

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15 – Appeals

Appeals to the sheriff principal and Court of Session

Section 164 – Appeals to the sheriff principal and Court of Session: relevant persons

236. This section provides a right of appeal against a decision of a sheriff in an appeal against a determination by a Pre-Hearing Panel or Children's Hearing as to whether or not a person should be deemed to be a relevant person. The individual claiming deemed relevant person status, the child and the child's relevant person have the right of appeal. The appeal may also be made jointly by the child and the relevant person or jointly by two or more relevant persons.
237. Subsection (2) allows an appeal to be made to the Court of Session against the decision of the sheriff principal under subsection (1). The leave of the sheriff principal must first be obtained.
238. Subsection (4) provides that an appeal made under this section must be made within 28 days of the decision made by the sheriff or sheriff principal. Subsection (5) provides that an appeal under this section may be made on a point of law or in respect of any procedural irregularity. Subsection (6) provides that the sheriff principal or Court of Session must remit the case back to the sheriff for disposal after the decision. Unlike the first level appeal under section 160 (to the sheriff against the determination by the hearing as to whether a person should be deemed to be a relevant person) the court will not substitute its own decision and must remit the case to the sheriff for disposal. The court may give directions when remitting the case. Subsection (7) provides that a decision in an appeal by the Court of Session is final.