

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – Investigation and Referral to Children's Hearing

Provision of information to Principal Reporter

Section 60 – Local authority's duty to provide information to Principal Reporter

63. This section relates to the duties of the local authority to make inquiries into the child's circumstances where the local authority considers (i) that a child in its area is in need of protection, guidance, treatment or control and (ii) that the child might be in need of compulsory measures of supervision. Where both these conditions are satisfied then the local authority must make all necessary inquiries and give any information that it has about the child to the Principal Reporter.

Section 61 – Constable's duty to provide information to Principal Reporter

64. **Section 61(1)** and **(2)** relate to the duties of the police to provide information to the Principal Reporter where the police consider that a child is in need of protection, guidance, treatment or control and that a compulsory supervision order might be necessary in respect of the child. **Subsection (3)** relates to the duty of the police to provide information to the Principal Reporter when the police have reported the commission of an offence that relates to a child to the Procurator Fiscal. This covers both where the child is the victim or the perpetrator of the alleged offence.

Section 62 – Provision of information by court

65. This section provides for a court to refer a case to the Principal Reporter.
65. A court dealing with matters such as divorce, separation, parental responsibilities or parental rights, adoption, or proceedings against a parent for failing to secure regular attendance by his or her child at school, may, if the court considers that one or more grounds (except for offence grounds) for referral to a hearing might apply, refer the child to the reporter. The court must provide the reporter with a statement setting out which ground the court considers to be relevant and why. Where information is passed on to the reporter under this section, the reporter must investigate and assess whether compulsory measures of supervision is the best course of action for the child. If so, the reporter must arrange a hearing so that the grounds may be put to the child and relevant person.

Section 63 – Provision of evidence from certain criminal cases

66. This section gives the Lord Advocate a power to direct the prosecutor, in certain cases, to provide evidence obtained during a criminal investigation to the Principal Reporter without any request being made by the reporter.

Section 64 – Provision of information by other persons

67. **Section 64** gives other persons the power to provide the reporter with information to support the view that the child is in need of protection, guidance, treatment or control and that a child might be in need of compulsory measures of supervision. This may include a medical practitioner, health visitor, neighbour, youth club leader, friend, nursery or children's centre, or even the child or parents themselves.

Section 65 – Provision of information by constable: child in place of safety

68. This section applies where a child has been detained by the police in a place of safety and it has been decided not to proceed with criminal charges against the child. The police must inform the Principal Reporter of this under section 43(5) of the Criminal Procedure (Scotland) Act 1995. Subsection (2) gives the reporter the power to direct that the child be released from the place of safety or to direct that the child is kept in the place of safety until the reporter determines whether the ground(s) for referral apply to the child and whether it is necessary for a compulsory supervision order to be made. Under section 69(2) the Children's Hearing must be arranged to take place no later than the third working day after the Principal Reporter receives notice under section 43(5) of the Criminal Procedure (Scotland) Act 1995.