

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) ACT 2019

EXPLANATORY NOTES

PART 4: POLICE INVESTIGATORY AND OTHER POWERS

Chapter 3: Questioning of certain children

Changes made by the Act: what this Chapter of the Act does

Appeals

165. As already noted, section 110 of the 2014 Act provides generally that any decision of the sheriff may be appealed to the Sheriff Appeal Court. That section will apply to a decision of the sheriff under section 44 to make or to refuse to make a child interview order. Sections 111 and 116 of the 2014 Act apply to appeals under section 110 and the rules of court relating to section 110 appeals also apply. Section 111, for instance, provides that the Sheriff Appeal Court may uphold the sheriff's decision or reverse or vary it.
166. **Section 46** provides for a number of aspects of the appeal process as it applies in relation to child interview orders (or applications for such orders). It sets out that either a constable or the child (or another person acting on the child's behalf) must, within the time-limits specified in subsection (2), apply to the sheriff for permission to appeal. The appeal may proceed only where the sheriff gives permission. If permission to appeal is given, the appeal must be made on the day on which that permission is granted or during the following two working days (subsection (3)). Where an appeal is made, the decision of the Sheriff Appeal Court is final (subsection (4)).
167. The making of an appeal suspends the effect of any child interview order originally made by the sheriff. Such an order only authorises the interview of the child during a certain period (see paragraph 163). By the time an appeal is made and determined, that period may have expired. Section 46 therefore also allows the Sheriff Appeal Court, in a case where the interview authorised by the original order has not been completed at the time where that order is upheld or varied, to specify a new period within which the child interview order is to have effect.