

# CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 15 – Appeals

##### Other appeals

##### *Section 160 – Appeal to sheriff against relevant person determination*

229. This section applies when a Pre-Hearing Panel or Children's Hearing has determined, under section 81, whether a particular person is or is not to be deemed to be a relevant person in relation to the child or has determined under section 142 that an individual continues to be deemed or no longer be deemed a relevant person. It provides a right of appeal to the sheriff for those persons listed in subsection (2). Subsection (6) provides that an application for appeal under this section must be made within 7 days of the determination; and the sheriff must hear and dispose of the appeal within 3 days of the appeal being made. Under subsection (3) the sheriff must confirm the determination under appeal if satisfied that it is justified. Subsection (4) places a duty on the sheriff to either quash the determination of the hearing or make an order if not satisfied that the decision of the hearing is not justified. Subsection (5) provides that where the sheriff decides that the original determination is not justified and that the individual *should* be a deemed relevant person, then that person is considered to be a deemed relevant person as set out in section 81(4) as if the pre-hearing panel had made the decision.

##### *Section 161 – Appeal to sheriff against decision affecting contact or permanence order*

230. This section relates to section 126 (which creates a separate review process of contact directions where a contact or permanence order is in force and the holder of that order is not a relevant person). This section provides a separate appeal right to the sheriff against the decision of that review hearing for persons who are not relevant persons but who hold a contact or permanence order in respect of the child, or a person who meets the conditions specified by the order-making power under section 126(2)(b). The appeal is only applicable against the hearing's review of the contact direction. Subsection (6) provides that the appeal must be made within 21 days of the date the decision under appeal is made and it must be heard within 3 days. The sheriff must either confirm the decision of the review hearing if satisfied that it is justified or vary the compulsory supervision order by varying or removing the contact direction contained in it if not satisfied that the decision of the review hearing was justified.

##### *Section 162 – Appeal to sheriff against decision to implement secure accommodation authorisation*

231. This section applies where a compulsory supervision order, interim compulsory supervision order, medical examination order or a warrant to secure attendance includes a secure accommodation authorisation. Subsection (3) provides that the child or their relevant person may appeal to the sheriff against a "relevant decision" in relation to

*These notes relate to the Children's Hearings (Scotland) Act  
2011 (asp 1) which received Royal Assent on 6 January 2011*

the secure accommodation authorisation. Subsection (4) defines "relevant decision" as a decision by the chief social work officer to implement the secure accommodation authorisation, not to implement the authorisation or to remove the child from secure accommodation. Subsection (5) provides that an appeal under subsection (3) may be made jointly by the child and one or more relevant persons in relation to the child, or two or more relevant persons in relation to the child. Subsection (6) makes clear that the appeal hearing is closed to the public and may not be heard in open court.

232. Subsections (7) and (8) enable the Scottish Ministers to make further provision in regulations about appeals under this section. Regulations made under this provision may in particular specify the period within which an appeal may be made, make provision about the hearing of evidence, make provision about the powers of the sheriff on determining the appeal, and provide for appeals to the sheriff principal and Court of Session against the determination of an appeal. Such regulations will be subject to the affirmative procedure.