

**Section 86** – a parental responsibilities order can be granted transferring parental rights and responsibilities of a child to the local authority.

**Section 93** – contains legal definitions for terms such as “relevant person”, “child”, “disabled”, “in need”.

### Other key legislation:

**Schedule 1 offence** – this is an umbrella term used to describe a number of offences against children. These offences are within Schedule 1 of the Criminal Procedures (Scotland) Act 1975.

**Section 12 of Children and Young Person Act 1937** – illegal for a person of 16 years or older to wilfully abandon or neglect a child or young person below the age of 16 of whom they have care of or are in charge of.

**Protection of Children (Scotland) Act 2003** – legislation governing the Disqualified From Working With Children List.

**Protection of Children and Prevention of Sexual Offences (Scot) Act 2005** – creates “grooming” offence – when someone develops relationships with children and young people for the purpose of gaining their trust and manipulating them into vulnerable situations where they can be abused. The offence is complete when the person meets or sets out to meet the child with the intention in engaging in sexual activity with or in the presence of the child or after the meeting.

### Age of Legal Capacity (Scotland) Act 1991

This gives children under 16 years the right to consent to any surgical, medical or dental treatment or procedure so long as the child is capable of understanding the nature and consequences of the proposed treatment or procedure.

# Child Care Law

## Children (Scotland) Act 1995 – key sections:

### Section 22: Promotion of welfare of children in need

The local authority has a duty to safeguard and promote the welfare of children in need and such services may include giving assistance in kind or in cash.

### Section 25: Provision of accommodation for children

Commonly referred to as “voluntary accommodation”, the local authority have a duty to provide accommodation for children whose parents are unable to; where a child is lost or abandoned or where no one has parental responsibility for the child.



## **Section 52: Grounds for referral to the Reporter – child may be in need of compulsory measures of supervision because they:**

### **52(2)**

- (a) are beyond the control of any relevant person.
- (b) are falling into bad associations or are exposed to moral danger.
- (c) are likely to suffer unnecessarily or be impaired seriously in their health or development due to a lack of parental care.
- (d) are a child in respect of whom a Schedule 1 offence has been committed.
- (e) are likely to become a member of the same household as a child in respect of whom a Schedule 1 offence has been committed.
- (f) are likely to become a member of the same household as someone who has committed a Schedule 1 offence.
- (g) are likely to become a member of the same household as someone who has had an offence under the Sexual Offences (Scotland) Act 1976 committed against them.
- (h) have failed to attend school regularly without reasonable excuse.
- (i) have committed an offence.
- (j) have misused alcohol or drugs.
- (k) have misused a volatile substance.
- (l) are being provided with accommodation under section 25, or are subject to a PRO, and special measures are necessary.
- (m) child's circumstances require to be considered in terms of s12(1) of the Anti-Social Behaviour (Scotland) Act 2004.

## **Section 55 – Child Assessment Order**

Where the local authority suspect that a child is suffering significant harm and an assessment is required to establish if this is the case, a sheriff can grant a child assessment order which lasts for up to seven days.

## **Section 57 – Child Protection Order**

An order to remove a child to a place of safety in order to protect them from harm. Local authority uses sec 57(2) where application is made on “reasonable grounds to suspect”. Any person can apply under sec 57(1) but this application is made on “reasonable grounds to believe”.

A children’s hearing should take place on the second working day after the order is granted.

**Section 66** – a children’s hearing can issue a warrant to keep child in a place of safety. The warrant lasts for 22 days. Another children’s hearing will be held before the end of 22 days. The hearing can decide to renew the warrant for a further 22 days. A hearing will be held before the end of 22 days. There can then be one further renewal of the warrant for 22 days (therefore, 66 days in total). Thereafter, the Reporter would require to apply to the Sheriff for a warrant for further detention of the child.

## **Section 70 – Supervision Requirements**

If a children’s hearing are satisfied that the child requires compulsory measures of supervision, they can make a supervision requirement in respect of the child. A supervision requirement can have conditions attached such as where the child lives, whom they have contact with or to comply with a particular programme or piece of work. Conditions can only be made in respect of the child, not in respect of a parent or a service.

## **Section 76 – Exclusion Orders**

Where a child has suffered, or is likely to suffer, from significant harm due to a person in their household, an order can be granted which excludes that person from that household for a period of up to six months.