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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 150**

**The Children's Hearings (Scotland) Act 2011 (Transitional, Savings and Supplementary Provisions) Order 2013**

**PART 2**

**GENERAL PROVISIONS**

**Proceedings in progress under the 1995 Act**

2.—(1) Subject to paragraphs (3) and (4) and the following provisions of this Order, the enactments specified in paragraph (2) continue to apply for all purposes on and after the relevant date as they would have applied immediately before the relevant date to relevant proceedings in relation to a child which have commenced but on the relevant date have not concluded, until those proceedings have concluded.

(2) The enactments specified for the purposes of paragraph (1) are—

- (a) the 1995 Act;
- (b) any subordinate legislation made wholly or partly under the 1995 Act;
- (c) section 29 of the 1986 Act; and
- (d) the Legal Aid (Scotland) (Children) Regulations 1997(1).

(3) Section 48 (transfer of case to another children's hearing) of the 1995 Act does not apply to relevant proceedings falling within paragraph (1).

(4) Paragraph (2)(b) does not include any rules of court made by Act of Sederunt under section 91 of the 1995 Act and—

- (a) section 5 of the Court of Session Act 1988(2) (power to regulate procedure etc. by Act of Sederunt); or
- (b) section 32 of the Sheriff Courts (Scotland) Act 1971(3) (power of Court of Session to regulate civil procedure in sheriff court).

(5) Where any enactment that contains provision applicable to relevant proceedings is repealed or modified, such repeal or modification does not have effect for the purposes of those relevant proceedings until those proceedings have concluded.

**Concurrent proceedings in relation to the same child**

3. Where after the relevant date a child is the subject of ongoing relevant proceedings under the 1995 Act by virtue of article 2 and further proceedings are to be brought in relation to that child, the 1995 Act applies to those further proceedings until they have concluded.

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(1) S.I. 1997/690.  
(2) 1988 c.36.  
(3) 1971 c.58.

### **Selection of children's hearing**

4.—(1) Despite article 2, a children's hearing held on or after the relevant date must be constituted in accordance with section 5 of the 2011 Act (children's hearing) from members of the Children's Panel appointed under section 4 of that Act and a hearing so constituted is to be treated for all purposes as if it were a children's hearing constituted under the 1995 Act for relevant proceedings that have commenced before the relevant date.

(2) Nothing in this Order affects the repeal of section 39 (formation of children's panel and children's hearings) of and paragraphs 1 and 2 (appointment), 9(a) (recruitment and training of panel members), 11(a) (expenses of panel members) and 12 (publication of list of members of children's panel) of Schedule 1 to the 1995 Act.

### **The Antisocial Behaviour etc. (Scotland) Act 2004**

#### **5. Where—**

- (a) before the relevant date the sheriff has required the Principal Reporter to refer a child's case to a children's hearing under section 12(1) of the Antisocial Behaviour etc. (Scotland) Act 2004<sup>(4)</sup> (sheriff's power to refer case to children's hearing); and
- (b) on the relevant date the Principal Reporter has not yet done so,

relevant proceedings are deemed to have commenced when the requirement mentioned in paragraph (a) is made.

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(4) 2004 asp 8.