



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART V

#### CHILDREN AND YOUNG PERSONS

#### 49 Reference or remit to children's hearing.

- (1) Where a child who is not subject to a [<sup>F1</sup>compulsory supervision order or interim compulsory supervision order] pleads guilty to, or is found guilty of, an offence the court—
  - (a) instead of making an order on that plea or finding, may remit the case to the Principal Reporter to arrange for the disposal of the case by a children's hearing; or
  - (b) on that plea or finding may request the Principal Reporter to arrange a children's hearing for the purposes of obtaining their advice as to the treatment of the child.
- (2) Where a court has acted in pursuance of paragraph (b) of subsection (1) above, the court, after consideration of the advice received from the children's hearing may, as it thinks proper, itself dispose of the case or remit the case as mentioned in paragraph (a) of that subsection.
- (3) Where a child who is subject to a [<sup>F2</sup>compulsory supervision order or interim compulsory supervision order] pleads guilty to, or is found guilty of, an offence the court dealing with the case if it is—
  - (a) the High Court, may; and
  - (b) the sheriff [<sup>F3</sup>JP court] , shall,  
request the Principal Reporter to arrange a children's hearing for the purpose of obtaining their advice as to the treatment of the child, and on consideration of that advice may, as it thinks proper, itself dispose of the case or remit the case as mentioned in subsection (1)(a) above [<sup>F4</sup>except that where [<sup>F5</sup>section 51A of the Firearms Act 1968 or section 29 of the Violent Crime Reduction Act 2006 applies] it shall itself dispose of the case] .

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 49 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (4) [<sup>F6</sup>Subject to any appeal against any decision to remit made under subsection (1)(a) above or (7)(b) below,] where a court has remitted a case to the Principal Reporter under this section, the jurisdiction of the court in respect of the child shall cease, and his case shall stand referred to a children’s hearing.
- (5) Nothing in this section shall apply to a case in respect of an offence the sentence for which is fixed by law.
- (6) Where a person who is—
- (a) not subject to a [<sup>F7</sup>compulsory supervision order or interim compulsory supervision order] ;
  - (b) over the age of 16; and
  - (c) not within six months of attaining the age of 18,
- is charged summarily with an offence and pleads guilty to, or has been found guilty of, the offence the court may request the Principal Reporter to arrange a children’s hearing for the purpose of obtaining their advice as to the treatment of the person.
- (7) On consideration of any advice obtained under subsection (6) above, the court may, as it thinks proper—
- (a) itself dispose of the case; or
  - (b) where the hearing have so advised, remit the case to the Principal Reporter for the disposal of the case by a children’s hearing.

#### Textual Amendments

- F1** Words in s. 49(1) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 10(5)**
- F2** Words in s. 49(3) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 10(5)**
- F3** Words in s. 49(3)(b) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, **Sch. para. 26(d)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F4** Words in s. 49(3) inserted (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 290(2)**, 336; S.I. 2004/81, **art. 3(2)(b)**
- F5** Words in s. 49(3) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), **Sch. 1 para. 4(2)**; S.I. 2007/858, **art. 2(g)**
- F6** Words in s. 49(4) inserted (1.8.1997) by [1997 c. 48, s. 23\(a\)](#); S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F7** Words in s. 49(6)(a) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 10(5)**

#### Modifications etc. (not altering text)

- C1** S. 49(3): power to amend conferred (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 291(1)(c)**, 336; S.I. 2004/81, **art. 3(2)(b)**

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 49 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)