



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 1

#### THE NATIONAL CONVENER AND CHILDREN'S HEARINGS SCOTLAND

##### *The National Convener and CHS*

#### **1 The National Convener**

- (1) There is to be an officer to be known as the National Convener of Children's Hearings Scotland (referred to in this Act as “the National Convener”).
- (2) The Scottish Ministers are to appoint a person as the first National Convener.
- (3) The Scottish Ministers must take reasonable steps to involve persons who are under 21 years of age in the process for selection of a person for appointment under subsection (2).
- (4) The period for which the person is appointed is 5 years.
- (5) The terms and conditions on which the person holds and vacates office are to be determined by the Scottish Ministers.

#### **Commencement Information**

**11** S. 1 in force at 19.1.2011 by [S.S.I. 2011/8](#), [art. 2\(a\)](#)

#### **2 Children's Hearings Scotland**

There is established a body corporate to be known as Children's Hearings Scotland (referred to in this Act as “CHS”).

#### **Commencement Information**

**12** S. 2 in force at 18.4.2011 by [S.S.I. 2011/111](#), [art. 2](#), [Sch.](#)

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### 3 Further provision about National Convener and CHS

Schedule 1 makes further provision about the National Convener and CHS.

#### Commencement Information

- I3** S. 3 in force at 18.4.2011 for specified purposes by [S.S.I. 2011/111](#), art. 2, **Sch.**
- I4** S. 3 in force at 19.9.2012 for specified purposes by [S.S.I. 2012/246](#), art. 2, **Sch.**
- I5** S. 3 in force at 31.3.2013 for specified purposes by [S.S.I. 2013/98](#), art. 2, **Sch.**
- I6** S. 3 in force at 24.6.2013 in so far as not already in force by [S.S.I. 2013/195](#), **arts. 2, 3**

#### *The Children's Panel*

### 4 The Children's Panel

- (1) The National Convener must appoint persons to be members of a panel to be known as the Children's Panel.
- (2) The National Convener must endeavour to ensure that—
  - (a) the number of persons that the National Convener considers appropriate is appointed, and
  - (b) the panel includes persons from all local authority areas.
- (3) Schedule 2 makes further provision about the Children's Panel.

#### Commencement Information

- I7** S. 4 in force at 19.9.2012 for specified purposes by [S.S.I. 2012/246](#), art. 2, **Sch.**
- I8** S. 4 in force at 31.3.2013 for specified purposes by [S.S.I. 2013/98](#), art. 2, **Sch.**
- I9** S. 4(1)(2) in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**
- I10** S. 4(2) in force at 24.6.2013 in so far as not already in force by [S.S.I. 2013/195](#), **arts. 2, 3**

#### *Children's hearings*

### 5 Children's hearing

A children's hearing consists of three members of the Children's Panel selected in accordance with section 6 for the purpose of carrying out functions conferred on a children's hearing by virtue of this Act or any other enactment.

#### Modifications etc. (not altering text)

- C1** S. 5 applied by 1985 c. 60, s. 20(6) (as inserted (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Consequential and Transitional Provisions and Savings\) Order 2013 \(S.I. 2013/1465\)](#), art. 1(2), **Sch. 1 para. 1(2)**)

#### Commencement Information

- I11** S. 5 in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**

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## 6 Selection of members of children's hearing

- (1) This section applies where a children's hearing requires to be arranged by virtue of, or for the purposes of, this Act or any other enactment.
- (2) The members of the children's hearing are to be selected by the National Convener.
- (3) The National Convener must ensure that the children's hearing—
  - (a) [<sup>F1</sup>so far as practicable,] includes both male and female members of the Children's Panel, and
  - (b) so far as practicable, consists only of members of the Children's Panel who live or work in the area of the local authority which is the relevant local authority for the child to whom the hearing relates.
- (4) The National Convener may select one of the members of the children's hearing to chair the hearing.

[<sup>F2</sup>(5) In this section “children’s hearing” includes a pre-hearing panel.]

### Textual Amendments

- F1** Words in s. 6(3)(a) inserted (1.11.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), ss. 42(2), 59(1)
- F2** S. 6(5) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, Sch. 1 para. 20(2)

### Commencement Information

- I12** S. 6 in force at 31.3.2013 by S.S.I. 2013/98, art. 2, Sch.

## 7 Holding of children's hearing

The National Convener must ensure that a children's hearing is held for the purpose of carrying out any function conferred on a children's hearing by virtue of this Act or any other enactment.

### Commencement Information

- I13** S. 7 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

## 8 Provision of advice to children's hearing

- (1) The National Convener may provide advice to children's hearings about any matter arising in connection with the functions conferred on children's hearings by virtue of this Act or any other enactment.
- (2) The National Convener may in particular provide—
  - (a) legal advice,
  - (b) advice about procedural matters,
  - (c) advice about the consequences of decisions of the children's hearing,
  - (d) advice about how decisions of children's hearings are implemented.
- (3) In this section, “children's hearing” includes pre-hearing panel.

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**Commencement Information**

**I14** S. 8 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**9 Independence of children's hearings**

Nothing in this Act authorises the National Convener or the Principal Reporter to direct or guide a children's hearing in carrying out the functions conferred on children's hearings by virtue of this Act or any other enactment.

**Commencement Information**

**I15** S. 9 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

*Power to change National Convener's functions*

**10 Power to change National Convener's functions**

- (1) The Scottish Ministers may by order—
- (a) confer additional functions on the National Convener,
  - (b) remove functions from the National Convener,
  - (c) transfer functions from another person to the National Convener,
  - (d) transfer functions from the National Convener to another person,
  - (e) specify the manner in which, or period within which, any function conferred on the National Convener by virtue of this Act is to be carried out.
- (2) An order under this section is subject to the super-affirmative procedure (other than an order under subsection (1)(e), which is subject to the affirmative procedure).

**Commencement Information**

**I16** S. 10 in force at 18.4.2011 by [S.S.I. 2011/111](#), [art. 2](#), [Sch.](#)

*Functions of CHS*

**11 Provision of assistance to National Convener**

CHS must—

- (a) assist the National Convener in carrying out the functions conferred on the National Convener by virtue of this Act or any other enactment,
- (b) facilitate the carrying out of those functions.

**Commencement Information**

**I17** S. 11 in force at 18.4.2011 by [S.S.I. 2011/111](#), [art. 2](#), [Sch.](#)

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## 12 Independence of National Convener

- (1) Nothing in this Act authorises CHS or any other person to direct or guide the National Convener in carrying out the functions conferred on the National Convener by virtue of this Act or any other enactment.
- (2) This section is subject to section 10(1)(e).

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### Commencement Information

**I18** S. 12 in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, [Sch.](#)

## 13 Directions

- (1) The Scottish Ministers may give CHS general or specific directions about the carrying out of its functions.
- (2) CHS must comply with a direction under subsection (1).
- (3) The Scottish Ministers may vary or revoke a direction under subsection (1) by giving a subsequent direction under that subsection.

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### Commencement Information

**I19** S. 13 in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, [Sch.](#)

**Changes to legislation:**

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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\(5\)\(b\)](#)