



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 8

#### PRE-HEARING PANEL

#### **79 Referral of certain matters for pre-hearing determination**

- (1) This section applies where a children's hearing is to be held in relation to a child by virtue of section 69(2) or Part 9 to 11 or 13.
- (2) The Principal Reporter—
  - (a) must refer the matter of whether a particular individual should be deemed to be a relevant person in relation to the child for determination by three members of the Children's Panel selected by the National Convener (a "pre-hearing panel") if requested to do so by—
    - (i) the individual in question,
    - (ii) the child, or
    - (iii) a relevant person in relation to the child,
  - (b) may refer that matter for determination by a pre-hearing panel on the Principal Reporter's own initiative,
  - (c) may refer a matter of a type mentioned in subsection (3) for determination by a pre-hearing panel—
    - (i) on the Principal Reporter's own initiative, or
    - (ii) following a request to the Principal Reporter from the child, a relevant person in relation to the child, or if a safeguarder has been appointed for the child, the safeguarder.
- (3) Those matters are—
  - (a) whether the child should be excused from attending the children's hearing,
  - (b) whether a relevant person in relation to the child should be excused from attending the children's hearing,
  - (c) whether it is likely that the children's hearing will consider making a compulsory supervision order including a secure accommodation authorisation in relation to the child,
  - (d) a matter specified in rules under section 177(2)(a).

*Status: Point in time view as at 24/06/2013.*

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- (4) For the purposes of subsection (3)(a), the pre-hearing panel may excuse the child from attending the children's hearing only if—
  - (a) the pre-hearing panel is satisfied that any of paragraphs (a) to (c) of section 73(3) applies, or
  - (b) the child may be excused under rules under section 177.
- (5) For the purposes of subsection (3)(b), the pre-hearing panel may excuse a relevant person in relation to the child from attending the children's hearing only if—
  - (a) the pre-hearing panel is satisfied that section 74(3)(a) or (b) applies, or
  - (b) the relevant person may be excused under rules under section 177.
- (6) A member of the Children's Panel selected for a pre-hearing panel may (but need not) be a member of the children's hearing.

**Commencement Information**

**II** S. 79 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

**80 Determination of matter referred under section 79**

- (1) This section applies where the Principal Reporter refers a matter to a pre-hearing panel under section 79(2).
- (2) The Principal Reporter must arrange a meeting of the pre-hearing panel for a date before the date fixed for the children's hearing.
- (3) If it is not practicable for the Principal Reporter to comply with subsection (2), the children's hearing must determine the matter referred at the beginning of the children's hearing.

**Commencement Information**

**I2** S. 80 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

**81 Determination of claim that person be deemed a relevant person**

- (1) This section applies where a matter mentioned in section 79(2)(a) (a “relevant person claim”) is referred to a meeting of a pre-hearing panel.
- (2) Where the relevant person claim is referred along with any other matter, the pre-hearing panel must determine the relevant person claim before determining the other matter.
- (3) The pre-hearing panel must deem the individual to be a relevant person if it considers that the individual has (or has recently had) a significant involvement in the upbringing of the child.
- (4) Where the pre-hearing panel deems the individual to be a relevant person, the individual is to be treated as a relevant person for the purposes of Parts 7 to 15, 17 and 18 in so far as they relate to—
  - (a) the children's hearing,

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- (b) any subsequent children's hearing under Part 11,
  - (c) any pre-hearing panel held in connection with a children's hearing mentioned in paragraph (a), (b) or (e),
  - (d) any compulsory supervision order, interim compulsory supervision order, medical examination order, or warrant to secure attendance made by—
    - (i) a hearing mentioned in paragraph (a) or (b),
    - (ii) the sheriff in any court proceedings falling within paragraph (f),
  - (e) any children's hearing held for the purposes of reviewing a compulsory supervision order falling within paragraph (d),
  - (f) any court proceedings held in connection with a hearing mentioned in paragraph (a), (b) or (e),
  - (g) any court proceedings held in connection with an order or warrant falling within paragraph (d),
  - (h) the implementation of an order or warrant falling within paragraph (d).
- (5) The Scottish Ministers may by order—
- (a) amend subsection (3),
  - (b) in consequence of provision made under paragraph (a), make such other amendments as appear to the Scottish Ministers to be necessary or expedient to—
    - (i) section 43,
    - (ii) section 48,
    - (iii) section 51,
    - (iv) this section,
    - (v) section 142.
- (6) An order under subsection (5) is subject to the affirmative procedure.
- (7) Where, by virtue of section 80(3), the children's hearing is to determine the relevant person claim, references in subsections (2) to (4) (other than paragraph (c) of subsection (4)) to the pre-hearing panel are to be read as references to the children's hearing.

#### Commencement Information

**I3** S. 81 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

## 82 Appointment of safeguarder

- (1) A pre-hearing panel may appoint a safeguarder for the child to whom the children's hearing relates.
- (2) A pre-hearing panel must record an appointment made under subsection (1).
- (3) If a pre-hearing panel appoints a safeguarder, it must give reasons for the decision.
- (4) Subsection (1) does not apply where a safeguarder has already been appointed.
- (5) A safeguarder appointed under this section is to be treated for the purposes of this Act (other than this section) as being appointed by a children's hearing by virtue of section 30.

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#### **Commencement Information**

**I4** [S. 82](#) in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**Status:**

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**Changes to legislation:**

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