3) there shall be inserted the following paragraphs:—

(**a**) 1968 c. 49; section 58E was inserted by section 8(4) of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

"(4) A warrant under the said section 40(7) authorising detention in secure accommodation under the said section 58E and a warrant under the said 40(8) authorising such detention shall be in the form of Forms 18A and 19A respectively.

(5) A warrant under regulation 11 of the 1983 regulations (authorisation of detention in secure accommodation under section 58B(3) of the Act) shall be in the form of Form 19B.".

(3) For Form 18 in the Schedule to the principal Rules there shall be substituted the Form bearing that number set out in Schedule 2 to these Rules.

(4) After Form 18 in the Schedule to the principal Rules there shall be inserted as Form 18A the Form bearing that number set out in Schedule 1 to these Rules; and after Form 19 in the first mentioned Schedule there shall be inserted as Forms 19A and 19B the Forms respectively bearing those numbers as so set out.

George Younger,
One of Her Majesty's
Principal Secretaries of State.

New St Andrews House,
Edinburgh.
27th January 1984.

SCHEDULE 1 Rules 9(2), 11(3), 12(3), 14(3), 15(3) and 16(4)

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

FORM 8A Rule 18

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OR PARENT OF DECISION OF CHILDREN'S HEARING AT A REVIEW OF A SUPERVISION REQUIREMENT INVOLVING THE IMPOSITION, VARIATION OR CONTINUATION OF A CONDITION AUTHORISING PLACEMENT IN SECURE ACCOMMODATION

To (*name and address of parent/child**)

On (*date*) a children's hearing for (*local authority area*), after reviewing the supervision requirement dated ( ) relating to [you]* [name of child]* and being satisfied [that [you have]* [your child has]* a history of absconding and are/is* likely to abscond unless kept in secure accommodation and that if [you abscond]* [your child absconds]* it is likely that you/your child's* physical, mental or moral welfare will be at risk]* [that [you are]* [your child is]* likely to injure [yourself]* [himself]* [herself]* or other persons unless kept in secure accommodation]*, decided (*here specify the decision in question to include the decision with respect to the condition about secure accommodation*).

You or your parent/child* may appeal to the sheriff against the decision within a period of three weeks from the date of the decision.

You may ask me for a statement of the reasons for the decision of the children's hearing.

(*Address of Reporter*)

(*Date*)

.....
(Reporter)* (on behalf of the Reporter)*

*Delete as appropriate.

FORM 8B Rule 18

SOCIAL WORK (SCOTLAND) ACT 1968

NOTIFICATION TO CHILD OR PARENT OF DECISION OF CHILDREN'S HEARING AT A REVIEW OF SECURE ACCOMMODATION CONDITION SEPARATE FROM A REVIEW OF A SUPERVISION REQUIREMENT

To (*name and address of parent/child**)

On (*date*) a children's hearing for (*local authority area*), after reviewing the condition about residence in secure accommodation contained in the supervision requirement dated ( ) relating to [you]* [name of child]* and [not]* being satisfied [that [you have]* [your child has]* a history of absconding and are/is* likely to abscond unless kept in secure accommodation and that if [you abscond]* [your child absconds]* it is likely that you/your child's* physical, mental or moral welfare will be at risk]* [that [you are]* [your child is]* likely to injure [yourself]* [himself]* [herself]* or other persons unless kept in secure accommodation]*, decided (*here specify the decision in question with respect to the condition about secure accommodation*).

You or your parent/child* may appeal to the sheriff against the decision within a period of 3 weeks from the date of the decision.

You may ask me for a statement of the reasons for the decision of the children's hearing.

(*Address of Reporter*)

(*Date*)

.....
(Reporter)* (on behalf of the Reporter)*

*Delete as appropriate.

FORM 10A Rule 22

SOCIAL WORK (SCOTLAND) ACT 1968

SUPERVISION REQUIREMENT AUTHORISING PLACEMENT IN SECURE ACCOMMODATION

(*Place and date*)

A children's hearing for (*local authority area*) in exercise of the powers conferred by sections 44(1)*(b)* and 58A(3) of the Social Work (Scotland) Act 1968 being satisfied (firstly) that (*child's name and address*) is in need of compulsory measures of care, and (secondly) [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]*, require him/her* to reside in (*name of residential establishment providing secure accommodation*) subject to the conditions noted below.

[The operation of this supervision requirement is postponed until (*specify date*).]*

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

CONDITIONS REFERRED TO IN THE FOREGOING SUPERVISION REQUIREMENT

1. The child is liable to be placed and kept in secure accommodation in (*name of residential establishment*) 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 do so.

2. The child is required to observe the rules of conduct of the residential establishment.

3. Subject to condition 1 above, the requirement to reside is subject to the discretion of the managers of the residential establishment to grant leave of absence from time to time.

4. etc.

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

*Delete as appropriate.

FORM 11A Rule 22

SOCIAL WORK (SCOTLAND) ACT 1968

VARIATION SUPERVISION REQUIREMENT AUTHORISING PLACEMENT IN SECURE ACCOMMODATION

(*Place and date*)

A children's hearing for (*local authority area*) by way of variation of [and in substitution for]* the supervision requirement dated (*date of previous supervision requirement*) to which (*name and address of child*) is subject, being satisfied that [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]*, hereby require him/her* to reside in (*name of residential establishment providing secure accommodation*) subject to the conditions noted below and the said requirement dated is hereby revoked.

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

CONDITIONS REFERRED TO IN THE FOREGOING SUPERVISION REQUIREMENT

1. The child is liable to be placed and kept in secure accommodation in (*name of residential establishment*) 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 do so.

2. The child is required to observe the rules of conduct of the residential establishment.

3. Subject to condition 1 above, the requirement to reside is subject to the discretion of the managers of the residential establishment to grant leave of absence from time to time.

4. etc.

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

*Delete as appropriate.

FORM 15A Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION IN 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 for the detention of the said (*name*) in secure accommodation 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.

.....
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 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*) for his/her* detention in secure accommodation in (*name of residential establishment providing the secure accommodation*).

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

*Delete as appropriate.

FORM 17A Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR APREHENSION AND DETENTION IN 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 for his/her* detention in secure accommodation in (*name of residential establishment providing the secure accommodation*).

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

*Delete as appropriate.

FORM 18A Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION IN 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, [having reason to believe that (*child's name and address*) may [not attend at 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 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 for the said (*name*) to be detained in secure accommodation in (*name of residential establishment providing the secure accommodation*) from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive.

.....
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 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*) for the detention of the said (*name*) in secure accommodation in (*name of residential establishment providing the secure accommodation*).

.....
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 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 for the said (*name*) to be [detained]* [further detained]* in secure accommodation from (*date*) to (*date*) (*insert period not exceeding 21 days*) both days inclusive, 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.

Rule 16(3) SCHEDULE 2

Form to be substituted for Form 18 in the Schedule to the principal Rules—

FORM 18 Rule 25

SOCIAL WORK (SCOTLAND) ACT 1968

WARRANT FOR DETENTION UNDER SECTION 40(7) OF THE ACT

(*Place and date*)

A children's hearing for (*local authority area*), in exercise of the powers conferred on them by section 40(7) of the Social Work (Scotland) Act 1968, [having reason to believe that (*child's name and address*) may [not attend at 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* interest]*, grant warrant for the said (*name*) to be detained in a suitable place of safety chosen by the local authority for a period not exceeding 21 days from this date.

.....
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 consequential on the making of the Secure Accommodation (Scotland) Regulations 1983. They contain modifications in respect of procedures at hearings involving placement or detention of children in secure accommodation and prescribe special forms for use in relation to a children's hearing authorising in a supervision requirement or under a warrant a child's placement or detention in secure accommodation.

The Rules also substitute a new Form 18 (form of warrant for detention under section 40(7) of the Social Work (Scotland) Act 1968) in the Schedule to the 1971 Rules.

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