



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 15

APPEALS

Appeal against decision of children's hearing

154 Appeal to sheriff against decision of children's hearing

- (1) A person mentioned in subsection (2) may appeal to the sheriff against a relevant decision of a children's hearing in relation to a child.
- (2) The persons are—
 - (a) the child,
 - (b) a relevant person in relation to the child,
 - (c) a safeguarder appointed in relation to the child by virtue of section 30.
- (3) A relevant decision is—
 - (a) a decision to make, vary or continue a compulsory supervision order,
 - (b) a decision to discharge a referral by the Principal Reporter,
 - (c) a decision to terminate a compulsory supervision order,
 - (d) a decision to make an interim compulsory supervision order,
 - (e) a decision to make an interim variation of a compulsory supervision order,
 - (f) a decision to make a medical examination order, or
 - (g) a decision to grant a warrant to secure attendance.
- (4) An appeal under subsection (1) may be made jointly by two or more persons mentioned in subsection (2).
- (5) An appeal under subsection (1) must be made before the expiry of the period of 21 days beginning with the day on which the decision is made.

155 Procedure

- (1) This section applies where an appeal under section 154 is made.

- (2) The Principal Reporter must lodge with the sheriff clerk a copy of—
 - (a) the decision, and the reasons for the decision, of the children's hearing,
 - (b) all information provided by virtue of rules under section 177 to the children's hearing, and
 - (c) the report of the children's hearing.
- (3) The appeal must not be heard in open court.
- (4) The sheriff may (but need not) hear evidence before determining the appeal.
- (5) The sheriff may hear evidence from—
 - (a) the child,
 - (b) a relevant person in relation to the child,
 - (c) an author or compiler of a report or statement provided to the children's hearing that made the decision,
 - (d) the Principal Reporter,
 - (e) where the appeal is against a decision to make, grant, vary or continue an order or warrant including a secure accommodation authorisation in respect of the child—
 - (i) the person in charge of the secure accommodation specified in the secure accommodation authorisation, and
 - (ii) the chief social work officer, and
 - (f) any other person who the sheriff considers may give material additional evidence.
- (6) The sheriff may require any person to give a report to the sheriff for the purpose of assisting the sheriff in determining the appeal.
- (7) Subsection (6) applies in relation to a safeguarder only if regulations under section 32 so provide.

156 Determination of appeal

- (1) If satisfied that the decision to which an appeal under section 154 relates is justified, the sheriff—
 - (a) must confirm the decision, and
 - (b) may take one or more of the steps mentioned in subsection (3) if satisfied that the circumstances of the child in relation to whom the decision was made have changed since the decision was made.
- (2) In any other case, the sheriff—
 - (a) must—
 - (i) where the decision is a decision to grant a warrant to secure attendance, recall the warrant,
 - (ii) where the decision is a decision to make an interim compulsory supervision order or a medical examination order, terminate the order,
 - (b) may take one or more of the steps mentioned in subsection (3).
- (3) Those steps are—
 - (a) require the Principal Reporter to arrange a children's hearing for any purpose for which a hearing can be arranged under this Act,

- (b) continue, vary or terminate any order, interim variation or warrant which is in effect,
 - (c) discharge the child from any further hearing or other proceedings in relation to the grounds that gave rise to the decision,
 - (d) make an interim compulsory supervision order or interim variation of a compulsory supervision order, or
 - (e) grant a warrant to secure attendance.
- (4) If the sheriff discharges a child under subsection (3)(c), the sheriff must also terminate any order or warrant which is in effect in relation to the child.
- (5) The fact that a sheriff makes, continues or varies an order, or grants a warrant, under subsection (1)(b) or (2)(b) does not prevent a children's hearing from continuing, varying or terminating the order or warrant.

157 Time limit for disposal of appeal against certain decisions

- (1) This section applies where an appeal under section 154 relates to a decision of a children's hearing to—
- (a) make a compulsory supervision order including a secure accommodation authorisation or movement restriction condition,
 - (b) make an interim compulsory supervision order,
 - (c) make an interim variation of a compulsory supervision order,
 - (d) make a medical examination order, or
 - (e) grant a warrant to secure attendance.
- (2) The appeal must be heard and disposed of before the expiry of the period of 3 days beginning the day after the day on which the appeal is made.
- (3) If the appeal is not disposed of within that period, the authorisation, condition, order, variation or, as the case may be, warrant ceases to have effect.