



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 5

#### CHILD ASSESSMENT AND CHILD PROTECTION ORDERS

##### *Other emergency measures*

#### **55 Application to justice of the peace**

- (1) A person may apply to a justice of the peace for an order in respect of a child—
  - (a) requiring any person in a position to do so to produce the child to a specified person,
  - (b) authorising the removal of the child by the specified person to a place of safety and the keeping of the child in that place,
  - (c) authorising the prevention of the removal of the child from any place where the child is staying.
- (2) A justice of the peace may make an order under this section if—
  - (a) the justice of the peace is satisfied of—
    - (i) in a case where the applicant for the order is a local authority, the matters mentioned in section 38(2)(a) to (d), or
    - (ii) in a case where the applicant for the order is a local authority or any other person, the matters mentioned in section 39(2)(a) and (b), and
  - (b) the justice of the peace is satisfied that it is not practicable in the circumstances for an application for a child protection order to be made to or considered by the sheriff.
- (3) As soon as practicable after the making of the order, the applicant must inform—
  - (a) the Principal Reporter,
  - (b) the person specified in the order under subsection (1)(a) (unless the person is the applicant).
- (4) The order ceases to have effect at the end of the period of 12 hours beginning with the making of the order if—
  - (a) where the order authorises the removal of the child to a place of safety, the child has not been taken, or is not being taken, to that place within that period,

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- (b) where the order authorises the prevention of the removal of the child from a place where the child is staying, arrangements have not been made within that period to prevent that removal.
- (5) Otherwise, the order ceases to have effect on the earlier of—
  - (a) the end of the period of 24 hours beginning with the making of the order, or
  - (b) the determination by the sheriff of an application to the sheriff for a child protection order in respect of the child.
- (6) The Principal Reporter may, by giving notice to the applicant, terminate the order if—
  - (a) the Principal Reporter is satisfied that the conditions for the making of an order under this section are no longer satisfied, or
  - (b) the Principal Reporter is satisfied that it is no longer in the best interests of the child for the order to continue to have effect.
- (7) In subsection (1), “specified” means specified in the order.

**Commencement Information**

**II** S. 55 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**56 Constable's power to remove child to place of safety**

- (1) A constable may remove a child to a place of safety and keep the child there if—
  - (a) the constable is satisfied—
    - (i) of the matters mentioned in section 39(2)(a), and
    - (ii) that the removal of the child is necessary to protect the child from the harm mentioned there or from further harm, and
  - (b) it is not practicable in the circumstances for an application for a child protection order to be made to or considered by the sheriff.
- (2) As soon as practicable after a constable removes a child under this section, the constable must inform the Principal Reporter.
- (3) The child may not be kept in a place of safety under this section for a period of more than 24 hours.
- (4) The child may not be kept in a place of safety under this section if—
  - (a) a child protection order is in force in respect of the child, or
  - (b) an application has been made to the sheriff for a child protection order or to a justice of the peace for an order under section 55 on the basis of the facts before the constable and that application has been refused.
- (5) The Principal Reporter may, by giving notice to the constable, require the constable to release the child if—
  - (a) the Principal Reporter is satisfied that the conditions for placing the child in a place of safety under this section are no longer satisfied, or
  - (b) the Principal Reporter is satisfied that it is no longer in the best interests of the child to be kept in a place of safety.

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**Commencement Information**

**I2** S. 56 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**57 Sections 55 and 56: regulations**

- (1) The Scottish Ministers may by regulations make further provision in respect of a child removed to or kept in a place of safety—
  - (a) under an order under section 55,
  - (b) under section 56.
- (2) In particular, the regulations may require notice to be given to a person specified in the regulations of—
  - (a) the removal of the child to the place of safety,
  - (b) the location of the place of safety,
  - (c) an order under section 55 ceasing to have effect by virtue of subsection (4) or (5) of that section.

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**Commencement Information**

**I3** S. 57 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)