



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 12

#### CHILDREN'S HEARINGS: GENERAL

##### *Views of child*

#### **121 Confirmation that child given opportunity to express views before hearing**

- (1) This section applies where a children's hearing is held in relation to a child by virtue of this Act.
- (2) The chairing member of the children's hearing must ask the child whether the documents provided to the child by virtue of rules made under section 177 accurately reflect any views expressed by the child.
- (3) The chairing member need not comply with subsection (2) if, taking account of the age and maturity of the child, the chairing member considers that it would not be appropriate to do so.

#### **Commencement Information**

**II** S. 121 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

##### *Children's advocacy services*

#### **122 Children's advocacy services**

- (1) This section applies where a children's hearing is held in relation to a child by virtue of this Act.
- (2) The chairing member of the children's hearing must inform the child of the availability of children's advocacy services.

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- (3) The chairing member need not comply with subsection (2) if, taking account of the age and maturity of the child, the chairing member considers that it would not be appropriate to do so.
- (4) The Scottish Ministers may by regulations make provision for or in connection with—
  - (a) the provision of children's advocacy services,
  - (b) qualifications to be held by persons providing children's advocacy services,
  - (c) the training of persons providing children's advocacy services,
  - (d) the payment of expenses, fees and allowances by the Scottish Ministers to persons providing children's advocacy services.
- (5) The Scottish Ministers may enter into arrangements (contractual or otherwise) with any person other than a local authority, CHS or SCRA for the provision of children's advocacy services.
- (6) Regulations under this section are subject to the affirmative procedure.
- (7) In this section, “children's advocacy services” means services of support and representation provided for the purposes of assisting a child in relation to the child's involvement in a children's hearing.

**Commencement Information**

- I2** S. 122(1)-(3) in force at 21.11.2020 by [S.S.I. 2020/243](#), **art. 2(b)**  
**I3** S. 122(4)-(7) in force at 7.9.2020 by [S.S.I. 2020/243](#), **art. 2(a)**

*Warrants to secure attendance*

**123 General power to grant warrant to secure attendance**

- (1) This section applies where in relation to a child—
  - (a) a children's hearing has been or is to be arranged, or
  - (b) a hearing is to take place under Part 10.
- (2) On the application of the Principal Reporter, any children's hearing may on cause shown grant a warrant to secure the attendance of the child at the children's hearing or, as the case may be, the hearing under Part 10.

**Commencement Information**

- I4** S. 123 in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**

*Child's age*

**124 Requirement to establish child's age**

- (1) This section applies where a children's hearing is held by virtue of this Act.
- (2) The chairing member of the children's hearing must ask the person in respect of whom the hearing has been arranged to declare the person's age.

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- (3) The person may make another declaration as to the person's age at any time.
- (4) The chairing member need not comply with the requirement in subsection (2) if the chairing member considers that the person would not be capable of understanding the question.
- (5) Any children's hearing may make a determination of the age of a person who is the subject of the hearing.
- (6) A person is taken for the purposes of this Act to be of the age—
  - (a) worked out on the basis of the person's most recent declaration, or
  - (b) if a determination of age by a children's hearing is in effect, worked out in accordance with that determination.
- (7) Nothing done by a children's hearing in relation to a person is invalidated if it is subsequently proved that the age of the person is not that worked out under subsection (6).

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**Commencement Information**

**I5** S. 124 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

*Compulsory supervision orders: review*

**125 Compulsory supervision order: requirement to review**

- (1) This section applies where a children's hearing is making, varying or continuing a compulsory supervision order.
- (2) Where the order being made contains a movement restriction condition (or the order is being varied so as to include such a condition), the children's hearing must require the order to be reviewed by a children's hearing on a day or within a period specified in the order.
- (3) In any other case, the children's hearing may require the order to be so reviewed.

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**Commencement Information**

**I6** S. 125 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

*Contact orders and permanence orders*

**126 Review of contact direction**

- (1) This section applies where, in relation to a child—
  - (a) a children's hearing—
    - (i) makes a compulsory supervision order,
    - (ii) makes an interim compulsory supervision order, an interim variation of a compulsory supervision order or a medical examination order which is to have effect for more than 5 working days, or

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- (iii) continues or varies a compulsory supervision order under section 138, and
  - (b) the order contains (or is varied so as to contain) a measure of the type mentioned in section 83(2)(g) or 87(2)(e) (“a contact direction”).
- (2) The Principal Reporter must arrange a children's hearing for the purposes of reviewing the contact direction—
- (a) if an order mentioned in subsection (3) is in force, or
  - (b) if requested to do so by an individual who claims that the conditions specified for the purposes of this paragraph in an order made by the Scottish Ministers are satisfied in relation to the individual.
- (3) The orders are—
- (a) a contact order regulating contact between an individual (other than a relevant person in relation to the child) and the child, or
  - (b) a permanence order which specifies arrangements for contact between such an individual and the child.
- (4) The children's hearing is to take place no later than 5 working days after the children's hearing mentioned in subsection (1)(a).
- (5) If a children's hearing arranged by virtue of paragraph (b) of subsection (2) considers that the conditions specified for the purposes of that paragraph are not satisfied in relation to the individual, the children's hearing must take no further action.
- (6) In any other case, the children's hearing may—
- (a) confirm the decision of the children's hearing mentioned in subsection (1)(a), or
  - (b) vary the compulsory supervision order, interim compulsory supervision order or medical examination order (but only by varying or removing the contact direction).
- (7) Sections 73 and 74 do not apply in relation to a children's hearing arranged by virtue of subsection (2).

**Commencement Information**

**I7** S. 126 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

*Referral where failure to provide education for excluded pupil*

**127 Referral where failure to provide education for excluded pupil**

- (1) This section applies where it appears to a children's hearing that—
- (a) an education authority has a duty under section 14(3) of the Education (Scotland) Act 1980 (c.44) (education authority's duty to provide education for child excluded from school) in relation to the child to whom the children's hearing relates, and
  - (b) the authority is failing to comply with the duty.
- (2) The children's hearing may require the National Convener to refer the matter to the Scottish Ministers.

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- (3) If a requirement is made under subsection (2), the National Convener must—
- (a) make a referral to the Scottish Ministers, and
  - (b) give a copy of it to the education authority to which it relates and the Principal Reporter.

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**Commencement Information**

**18** S. 127 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

*Parenting order*

**128 Duty to consider applying for parenting order**

- (1) This section applies where a children's hearing constituted for any purpose in respect of a child is satisfied that it might be appropriate for a parenting order to be made in respect of a parent of the child under section 102 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (the “2004 Act”).
- (2) The children's hearing may require the Principal Reporter to consider whether to apply under section 102(3) of the 2004 Act for such an order.
- (3) The children's hearing must specify in the requirement—
  - (a) the parent in respect of whom it might be appropriate for the order to be made, and
  - (b) by reference to section 102(4) to (6) of the 2004 Act, the condition in respect of which the application might be made.
- (4) In this section, “parent” and “child” have the meanings given by section 117 of the 2004 Act.

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**Commencement Information**

**19** S. 128 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

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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):

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)