



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 5

CHILD ASSESSMENT AND CHILD PROTECTION ORDERS

Consideration of application by sheriff

38 Consideration by sheriff: application by local authority only

- (1) This section applies where an application for a child protection order in respect of a child is made by a local authority.
- (2) The sheriff may make the order if the sheriff is satisfied that—
 - (a) the local authority has reasonable grounds to suspect that—
 - (i) the child has been or is being treated in such a way that the child is suffering or is likely to suffer significant harm,
 - (ii) the child has been or is being neglected and as a result of the neglect the child is suffering or is likely to suffer significant harm, or
 - (iii) the child will be treated or neglected in such a way that is likely to cause significant harm to the child,
 - (b) the local authority is making enquiries to allow it to decide whether to take action to safeguard the welfare of the child, or is causing those enquiries to be made,
 - (c) those enquiries are being frustrated by access to the child being unreasonably denied, and
 - (d) the local authority has reasonable cause to believe that access is required as a matter of urgency.

Commencement Information

II S. 38 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

Status: Point in time view as at 24/06/2013.

Changes to legislation: Children's Hearings (Scotland) Act 2011, Cross Heading: Consideration of application by sheriff is up to date with all changes known to be in force on or before 20 January 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)

39 Consideration by sheriff: application by local authority or other person

- (1) This section applies where an application for a child protection order in respect of a child is made by a local authority or other person.
- (2) The sheriff may make the order if the sheriff is satisfied that—
 - (a) there are reasonable grounds to believe that—
 - (i) the child has been or is being treated in such a way that the child is suffering or is likely to suffer significant harm,
 - (ii) the child has been or is being neglected and as a result of the neglect the child is suffering or is likely to suffer significant harm,
 - (iii) the child is likely to suffer significant harm if the child is not removed to and kept in a place of safety, or
 - (iv) the child is likely to suffer significant harm if the child does not remain in the place at which the child is staying (whether or not the child is resident there), and
 - (b) the order is necessary to protect the child from that harm or from further harm.

Commencement Information

12 S. 39 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

Status:

Point in time view as at 24/06/2013.

Changes to legislation:

Children's Hearings (Scotland) Act 2011, Cross Heading: Consideration of application by sheriff is up to date with all changes known to be in force on or before 20 January 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.