

These draft Rules replace the ones laid on 15th April 2013 and are being issued free of charge to all known recipients of those draft Rules.

Draft Rules laid before the Scottish Parliament under sections 177(4) and 197 of the Children's Hearings (Scotland) Act 2011, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013

Made - - - - 2013

Coming into force in accordance with rule 1

The Scottish Ministers make the following Rules in exercise of the powers conferred by sections 177 and 195 of the Children's Hearings (Scotland) Act 2011⁽¹⁾ and all other powers enabling them to do so⁽²⁾.

In accordance with section 177(4) and 197 of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with paragraph 24(1) and (3) of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007⁽³⁾ the Scottish Ministers have consulted the Administrative Justice and Tribunals Council and it has consulted its Scottish Committee.

PART 1

Introductory and General

Citation, commencement and application

1.—(1) These Rules may be cited as the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 and come into force on the same day as section 177 (children's hearings: procedural rules) of the Act.

(1) [2011 asp 1](#).

(2) The powers to make these Rules are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#).)

(3) [2007 c.15](#). Children's hearings under the Children's Hearings (Scotland) Act 2011 ("the Act") were added to the list of listed tribunals for the purpose of Schedule 7 to the 2007 Act by virtue of [S.S.I. 2011/405](#).

(2) These Rules shall only apply to proceedings commenced on or after the day on which they come into force.

Interpretation

2.—(1) In these Rules—

“the Act” means the Children’s Hearings (Scotland) Act 2011;

“chairing member” means the member of the Children’s Panel selected to chair a pre-hearing panel or children’s hearing, as the case may be;

“a contact direction” has the same meaning as in section 126(1) (review of contact direction) of the Act;

“National Convener” means the National Convener of Children’s Hearings Scotland;

“member of the pre-hearing panel” and “member of the children’s hearing” means a member of the Children’s Panel selected under section 6 (selection of members of children’s hearing) of the Act, in relation to that hearing or pre-hearing, and “member” is to be construed accordingly;

“relevant person” means a relevant person in relation to a child and includes a person deemed to be a relevant person under section 81 (determination of claim that person be deemed a relevant person) or section 160(4)(b) (appeal to sheriff against relevant person determination) of the Act;

“Reporter” means the Principal Reporter or any person carrying out a function on behalf of the Principal Reporter by virtue of paragraph 10(1) (delegation of Principal Reporter’s functions) of schedule 3 to the Act;

“section 62 statement” has the same meaning as in section 62(4) (provision of information by court) of the Act.

(2) For the purposes of rule 1(2) of these Rules, proceedings are commenced on the date when any of the following occurs—

- (a) a children’s hearing is arranged by the Reporter under section 69(2) of the Act;
- (b) an application is made under Part 5 of the Act; or
- (c) an appeal is made under Part 15 of the Act.

PART 2

Selection of children’s hearings and pre-hearing panel members and duties of members

Selection of members of children’s hearing and pre-hearing panel - supplementary

3.—(1) Where a children’s hearing is held in relation to a child, by virtue of the Act or any other enactment, the children’s hearing may request that the National Convener select, where practicable, one of the members of that children’s hearing to be a member of the next children’s hearing to be arranged in relation to that child.

(2) In selecting members of a pre-hearing panel in terms of section 79(2)(a) (referral of certain matters for pre-hearing determination) of the Act the National Convener must ensure that the pre-hearing panel—

- (a) 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 pre-hearing panel relates.

Selection of chairing member for pre-hearing panels and children's hearings

4.—(1) Paragraph (2) applies where a pre-hearing panel or children's hearing has been arranged by virtue of the Act or any other enactment and the National Convener or relevant area support team has not selected a chairing member for that pre-hearing panel or children's hearing.

(2) Immediately before beginning the pre-hearing panel or children's hearing, as the case may be, the members of that pre-hearing panel or children's hearing must determine which of their number is to chair the pre-hearing panel or children's hearing, as the case may be.

(3) A member may only be selected to chair a children's hearing if that member has successfully completed the relevant training provided by or on behalf of the National Convener relating to chairing a children's hearing.

Duties of members of the pre-hearing panel or children's hearing relating to documents and information

5.—(1) Any documents which are given to a member of the pre-hearing panel or children's hearing by the Reporter under, or by virtue of, the Act or these Rules must be kept securely in that member's custody and returned to the Reporter at the conclusion of the pre-hearing panel or children's hearing to which those documents relate.

(2) The member must not cause or permit any information which they have obtained by virtue of their involvement in a pre-hearing panel or children's hearing to be disclosed, except as permitted by the Act or these Rules.

Duties of chairing member of a pre-hearing panel or children's hearing

6.—(1) The chairing member of the children's hearing or pre-hearing panel must—

- (a) take reasonable steps to ensure that the child and each relevant person are able to—
 - (i) understand the proceedings; and
 - (ii) participate in those proceedings;
- (b) where, during the proceedings, the child wishes to express a view, make reasonable arrangements to enable the child to express those views in the manner preferred by the child;
- (c) ensure that a record is made of—
 - (i) the decisions or determinations made by the children's hearing or pre-hearing panel, as the case may be; and
 - (ii) the reasons for those decisions or determinations; and
- (d) sign and date the record of the decisions or determinations.

(2) Any requirement on the chairing member to inform those attending a children's hearing of the substance of any report, document or information or to explain any matter is subject to any decision of the children's hearing to withhold information under section 178 (children's hearing: disclosure of information) of the Act or by virtue of a non-disclosure request made in accordance with Part 19 of these Rules.

Procedure at children's hearings and pre-hearing panels where not otherwise specified

7.—(1) The procedure at any children's hearing or pre-hearing panel required to be held by virtue of the Act or any other enactment, unless that procedure is provided for under the Act or these Rules, is to be determined by the chairing member.

(2) The children's hearing or pre-hearing panel, if it considers it appropriate to do so, may adjourn the children's hearing or pre-hearing panel, as the case may be—

- (a) on the initiative of the children's hearing or pre-hearing panel; or
- (b) on the request of any person attending the hearing.

(3) Where a children's hearing or pre-hearing panel has been adjourned it must re-convene on the same day as the adjournment was made.

PART 3

Duties and roles of persons attending or preparing documents for children's hearings and pre-hearing panels

Requirement to include child's views in documents

8. Where any document is to be given to members of the children's hearing or pre-hearing panel under, or by virtue of, the Act, or these Rules, the document must contain any views expressed by the child which have been given to the person who has prepared that document.

Duties of safeguarder in respect of information and documents

9.—(1) Any documents which are given to a safeguarder by the Reporter under, or by virtue of, the Act or any other enactment must be kept securely in the safeguarder's custody and returned to the Reporter on the termination of the safeguarder's appointment.

(2) The safeguarder must not cause or permit any information which they have obtained by virtue of their appointment as a safeguarder under the Act to be disclosed, except as permitted by virtue of the Act or any other enactment.

Attendance at children's hearings by member of the Administrative Justice and Tribunals Council or the Scottish Committee of that Council or a member of an Area Support Team

10.—(1) Any documents which are given to members of the children's hearing or pre-hearing panel must be given by the Reporter to any of the following persons attending the children's hearing or pre-hearing panel where that person so requests—

- (a) a member of the Administrative Justice and Tribunals Council or the Scottish Committee of that Council (acting in that person's capacity as such);
- (b) a member of an area support team (acting in that person's capacity as such).

(2) Where documents are given to a person under paragraph (1) those documents must be kept securely in that person's custody and returned to the Reporter at the conclusion of the children's hearing or pre-hearing panel to which they relate.

(3) The person to whom the documents are given under paragraph (1) must not cause or permit any information which they have obtained by virtue of their attendance at a pre-hearing panel or children's hearing to be disclosed, except as permitted by the Act or these Rules.

Role of representative of the child, relevant person or deemed relevant person

11.—(1) Where the child or relevant person, or any person who wishes to be deemed to be a relevant person (each referred to in this rule as “the accompanied person”) is accompanied at a children’s hearing or pre-hearing panel by a representative that representative may assist the accompanied person to discuss any issues arising for discussion before the children’s hearing or pre-hearing panel.

(2) The right of the accompanied person to be represented at the children’s hearing or pre-hearing panel is without prejudice to any right of the accompanied person to legal representation by a solicitor or counsel.

PART 4

General Duties of the Reporter

Record keeping by the Reporter of investigation and determination

12.—(1) This rule applies where section 66(1) (investigation and determination by Principal Reporter) of the Act applies.

(2) The Reporter must keep a record of—

- (a) the name and address (if available) of any person providing the notice, information, statement or evidence;
- (b) the details of any investigation carried out by the Reporter under section 66 of the Act;
- (c) the determination made by the Reporter under section 66(2) of the Act; and
- (d) the details of any action taken by the Reporter under sections 68(2), 68(5) (determination under section 66: no referral to children’s hearing) or 72(2) (child in place of safety: Principal Reporter’s powers) of the Act.

(3) Where the Reporter is required to arrange a children’s hearing under section 69(2) (determination under section 66: referral to children’s hearing) of the Act the Reporter must notify—

- (a) where the information was provided under section 60 (local authority’s duty to provide information to Principal Reporter) of the Act, the local authority which provided the information;
- (b) where the information was provided under section 61 (constable’s duty to provide information to Principal Reporter) of the Act or section 43(5) (arrangements where children arrested) of the Criminal Procedure (Scotland) Act 1995(4), the chief constable of the Police Service of Scotland.

Record keeping duties of the Reporter in relation to children’s hearings

13.—(1) The Reporter must keep a record of the proceedings at each children’s hearing and pre-hearing panel held by virtue of the Act or any other enactment.

(2) The record to be kept by the Reporter must include the information mentioned in paragraph (3) and such other information about the proceedings as the Reporter considers appropriate.

(3) That information is—

- (a) the particulars of the place and date of the children’s hearing or pre-hearing panel;

(4) 1995 c.46.

- (b) the full name and address, date of birth and sex of the child in relation to whom the children's hearing or pre-hearing panel is held;
- (c) the full name and address of each relevant person;
- (d) which of the persons mentioned in sub-paragraphs (b) and (c) attended the children's hearing or pre-hearing panel;
- (e) the full name and address of any representative attending the children's hearing or pre-hearing panel;
- (f) the full name and address of any safeguarder attending the children's hearing or pre-hearing panel;
- (g) the details of any other person attending the children's hearing or pre-hearing panel;
- (h) the details of any decision or determination made by the children's hearing or pre-hearing panel or any other course of action taken by the children's hearing or pre-hearing panel;
- (i) where the children's hearing to which the record relates is a grounds hearing—
 - (i) the details of any section 67 ground which is accepted, or not accepted, or is not understood and by whom;
 - (ii) the detail of any direction given by the grounds hearing under section 93(2)(a) (grounds not accepted: application to sheriff or discharge) or 94(2)(a) (child or relevant person unable to understand grounds) of the Act to the Reporter to make an application to the sheriff.

The statement of grounds

14. Where the statement of grounds prepared by the Reporter under section 89 (Principal Reporter's duty to prepare statement of grounds) of the Act includes a ground mentioned in section 67(2)(j) (the child has committed an offence) the facts relating to that ground must have the same degree of specification as is required by section 138(4) (complaints) of, and Schedule 3 (indictments and complaints) to, the Criminal Procedure (Scotland) Act 1995 in a charge in a complaint, and the statement of grounds must also specify the nature of the offence in question.

Duties of Reporters where information to be withheld from a person

15.—(1) Where information is to be withheld from a person under the Act or these Rules the Reporter must ensure that the relevant information is removed from the report or other document or information to be given under the Act, or these Rules, to the person from whom that information is to be withheld.

(2) Where information is withheld under the Act or these Rules the Reporter must inform the persons to whom the report or other document or information has been given under the Act, or these Rules, of the identity of the person from whom the information is being withheld, and what information is being withheld from that person.

Withholding of specified documents and information by the Reporter

16.—(1) This rule applies where a children's hearing or pre-hearing panel is to be held or has been held in relation to a child by virtue of the Act or these Rules and the Reporter is arranging the hearing, notifying persons of the hearing or issuing information or documents for the hearing or is taking any action required as a consequence of the hearing.

(2) Where the Reporter is carrying out the functions referred to in paragraph (1) and considers that disclosing the whereabouts of the child to whom the children's hearing or pre-hearing panel relates, or of any relevant person, would be likely to cause significant harm to the child or any relevant person the Reporter may withhold that information.

(3) Where the address of the child or relevant person is withheld under paragraph (2) the Reporter will give the address of the child or relevant person as that of the Reporter.

Duties of the Reporter where a child is detained under a warrant to secure the attendance of the child

17.—(1) This rule applies where the children's hearing has granted a warrant to secure the attendance of the child at a children's hearing under section 123 (general power to grant warrant to secure attendance) of the Act and the child is being kept in a place of safety under that warrant.

(2) The Reporter must, wherever practicable, arrange the children's hearing to take place on the first working day after the child was first detained in pursuance of the warrant.

Notification and provision of information to a young child

18.—(1) This rule applies where, under the Act or these Rules, the Reporter must—

- (a) notify a child of the date, time and place of a children's hearing or pre-hearing panel to be held in relation to that child; or
- (b) provide a child with any information, confirmation, report or other document in relation to a children's hearing or pre-hearing panel.

(2) The Reporter need not so notify the child or provide the information, confirmation, report or other document where, taking account of the child's age and maturity, the child would not be capable of understanding the notification, information, confirmation, report or other document.

PART 5

Attendance at Hearings

Further provision in relation to the attendance of the child and relevant person at a children's hearing or pre-hearing panel

19.—(1) Paragraph (2) applies where the Reporter has been advised that the child, or relevant person, or an individual who wants to be deemed to be a relevant person, wishes to attend a pre-hearing panel or children's hearing or part of a children's hearing and—

- (a) the child or the relevant person, as the case may be, has been excused from attending that pre-hearing panel, children's hearing or that part of the children's hearing; or
- (b) the child, relevant person or individual in question wishes to attend a pre-hearing panel or children's hearing which by virtue of section 80 (determination of matter referred under section 79) of the Act is to determine a matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act.

(2) The Scottish Children's Reporter Administration must take all reasonable steps to enable the child, relevant person, or the individual in question, as the case may be, to attend the pre-hearing panel, children's hearing or that part of the children's hearing by way of telephone, through video link or by using any other method of communication, if requested to do so by the child, relevant person or individual in question, and if the Reporter is satisfied that the child, relevant person or individual in question has good reason for not attending in person.

Attendance at a children's hearing

20.—(1) The persons mentioned in paragraph (2) are authorised to attend a pre-hearing panel and children's hearing.

(2) Those persons are a constable, prison officer or other person who has in their lawful custody a person who has to attend a pre-hearing panel or children's hearing.

PART 6

Arranging children's hearings – general

Application of Part

21. This part does not apply where rule 29 or 36 applies.

Notification of children's hearings - general

22.—(1) Where a children's hearing is to be held in relation to a child by virtue of section 69(2) (determination under section 66: referral to children's hearing) or Parts 9 to 11 (children's hearing; proceedings before sheriff; subsequent children's hearings) or 13 (review of compulsory supervision order) of the Act the Reporter must notify the persons mentioned in paragraph (2) of the date, time and place of the children's hearing, as soon as practicable and no later than 7 days before the intended date of the children's hearing.

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (d) any appointed safeguarder;
- (e) the chief social work officer of the relevant local authority for the child;
- (f) the National Convener.

Other information to be given with notification of a children's hearing to the child and each relevant person

23. The Reporter must when issuing the notice under rule 22(1) to the child and each relevant person also give to the child and each relevant person—

- (a) information on the availability to the child and relevant person of legal advice;
- (b) confirmation of the child's duty to attend the children's hearing under section 73 (child's duty to attend children's hearing) of the Act;
- (c) confirmation of the relevant person's duty to attend the children's hearing under section 74 (relevant person's duty to attend children's hearing) of the Act;
- (d) confirmation of the right of the child and each relevant person to request a pre-hearing panel or children's hearing to determine whether—
 - (i) a particular individual should be deemed to be a relevant person;
 - (ii) the child or relevant person should be excused from all or part of the children's hearing;
 - (iii) 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;
- (e) information on the means by which the child may express views to the children's hearing;

- (f) confirmation of the right of the child and each relevant person to give any report or other document for the consideration of the children's hearing or pre-hearing panel.

Other information to be given with notification of a children's hearing to certain other persons

24.—(1) Where rule 22 applies, when issuing the notification required under that rule the Reporter must also give to any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child the information mentioned in paragraph (2).

(2) That information is confirmation of the right of the individual to require a pre-hearing panel or a children's hearing to determine whether the individual should be deemed to be a relevant person.

Information to be sent to the members of the children's hearing

25. Wherever practicable 7 days before, and no later than 3 days before, the intended date of the children's hearing the Reporter must give to the three members of the children's hearing notification of the date, time and place of the hearing.

Provision of information prior to children's hearing

26.—(1) Where the child or any relevant person wish to give to a children's hearing to be held by virtue of section 69(2) (determination under section 66: referral to children's hearing) or Parts 9 to 11 (children's hearing; proceedings before sheriff; subsequent children's hearings), or 13 (review of compulsory supervision order) of the Act any report or other document for the consideration of the children's hearing the child or relevant person, as the case may be, must give a copy of the report or other document to the Reporter, so far as practicable, no later than 4 days before the intended date of the hearing.

(2) Wherever practicable the Reporter must give a copy of any report or other document given under paragraph (1) to the persons mentioned in paragraph (4) (except where that person gave the report or other document to the Reporter) no later than 3 days before the intended date of the hearing.

(3) Where the Reporter obtains any information (including any views of the child given orally to the Reporter) or document which is material to the children's hearing and has not previously been given to the persons mentioned in paragraph (4) the Reporter must give that information or a copy of the document to those persons as soon as possible before the beginning of the children's hearing.

(4) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the three members of the children's hearing.

PART 7

Specific provision for arranging grounds hearings

Additional information to be given to the child and each relevant person in relation to a grounds hearing

27.—(1) Where the Reporter is required to arrange a grounds hearing, when notifying the date, time and place of the intended children's hearing under rule 22 the Reporter must give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3).

(2) Those persons are—

- (a) the child;
- (b) each relevant person; and
- (c) any appointed safeguarder (except the information mentioned in paragraph (3)(b)).

(3) That information is—

- (a) a copy of the statement of grounds prepared under section 89 (Principal Reporter's duty to prepare statement of grounds) of the Act in relation to the child;
- (b) information relating to the retention of the child's DNA and other records kept in connection with the acceptance by the child and relevant person, or the establishment by the sheriff, of an offence specified in an order made by the Scottish Ministers under section 113A(6)(ba) (criminal record certificates) of the Police Act 1997(5);
- (c) a copy of any relevant requirement made by a sheriff under section 156(3)(a) (determination of appeal) of the Act.

(4) Where the Reporter is required to arrange a grounds hearing, no later than 3 days before the intended date of the hearing the Reporter must also give to the persons mentioned in paragraph (5) the information mentioned in paragraph (6).

(5) Those persons are—

- (a) the child;
- (b) each relevant person; and
- (c) any appointed safeguarder (except the information mentioned in paragraph (6)(a)).

(6) That information is—

- (a) a copy of any available report or interim report prepared by a safeguarder under section 33(1)(a) (functions of safeguarder) of the Act;
- (b) a copy of any report or information provided by the local authority to the Reporter under section 66(4) (investigation and determination by Principal Reporter) or 69(4) (determination under section 66: referral to children's hearing) of the Act;
- (c) a copy of any views of the child given to the Reporter by the child or any other person;
- (d) a copy of any other report or other document material to the children's hearing's consideration.

(7) This rule does not apply where rule 29 applies.

(5) 1997 c.50. Section 113A(6)(ba) is inserted by section 188 of the Act.

Information to be given to the members of the grounds hearing

28.—(1) Wherever practicable 7 days before, and no later than 3 days before, the intended date of the grounds hearing the Reporter must give to the three members of the children's hearing a copy of the statement of grounds.

(2) No later than 3 days before the intended date of the grounds hearing the Reporter must give to the three members of the children's hearing—

- (a) a copy of any relevant requirement made by a sheriff under section 156(3)(a) (determination of appeal) of the Act;
- (b) a copy of any available report or interim report prepared by a safeguarder under section 33(1)(a) (functions of safeguarder) of the Act;
- (c) a copy of any report or information provided by the local authority to the Reporter under section 66(4) (investigation and determination by Principal Reporter) or 69(4) (determination under section 66: referral to children's hearing) of the Act;
- (d) a copy of any views of the child given to the Reporter by the child or any other person;
- (e) a copy of any other report or other document material to the children's hearing's consideration.

(3) This rule does not apply where rule 29 applies.

Provision of information for a grounds hearing where section 69(3) (determination under section 66: referral to children's hearing) of the Act applies or following the making of a child protection order under section 38 (consideration by sheriff: application by local authority only) or 39 (consideration by sheriff: application by local authority or other person) of the Act

29.—(1) This rule applies where—

- (a) section 69(3) of the Act applies; or
- (b) following receipt of a notice under section 43 (notice of child protection order) of the Act of the making of a child protection order the Reporter is required to arrange a children's hearing under section 69(2) of the Act which is to be held no later than—
 - (i) where the order contains an authorisation of the type mentioned in section 37(2) (b) (child protection orders) of the Act, the end of the period of 8 working days beginning on the day the child was removed to a place of safety; or
 - (ii) where the order does not contain such an authorisation, the end of the period of 8 working days beginning on the day the order was made.

(2) As soon as practicable before the beginning of the grounds hearing, the Reporter must notify the persons mentioned in paragraph (3) of the date, time and place of the hearing.

(3) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (e) the three members of the children's hearing;
- (f) the National Convener.

(4) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(a) to (c) such of the information mentioned in paragraph (5) as is available.

(5) That information is the information mentioned in rules 23, 26, 27 and where applicable rule 30.

(6) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(e) the information mentioned in paragraph (7) as is available.

(7) That information is—

- (a) the information mentioned in rules 26, 28 and where applicable rule 30;
- (b) a copy of any relevant child protection order made in relation to the child under section 38 or 39 of the Act.

(8) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(d) the information mentioned in rule 24.

Arranging a grounds hearing where a compulsory supervision order is already in force in relation to the child

30.—(1) This rule applies where a grounds hearing is to be arranged and a compulsory supervision order is already in force in relation to the child to whom the hearing relates.

(2) No later than 3 days before the intended date of the children's hearing the Reporter must in addition to the information to be given under this Part give to the persons mentioned in paragraph (3) the information mentioned in paragraph (4).

(3) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the three members of the children's hearing.

(4) That information is—

- (a) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
- (b) a copy of any notice by the implementation authority under section 131 (duty of implementation authority to require review) of the Act.

(5) This rule does not apply where rule 29 applies.

PART 8

Specific provision for arranging a children's hearing to be held under section 119 (children's hearing following deferral or proceedings under Part 10) of the Act

Provision of information to the child, relevant persons and any appointed safeguarder for a children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies

31.—(1) Where the Reporter is required to arrange a children's hearing to which section 119 of the Act applies, as soon as practicable, and at least 3 days before the intended date of the children's hearing, the Reporter must give to the following persons the information mentioned in paragraph (2)

- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder (except the information mentioned in paragraph (2)(a)).
- (2) That information is—
- (a) any available report or interim report prepared by the safeguarder under section 33(1)(a) or (c) (functions of safeguarder) of the Act or these Rules;
 - (b) any report prepared by the local authority;
 - (c) a copy of any relevant direction by a sheriff under section 108 (determination: ground established), 115 (recall: power to refer other grounds) or 117 (new section 67 ground established: sheriff to refer to children's hearing) of the Act;
 - (d) a copy of any relevant remit by a court under section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995⁽⁶⁾;
 - (e) a copy of any relevant statement by a sheriff under section 12(1B) (sheriff's power to refer case to children's hearing) of the Antisocial Behaviour etc. (Scotland) Act 2004⁽⁷⁾;
 - (f) a copy of any relevant requirement made by a sheriff under section 156(3)(a) (determination of appeal) of the Act;
 - (g) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
 - (h) any other report, document or information relevant to the matter to be considered by the children's hearing.
- (3) This rule does not apply where rule 33 applies.

Information to be given to the members of the children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies

32. Where rule 31 applies, wherever practicable 7 days before, and no later than 3 days before, the intended date of the children's hearing the Reporter must give to the three members of the children's hearing—

- (a) a copy of the statement of grounds;
- (b) any available report or interim report prepared by the appointed safeguarder under section 33(1)(a) or (c) (functions of safeguarder) of the Act or these Rules;
- (c) any report prepared by the local authority;
- (d) a copy of any relevant direction by a sheriff under section 108 (determination: ground established), 115 (recall: power to refer other grounds) or 117 (new section 67 ground established: sheriff to refer to children's hearing) of the Act;
- (e) a copy of any relevant remit by a court under section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995;
- (f) a copy of any relevant statement by a sheriff under section 12(1B) (sheriff's power to refer case to children's hearing) of the Antisocial Behaviour etc. (Scotland) Act 2004;
- (g) a copy of any relevant requirement made by a sheriff under section 156(3)(a) (determination of appeal) of the Act;
- (h) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;

⁽⁶⁾ 1995 c.46.

⁽⁷⁾ 2004 asp 8. Section 12(1B) was inserted by paragraph 3 of Schedule 5 to the Act.

- (i) a copy of any decision of a pre-hearing panel or children's hearing held in relation to the child and the reasons for that decision;
 - (j) any other report, document or information relevant to the matter to be considered by the children's hearing;
 - (k) a copy of any relevant child protection order made in relation to the child under section 38 (consideration by sheriff: application by local authority only) or 39 (consideration by sheriff: application by local authority or other person) of the Act.
- (2) This rule does not apply where rule 33 applies.

Provision of information for children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies where section 109(7) (determination: power to make interim compulsory supervision order etc.), 115(5) (recall: power to refer other grounds) or 117(5) (new section 67 ground established: sheriff to refer to children's hearing) of the Act also applies.

- 33.**—(1) This rule applies where section 109(7), 115(5) or 117(5)(8) of the Act applies.
- (2) As soon as practicable before the beginning of the children's hearing, the Reporter must notify the persons mentioned in paragraph (3) of the date, time and place of the hearing.
- (3) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (e) the three members of the children's hearing.
- (4) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(a) to (c) such of the information mentioned in rules 23, 26 and 31 as is available.
- (5) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(e) such of the information mentioned in rules 26 and 32 as is available.
- (6) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(d) the information mentioned in rule 24.

PART 9

Specific provision for arranging a children's hearing to which section 137 (duty to arrange children's hearing) of the Act applies

Provision of information to the child and relevant persons for a children's hearing to which section 137 (duty to arrange children's hearing) of the Act applies

- 34.**—(1) Where the Reporter is required to arrange a children's hearing by virtue of section 137(2) of the Act, as soon as practicable and no later than 7 days before the intended date of the children's

(8) Section 115(5) and 117(5) are inserted into the Act by the Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/).

hearing the Reporter must also give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3).

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder.

(3) That information is—

- (a) a copy of the compulsory supervision order to be reviewed;
- (b) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
- (c) a copy of any relevant remit by a court under section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995;
- (d) a copy of any relevant requirement by a sheriff under section 12(1A) (sheriff's power to refer case to children's hearing) of the Antisocial Behaviour etc. (Scotland) Act 2004;
- (e) a copy of any relevant requirement made by a sheriff under section 156(3)(a) (determination of appeal) of the Act;
- (f) a copy of any notice by the implementation authority under section 131 (duty of implementation authority to require review) of the Act.

(4) No later than 3 days before the intended date of the hearing the Reporter must also give to the persons mentioned in paragraph (5) the information mentioned in paragraph (6).

(5) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder.

(6) That information is—

- (a) a copy of any available report or interim report prepared by an appointed safeguarder under section 33(1)(a) or (c) (functions of safeguarder) of the Act;
- (b) a copy of any report or other information provided by the local authority under section 137(4) or (5) (duty to arrange children's hearing) of the Act;
- (c) a copy of any views of the child given to the Reporter by the child or any other person;
- (d) a copy of any other report or other document material to the children's hearing's consideration.

(7) This rule does not apply where rule 36 applies.

Information to be given to the members of the children's hearing to which section 137 (duty to arrange children's hearing) of the Act applies

35.—(1) Where rule 34 applies no later than 3 days before the intended date of the children's hearing to which section 137 of the Act applies, the Reporter must give to the three members of that children's hearing—

- (a) a copy of the compulsory supervision order to be reviewed;
- (b) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
- (c) a copy of any relevant remit by a court under section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995;

- (d) a copy of any relevant requirement by a sheriff under section 12(1A) (sheriff's power to refer case to children's hearing) of the Antisocial Behaviour etc. (Scotland) Act 2004;
 - (e) a copy of any relevant requirement made by a sheriff under section 156(3)(a) (determination of appeal) of the Act;
 - (f) a copy of any notice by the implementation authority under section 131 (duty of implementation authority to require review) of the Act;
 - (g) a copy of any available report or interim report prepared by a safeguarder under section 33(1)(a) or (c) (functions of safeguarder) of the Act;
 - (h) a copy of any report or other information provided by the local authority under section 137(4) or (5) (duty to arrange children's hearing) of the Act;
 - (i) a copy of any views of the child given to the Reporter by the child or any other person;
 - (j) a copy of any other report or other document material to the children's hearing's consideration.
- (2) This rule does not apply where rule 36 applies.

Provision of information for a review hearing where section 136 (duty to initiate review where child transferred) of the Act applies

- 36.**—(1) This rule applies where section 136 of the Act applies.
- (2) As soon as practicable before the beginning of the children's hearing, the Reporter must notify the persons mentioned in paragraph (3) of the date, time and place of the hearing.
- (3) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (e) the three members of the children's hearing;
 - (f) the National Convener.
- (4) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(a) to (c) such of the information mentioned in rules 23, 26 and 34 as is available.
- (5) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(e) such of the information mentioned in rules 26 and 35 as is available.
- (6) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(d) the information mentioned in rule 24.

PART 10

Arranging a grounds hearing where grounds hearing or review hearing has deferred or application made to the sheriff

Papers to be sent when new grounds presented after grounds hearing deferred or application made to the sheriff

37.—(1) This rule applies where—

- (a) a grounds hearing deferred making a decision on whether to make a compulsory supervision order until a subsequent children's hearing under section 91(2) (grounds accepted: powers of grounds hearing) of the Act or directed the Reporter under section 93(2)(a) (grounds not accepted: application to sheriff or discharge) or 94(2)(a) (child or relevant person unable to understand grounds) of the Act to make an application to the sheriff; or
- (b) a children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies is to be arranged by the Reporter;

and in either case the Reporter is required by virtue of section 69(2) (determination under section 66: referral to children's hearing) of the Act to arrange a further grounds hearing in relation to that child.

(2) In addition to complying with Part 7 of these Rules the Reporter must also comply, so far as practicable, with Part 8.

Papers to be sent when new grounds presented after review hearing deferred

38.—(1) This rule applies where—

- (a) the Reporter is required by virtue of section 137(2) (duty to arrange children's hearing) of the Act to arrange a children's hearing in relation to the child; and
- (b) the Reporter is required by virtue of section 69(2) (determination under section 66: referral to children's hearing) of the Act to arrange a grounds hearing in relation to that child.

(2) In addition to complying with Part 7 of these Rules the Reporter must also comply, so far as practicable, with Part 9.

PART 11

Arranging other children's hearings

Arranging a children's hearing under section 45 (review by children's hearing where child in place of safety) or 46 (review by children's hearing where order prevents removal of child) of the Act – 2nd working day hearing

39.—(1) This rule applies where section 45(2) or 46(2) of the Act applies.

(2) As soon as practicable before the beginning of the children's hearing, the Reporter must notify the persons mentioned in paragraph (3) of the date, time and place of the children's hearing.

(3) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;

- (d) the person who applied for the child protection order or child assessment order, as the case may be;
- (e) the person specified in the child protection order under section 37(2)(a) (child protection orders) of the Act;
- (f) any other person prescribed by rules of court for the purposes of section 48 (application for variation or termination) or 49 (notice of application for variation or termination) of the Act;
- (g) the three members of the children's hearing;
- (h) any appointed safeguarder;
- (i) the chief social work officer of the relevant local authority for the child;
- (j) the National Convener.

(4) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (3)(a) to (j) such of the information mentioned in paragraph (5) as is available.

- (5) That information is—
- (a) a copy of the child protection order;
 - (b) a copy of the application for the child protection order, or child assessment order, as the case may be;
 - (c) a copy of any report or other document which is relevant to the children's hearing's consideration.

Arranging a children's hearing under section 50 (children's hearing to provide advice to sheriff in relation to application) of the Act

40.—(1) Where a hearing is to be arranged under section 50 of the Act, as soon as practicable after determining to arrange the hearing the Reporter must notify the persons mentioned in paragraph (2) of the date, time and place of the children's hearing.

- (2) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (d) the person who applied for the child protection order, or child assessment order, as the case may be;
 - (e) the person who applied for the child protection order to be varied or terminated;
 - (f) the person specified in the child protection order under section 37(2)(a) (child protection orders) of the Act;
 - (g) any other person, to whom the applicant for variation or termination of a child protection order is required to give notice of the making of the application, prescribed by rules of court for the purposes of section 48 (application for variation or termination) or 49 (notice of application for variation or termination) of the Act;
 - (h) the three members of the children's hearing;
 - (i) any appointed safeguarder;
 - (j) the chief social work officer of the relevant local authority for the child;
 - (k) the National Convener.

(3) As soon as practicable before the beginning of the hearing, the Reporter must give to the persons mentioned in paragraph (2)(a) to (j) such of the information mentioned in paragraph (4) as is available.

(4) That information is—

- (a) a copy of the child protection order;
- (b) a copy of the application for the child protection order or child assessment order, as the case may be;
- (c) a copy of the application under section 48 of the Act for the variation or termination of the child protection order;
- (d) any other relevant document or information.

Provision of information for a children's hearing under section 96(2) (children's hearing to consider need for further interim compulsory supervision order)

41.—(1) This rule applies where a children's hearing under section 96(2) of the Act is to be arranged by the Reporter.

(2) Wherever practicable when issuing notice under rule 22 and in all cases no later than 7 days before the intended date of the children's hearing, the Reporter must give to the persons mentioned in paragraph (3) the information mentioned in paragraph (4).

(3) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the three members of the children's hearing;

(4) That information is—

- (a) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
- (b) a copy of any interim compulsory supervision order made in relation to the child;
- (c) any relevant document or other information for the consideration of the children's hearing.

Arranging a children's hearing under section 126 (review of contact direction) of the Act

42.—(1) Where section 126 of the Act applies, the Reporter must, as soon as practicable and no later than 3 days after the children's hearing mentioned in section 126(1)(a) of the Act, inform those persons mentioned in paragraph (2) of the place, date and time of any children's hearing to be held under section 126(2)(a) or (b) of the Act and the right of those mentioned in paragraph (2) (a) to (g) to attend that hearing.

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any person other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (d) any person who has a contact order regulating contact between the individual and the child;
- (e) any person having a right of contact with the child under a permanence order;
- (f) any person who requested a children's hearing be held under section 126(2)(b) of the Act;

- (g) any appointed safeguarder;
- (h) the three members of the children's hearing;
- (i) the chief social work officer of the implementation authority or relevant local authority for the child as the case may be;
- (j) the National Convener.

(3) Wherever possible when informing the persons mentioned in paragraph 2(a) to (h) and in all cases no later than 3 days prior to the intended date of the children's hearing under section 126 of the Act, the Reporter must give to those persons—

- (a) a copy of the contact direction in the relevant order made by the children's hearing mentioned in section 126(1) of the Act and the reasons for that contact direction;
 - (b) any document or part of any document which is relevant to the children's hearing to be held under section 126 of the Act.
- (4) In this rule "relevant order" means—
- (a) a compulsory supervision order;
 - (b) an interim compulsory supervision order;
 - (c) a medical examination order.

Arranging a children's hearing under section 142 (review of determination that person be deemed a relevant person)

43.—(1) This rule applies where a children's hearing under section 142(3) of the Act deferred determining the review under section 142(2) of the Act until a subsequent children's hearing.

(2) Wherever practicable when issuing notice under rule 22 and in all cases as soon as practicable before the beginning of the children's hearing to be held by virtue of section 142 of the Act, the Reporter must give to the persons mentioned in paragraph (3) any relevant document or other information for the consideration of the children's hearing.

- (3) Those persons are—
- (a) the child;
 - (b) any relevant person;
 - (c) any appointed safeguarder;
 - (d) the three members of the children's hearing.

Arranging a children's hearing for the purposes of section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995

44.—(1) Where a children's hearing is required to provide a report under section 49(1)(b), (3) or (6) of the Criminal Procedure (Scotland) Act 1995⁽⁹⁾, as soon as practicable and no later than 7 days before the intended date of the hearing the Reporter must notify the persons mentioned in paragraph (2) of the date, time and place of the hearing.

- (2) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) the three members of the children's hearing;

(9) 1995 c.46.

- (e) the chief social work officer of the relevant local authority for the child;
- (f) the National Convener.

(3) As soon as practicable and no later than 3 days before the intended date of the hearing, the Reporter must give to the persons mentioned in paragraph (2)(a) to (c) such of the information mentioned in paragraph (4) as is available.

(4) That information is—

- (a) a copy of any relevant remit by a court under section 49 of the Criminal Procedure (Scotland) Act 1995;
- (b) copies of all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
- (c) confirmation of the child's duty to attend the children's hearing under section 73 (child's duty to attend children's hearing) of the Act;
- (d) confirmation of the relevant person's duty to attend the children's hearing under section 74 (relevant person's duty to attend children's hearing) of the Act;
- (e) information on the means by which the child may express views to the children's hearing;
- (f) confirmation of the right of the child and each relevant person to give any report or other document for the consideration of the children's hearing.

(5) As soon as practicable and no later than 3 days before the intended date of the hearing, the Reporter must give to the persons mentioned in paragraph (2)(d) such of the information mentioned in paragraph (4)(a) and (b) as is available.

PART 12

Pre-hearing panels and determination of matters which may be referred to pre-hearing panels

Arranging pre-hearing panel - determination of relevant person status

45.—(1) Where a pre-hearing panel is to be arranged by virtue of section 79(2)(a) or (b) (referral of certain matters for pre-hearing determination) of the Act (whether or not it is also to determine any matter mentioned in section 79(3)), wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual requesting a determination that they be deemed a relevant person under section 79(2)(a) of the Act;
- (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (e) any appointed safeguarder;
- (f) the three members of the pre-hearing panel;
- (g) the National Convener.

(3) The notice must inform—

- (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel;

- (b) the persons mentioned in paragraph (2)(a) to (e) that they—
 - (i) have the right to attend the pre-hearing panel;
 - (ii) may make representations (orally or in writing) to the pre-hearing panel relating to whether the individual mentioned in paragraph (2)(c) or (d) should be deemed to be a relevant person;
 - (iii) may give any report or other document relevant to that matter for the consideration of the pre-hearing panel;
 - (iv) have the right to request that the Reporter takes all reasonable steps to enable the child, each relevant person, or the individual in question, as the case may be, to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication; and
- (c) the individual mentioned in paragraph (2)(c) or (d) that the individual, if deemed a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act after that determination has been made, may request the pre-hearing panel to determine any matter mentioned in section 79(3) of the Act.
- (4) Where the pre-hearing panel will also determine any other matter referred under section 79(2)(c) of the Act the notice must state that fact and—
 - (a) inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on that matter unless they are deemed to be a relevant person; and
 - (b) inform the persons mentioned in (2)(a), (b) or (e) that they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to any matter to be determined by the panel; and
 - (ii) give any report or other document relevant to those matters for the consideration of the pre-hearing panel.

Arranging pre-hearing panels to determine matter in section 79(3) (referral of certain matters for pre-hearing determination) of the Act

46.—(1) Where a pre-hearing panel is to be arranged by virtue only of section 79(2)(c) of the Act wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

- (2) Those persons are—
 - (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) the three members of the pre-hearing panel;
 - (e) the National Convener.
- (3) The notice must inform—
 - (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel;
 - (b) the persons mentioned in paragraph (2)(a) to (d) of the matters to be determined by the pre-hearing panel; and
 - (c) the persons mentioned in paragraph (2)(a) to (c) that they—
 - (i) have the right to attend the pre-hearing panel;
 - (ii) may make representations (orally or in writing) to the pre-hearing panel;

- (iii) may give any report or other document for the consideration of the pre-hearing panel;
- (iv) have the right to request that the Reporter takes all reasonable steps to enable the child and each relevant person to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication.

Provision of information to pre-hearing panel

47.—(1) Where any person mentioned in rule 45(2)(a) to (e) or 46(2)(a) to (c), as the case may be, wishes to make written representations or give any report or other document for the consideration of the pre-hearing panel, as soon as possible and wherever practicable no later than 4 days before the intended date of the pre-hearing panel, that person must give those representations, report or other document to the Reporter.

(2) Subject to the provisions of paragraphs (6) and (7), where the Reporter receives any representations, report or other document under paragraph (1), wherever practicable no later than 3 days before the intended date for the pre-hearing panel the Reporter must give a copy of that information to the persons mentioned in rule 45(2)(a) to (f) or 46(2)(a) to (d), as the case may be, (unless that person gave the information in question to the Reporter).

(3) Where any person mentioned in rule 45(2)(a) to (e) or 46(2)(a) to (c), as the case may be, is unable to attend the pre-hearing panel and wishes to make oral representations for the consideration of the pre-hearing panel that person may make those representations to the Reporter.

(4) The Reporter must make a record of any representations given under paragraph (3) and give a copy of that record to those persons mentioned in rule 45(2)(a) to (f) or 46(2)(a) to (d), as the case may be, as soon as possible before the beginning of the pre-hearing panel.

(5) As soon as possible before the beginning of the pre-hearing panel the Reporter must also give the persons mentioned in rule 45(2)(a) to (f) or 46(2)(a) to (d), as the case may be, any other document, or part of a document, that is relevant to the issues to be determined by the pre-hearing panel and is in the possession of the Reporter.

(6) Where the matter referred to a pre-hearing panel concerns the question of whether a particular person should be deemed to be a relevant person, the obligation under paragraph (2) shall only apply to such material as the Reporter considers relevant to the question of whether that person should be deemed to be a relevant person.

(7) The provisions of Part 19 of these Rules apply to any representations, report or other document received by the Reporter under paragraph (1) as they apply to any document relating to a children's hearing.

Procedure at pre-hearing panel determination of whether to deem an individual to be a relevant person

48.—(1) At the beginning of the pre-hearing panel the chairing member must explain the purpose of the pre-hearing panel.

(2) The pre-hearing panel, despite a referral not having been made under section 79(2) (referral of certain matters for pre-hearing determination) of the Act, must consider whether to deem an individual, who is present at the pre-hearing panel, to be a relevant person on the request of—

- (a) the child;
- (b) any relevant person;
- (c) the individual in question.

(3) Where the pre-hearing panel is to consider whether to deem an individual to be a relevant person under paragraph (2) the provisions of the Act (other than section 81(2) (determination of

claim that person be deemed a relevant person)) and these Rules apply as if the matter had been referred under section 79 of the Act.

(4) Where the pre-hearing panel is to determine the matter of whether any individual should be deemed to be a relevant person, the chairing member—

- (a) must invite any of the persons mentioned in paragraph (5), who is in attendance, to give to the pre-hearing panel any representations (orally or in writing) or any other document or information in addition to any given under these Rules that the person wishes to give for the consideration of the pre-hearing panel; and
- (b) may invite any other person that the pre-hearing panel consider appropriate to do so.

(5) Those persons are—

- (a) the child;
- (b) any relevant person;
- (c) any individual in relation to whom the determination is sought.

(6) Each member of the pre-hearing panel must state their determination on that matter under paragraph (2) and the reasons for that determination.

(7) Once each member of the pre-hearing panel has stated their determination on that matter the chairing member must confirm the determination of the pre-hearing panel in respect of the matter and the reasons for that determination.

(8) Where the pre-hearing panel has made a determination under section 81(3) of the Act the chairing member must inform the persons mentioned in paragraph (9) of their right to appeal that determination under section 160 of the Act.

(9) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual in respect of whom the pre-hearing panel determined that the individual is not to be deemed a relevant person.

Procedure at pre-hearing panel determination of any other matter

49.—(1) Where the pre-hearing panel is to determine any matter of a type mentioned in section 79(3) (referral of certain matters for pre-hearing determination) of the Act, the chairing member—

- (a) must invite any of the persons mentioned in rule 48(4)(a) and (b), who is in attendance, to give to the pre-hearing panel any representations (orally or in writing) or any other document or information in addition to any given under these Rules that the person wishes to give for the consideration of the pre-hearing panel; and
- (b) may invite any other person that the pre-hearing panel consider appropriate to do so.

(2) Each member of the pre-hearing panel must state their determination on each matter and the reasons for that determination.

(3) Once each member of the pre-hearing panel has stated their determination on each matter the chairing member must confirm the determination of the pre-hearing panel in respect of each matter and the reasons for that determination.

Notice of pre-hearing panel determination

50.—(1) As soon as practicable after the pre-hearing panel the Reporter must give notice of any determination of the pre-hearing panel and the reasons for that determination to the persons mentioned in paragraph (2) as regards—

- (a) whether any individual should or should not be deemed to be a relevant person; and
- (b) any other matter referred to the pre-hearing panel.

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the chief social work officer of the relevant local authority for the child.

(3) Where a pre-hearing panel determined that an individual is not to be deemed a relevant person, as soon as practicable after the pre-hearing panel the Reporter must give notice of that determination to the individual in question and the reasons for that determination.

(4) When issuing the notice under paragraph (1) or (3) the Reporter must also give notice of any relevant right of appeal of the recipient of the notice under section 160 (appeal to sheriff against relevant person determination) of the Act.

(5) Where the pre-hearing panel has determined that a child or relevant person is to be excused from attending all or part of the children's hearing, the Reporter must inform the child and relevant person as the case may be, that—

- (a) the child or relevant person has been excused;
- (b) the child or relevant person has the right to attend the hearing; and
- (c) they have the right to request that the Reporter make arrangements to enable the child, or the relevant person, as the case may be, to attend the children's hearing or part of the children's hearing by way of telephone, video link or any other method of communication.

(6) Where the pre-hearing panel has determined that it is likely that a children's hearing will consider making a compulsory supervision order or an interim compulsory supervision order including a secure accommodation authorisation in relation to the child, the Reporter must, as soon as possible after that determination, notify the Scottish Legal Aid Board of that fact and the name and address of the child.

(7) Where the pre-hearing panel has determined that—

- (a) for the purpose of enabling a child or any relevant person to participate effectively in the proceedings before the children's hearing it may be necessary that the child or relevant person be represented by a solicitor or counsel; and
- (b) it is unlikely that the child or relevant person will arrange to be represented by a solicitor or counsel,

the Reporter must, as soon as possible after that determination, notify the Scottish Legal Aid Board of that determination and the reasons for it and the name and address of the child or relevant person.

Provision of information to persons deemed to be relevant persons

51. Where the pre-hearing panel deems a person to be a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act, as soon as practicable after that determination, the Reporter must give to that person all information given under these Rules which is to be given to each relevant person.

Notification of matter to be determined under section 79 (referral of certain matters for pre-hearing determination) where not practicable to arrange a pre-hearing panel before the date fixed for the children's hearing

52.—(1) Where section 80(3) (determination of matter referred under section 79) of the Act applies, as soon as practicable, the Reporter must give notice to the persons mentioned in paragraph (2) that the matter to be referred to a pre-hearing panel under section 79(2) of the Act will be referred to the children's hearing.

- (2) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any individual requesting a determination that they be deemed a relevant person;
 - (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (e) any appointed safeguarder;
 - (f) the three members of the children's hearing.
- (3) The notice under paragraph (1) must inform—
- (a) the persons mentioned in paragraph (2)(a) to (e)—
 - (i) of the date, time and place of the children's hearing;
 - (ii) of the matters to be determined by the children's hearing by virtue of section 80(3) of the Act;
 - (iii) that they have the right to attend that part of the children's hearing;
 - (iv) that they have the right to request that the Reporter takes all reasonable steps to enable the child, relevant person, or the person mentioned in paragraph (2)(c) or (d), as the case may be, to attend the children's hearing by way of telephone, through video link or by using any other method of communication;
 - (v) that they may make representations (orally or in writing) to the children's hearing relating to any matter referred under section 79 of the Act, except where paragraph (4) applies;
 - (vi) that they may give any report or other document relevant to that matter for the consideration of the children's hearing; and
 - (b) the individual mentioned in paragraph (2)(c) or (d), that the individual, where deemed to be a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act, may request the children's hearing to determine any matter mentioned in section 79(3) of the Act.
- (4) Where the children's hearing will also determine any matter referred under section 79(2) (c) of the Act the notice must inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on that matter unless they are deemed to be a relevant person.

Provision of information relating to matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act to the children's hearing

53.—(1) Where any person mentioned in rule 52(2)(a) to (e) wishes to make written representations or give any report or other document for the consideration of the children's hearing, as soon as practicable, and wherever practicable no later than 4 days before the date fixed for the children's hearing that person must give those representations, report or other document to the Reporter.

(2) Where the Reporter receives any representations, reports or other document under paragraph (1), as soon as practicable before the beginning of the children's hearing, the Reporter must give a copy of that information to the persons mentioned in rule 52(2) (unless that person gave the information in question to the Reporter).

(3) Where any person mentioned in rule 52(2)(a) to (e) is unable to attend the children's hearing and wishes to make oral representations for the consideration of the children's hearing that person may make those representations to the Reporter.

(4) The Reporter must make a record of any representations given under paragraph (3) and give a copy of that record to those persons mentioned in rule 52(2) as soon as practicable before the beginning of the children's hearing.

(5) As soon as practicable before the beginning of the children's hearing the Reporter must also give the persons mentioned in rule 52(2) any other document or part of a document that is relevant to the issues under section 79 of the Act to be determined by the children's hearing and is in the possession of the Reporter.

Children's hearing determining a matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act

54. Where by virtue of section 80(3) (determination of matter referred under section 79) of the Act the children's hearing is to determine a matter referred under section 79 of the Act—

- (a) rules 48(2) to (9) and 49 apply; and
- (b) references in those rules to the pre-hearing panel are to be read as references to the children's hearing.

Children's hearings' power to determine whether a person should be deemed to be a relevant person where no referral made under section 79 (referral of certain matters for pre-hearing determination) of the Act

55.—(1) A children's hearing held in relation to a child by virtue of section 69(2) (determination under section 66: referral to children's hearing) or Part 9 to 11 (children's hearing; proceedings before sheriff; subsequent children's hearings) or 13 (review of compulsory supervision order) of the Act, despite a referral not having been made under section 79 of the Act, must consider whether to deem an individual who is present at the hearing to be a relevant person on the request of—

- (a) the child;
- (b) any relevant person;
- (c) the individual in question.

(2) Where the children's hearing is to consider whether to deem an individual to be a relevant person under paragraph (1) the provisions of the Act (other than section 80 (determination of matter referred under section 79) and these Rules apply as if the matter had been referred under section 79 of the Act.

PART 13

Appointment of safeguarder and safeguarders' reports

Appointment of safeguarder by pre-hearing panel or children's hearing

56.—(1) Where the pre-hearing panel appoint a safeguarder for the child the Reporter must—

- (a) inform the safeguarder of the date, time and place (if known) of the next children's hearing to be held in relation to the child; and
 - (b) give to the safeguarder the information mentioned in paragraph (3), as soon as practicable before the intended date of the hearing.
- (2) Where the children's hearing appoint a safeguarder for the child the Reporter must—
- (a) inform the safeguarder of the date, time and place (if known) of the next children's hearing to be held in relation to the child, or the hearing to take place under Part 10 (proceedings before sheriff) of the Act, as the case may be; and
 - (b) give to the safeguarder the information mentioned in paragraph (3) as soon as practicable and no later than 7 days before the intended date of the hearing.
- (3) That information is—
- (a) any information given to the three members of the children's hearing under these Rules;
 - (b) a copy of the pre-hearing panel's or the children's hearing's decision and the reasons for that decision; and
 - (c) the reasons for the decision by the pre-hearing panel or the children's hearing to appoint a safeguarder.
- (4) Where the safeguarder is required to prepare a report under section 33(1)(a) (functions of safeguarder) of the Act, within 35 days of being appointed the safeguarder must prepare and give a report or interim report to the Reporter.
- (5) Where an interim report is given to the Reporter under paragraph (4) the safeguarder must also give to the Reporter—
- (a) a statement explaining the reasons for the production of an interim report;
 - (b) details of further investigations or information to be sought by the safeguarder; and
 - (c) an estimate of how much more time the safeguarder requires to complete the report.

Duty of Reporter on receipt of report from safeguarder

57.—(1) Where the Reporter receives from a safeguarder any report or interim report prepared under section 33(1)(a) or (c) (functions of safeguarder) of the Act, as soon as practicable after receiving that report or interim report the Reporter must arrange a children's hearing to decide whether to make a compulsory supervision order or to review the compulsory supervision order in effect in relation to the child, as the case may be.

(2) Where the Reporter arranges a children's hearing under paragraph (1) and the children's hearing is to make a decision on whether to make a compulsory supervision order the provisions of section 119 (children's hearing following deferral or proceedings under Part 10) of the Act apply to that hearing as if it was arranged by virtue of section 119(2) of the Act.

(3) Where the Reporter arranges a children's hearing under paragraph (1) and the children's hearing is to review the compulsory supervision order in effect in relation to the child section 137 (duty to arrange children's hearing) of the Act applies to that hearing as if it was arranged by virtue of section 137(2) of the Act.

PART 14

Procedure at children's hearings – general

Children's hearings procedure - general

58.—(1) At the beginning of a children's hearing the chairing member must—

- (a) introduce the members of the children's hearing and explain the purpose of the hearing;
- (b) ask whether the child, each relevant person and any appointed safeguarder has received all relevant information and documents sent under these Rules;
- (c) confirm whether the child, each relevant person and any appointed safeguarder has had the opportunity to review the information and documents sent under these Rules and whether these have been understood by the child and each relevant person.

(2) Where, in response to the chairing member's query under section 121 (confirmation that child given opportunity to express views before hearing) of the Act, the child confirms that the documents provided to the child do not accurately reflect the child's views the chairing member must endeavour to clarify the child's views on the relevant matter.

PART 15

Procedure at grounds hearing and children's hearings to which section 119 (children's hearing following deferral or proceedings under Part 10) or 137 (duty to arrange children's hearing) of the Act applies

Procedure at a grounds hearing - grounds put to the child and relevant person

59.—(1) When complying with section 90 (grounds to be put to child and relevant person) of the Act, and without prejudice to sections 76 (power to exclude relevant person from children's hearing) and 77 (power to exclude relevant person's representative from children's hearing) of the Act, the chairing member may exclude any relevant person if satisfied that the presence at the hearing of that person is preventing the children's hearing obtaining the acceptance or denial of a section 67 ground specified in the statement of grounds from any person who is required to accept or deny the grounds.

(2) After the exclusion has ended, the chairing member of the children's hearing must explain to the relevant person what has taken place in the relevant person's absence.

(3) Paragraph (4) applies where the child or any relevant person accept a section 67 ground specified in the statement of grounds but do not accept all of the facts relating to that ground narrated in the statement of grounds.

(4) The children's hearing may, where it considers it appropriate to do so, amend the statement of grounds by removing any facts denied or otherwise amending the facts narrated in the statement of grounds.

(5) Where paragraph (4) applies the children's hearing may not amend the section 67 ground specified in the statement of grounds.

(6) Where paragraph (4) applies the children's hearing must be satisfied that any amendments to the facts narrated in the statement of grounds do not call into question the acceptance of a section 67 ground by the child or any relevant person.

Procedure where section 91(1) (grounds accepted: powers of grounds hearing), 119(1) (children's hearing following deferral or proceedings under Part 10), or 138(1) (powers of children's hearing on review) of the Act applies

60.—(1) This rule applies where section 91(1), 119(1) or 138(1) of the Act apply.

(2) The chairing member—

- (a) must inform those present at the hearing of the substance of any relevant report or other relevant document;
- (b) must take all reasonable steps to obtain the views of the child, each relevant person and any appointed safeguarder in relation to—
 - (i) any relevant report, document or matter being considered by the hearing; and
 - (ii) what, if any, measures would be in the best interests of the child;
- (c) may invite any other person present at the hearing, as the children's hearing considers appropriate, to express their views on, or provide any other information relevant to, any matter or action being considered by the hearing.

(3) Where the children's hearing has been given an interim report and statement prepared by the safeguarder under these Rules the hearing must consider that interim report and statement.

(4) After considering the interim report and statement the children's hearing may set a further date up to a maximum of 35 days for the provision of the report from the safeguarder and defer making a decision on whether to make a compulsory supervision order until a subsequent children's hearing.

Procedure when proceedings under section 91(2) (grounds accepted: powers of grounds hearing), 119(2) (children's hearing following deferral or proceedings under Part 10) or 138(2) (powers of children's hearing on review) of the Act

61.—(1) Where the children's hearing proceeds under section 91(2), 119(2) or 138(2) of the Act, without prejudice to the powers of the children's hearing in section 92 (powers of grounds hearing on deferral), 120 (powers of children's hearing on deferral under section 119) or 139 (powers of children's hearing on deferral under section 138) of the Act, the children's hearing may—

- (a) appoint a safeguarder if one has not already been appointed;
- (b) require the Reporter to obtain any report from any person which the children's hearing considers would be relevant to any matter to be determined by the hearing;
- (c) set a date for the subsequent children's hearing to be held under section 119 or 139 of the Act, as the case may be;
- (d) determine that—
 - (i) for the purpose of enabling a child or any relevant person to participate effectively in the proceedings before the children's hearing it may be necessary that the child or relevant person be represented by a solicitor or counsel; and
 - (ii) it is unlikely that the child or relevant person will arrange to be represented by a solicitor or counsel;
- (e) require the Reporter, as soon as possible after the determination in sub-paragraph (d), to notify the Scottish Legal Aid Board of that determination, the reasons for that determination and the name and address of the child or relevant person;
- (f) require the Reporter to make arrangements for an interpreter for the child or any relevant person or take any other step with a view to securing participation of the child or any relevant person in the hearing;

- (g) give any other direction on any other matter as is necessary to enable the hearing to make a decision on whether to make a compulsory supervision order and if so the measures to be included in that order.
- (2) Each member of the children's hearing must—
- (a) state their decision on the exercise of the power conferred by section 91(2), 119(2) or 138(2) of the Act, as the case may be, and the reason for that decision;
 - (b) state their decision on the exercise of the power conferred by section 92(2) or (3), 120(3), (5) or (6), 123 (general power to grant warrant to secure attendance) or 139(3) (powers of children's hearing on deferral under section 138) of the Act as the case may be, and the reasons for that decision;
 - (c) where the decision is to make an interim compulsory supervision order, interim variation of a compulsory supervision order, medical examination order or to grant a warrant to secure attendance, state the member's decision in relation to any measure to be contained in the order or warrant and the reasons for the inclusion of the proposed measure; and
 - (d) where any other decision is made to exercise any other power, give any direction or impose any requirement, state their decision on that matter and reasons for that decision.
- (3) The chairing member must—
- (i) confirm and explain the decision of the children's hearing;
 - (ii) state the reasons for that decision; and
 - (iii) subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, inform the child, each relevant person and any safeguarder appointed of the right to appeal the children's hearing's decision to make an interim compulsory supervision order, interim variation of a compulsory supervision order, medical examination order or to grant a warrant to secure the attendance under section 154 (appeal to sheriff against decision of children's hearing) of the Act within 21 days of that decision.

Procedure where section 91(3) (grounds accepted: powers of grounds hearing), 119(3) (children's hearing following deferral or proceedings under Part 10) or 138(3) (powers of children's hearing on review) of the Act applies

62.—(1) This rule applies where the children's hearing is required to proceed under section 91(3), 119(3) or 138(3) of the Act.

- (2) Each member of the children's hearing must—
- (a) state their decision on whether to make a compulsory supervision order or to terminate, vary or continue the compulsory supervision order, as the case may be, and the reason for that decision; and
 - (b) where the decision is to make a compulsory supervision order, continue or vary the compulsory supervision order, state the member's decision in relation to any measure to be contained in the order and the reasons for the inclusion of the proposed measure.
- (3) The chairing member must—
- (a) confirm and explain the decision of the children's hearing;
 - (b) state the reasons for that decision;
 - (c) subject to sections 73 (child's duty attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, inform the child, each relevant person and any safeguarder appointed of the right to appeal the children's

hearing's decision to make a compulsory supervision order, or discharge the referral or terminate, vary or continue the compulsory supervision order under section 154 (appeal to sheriff against decision of children's hearing) of the Act within 21 days of that decision; and

- (d) where the decision of the children's hearing is to make a compulsory supervision order, or terminate, vary or continue the compulsory supervision order, subject to sections 73, 74, 75 and 79 of the Act, inform the child, each relevant person and any appointed safeguarder of the right to seek a suspension of the children's hearing's decision under section 158 (compulsory supervision order: suspension pending appeal) of the Act.

Grounds hearing procedures where section 93 (grounds not accepted: application to sheriff or discharge) or 94 (child or relevant person unable to understand grounds) of the Act applies

63.—(1) This rule applies where section 93 or 94 of the Act applies.

(2) Each member of the children's hearing must—

- (a) state their decision on whether to proceed under section 93(2)(a) or (b), or 94(2)(a) or (b) of the Act as the case may be, and the reason for that decision;
- (b) state any decision on the exercise of the power conferred by section 93(5) or 123 (general power to grant warrant to secure attendance) of the Act and the reasons for that decision;
- (c) where the decision is to make an interim compulsory supervision order or grant a warrant to secure attendance state the member's decision in relation to any measure to be contained in the order or warrant and the reasons for the inclusion of the proposed measure.

(3) The chairing member must—

(i) confirm and explain the decision of the children's hearing;

(ii) state the reasons for that decision; and

(iii) subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, inform the child, each relevant person and any safeguarder appointed of the right to appeal the children's hearing's decision to discharge the referral, make an interim compulsory supervision order, or grant a warrant to secure attendance under section 154 (appeal to sheriff against decision of children's hearing) of the Act within 21 days of that decision.

Procedure where section 95 (child fails to attend grounds hearing) of the Act applies

64.—(1) Where section 95(1) of the Act applies each member of the children's hearing must state their decision on whether to require the Reporter under section 95(2) of the Act to arrange another grounds hearing and their reasons for that decision.

(2) The chairing member must—

(a) confirm and explain the decision of the children's hearing; and

(b) state the reasons for that decision;

(3) Where the children's hearing do not require the Reporter to arrange another grounds hearing under section 95(2) of the Act the children's hearing must discharge the referral.

(4) Where paragraph (3) applies, subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, the chairing member must inform each relevant person and any appointed safeguarder of the right to appeal the

children's hearing's decision to discharge the referral under section 154 (appeal to sheriff against decision of children's hearing) of the Act within 21 days of that decision.

Procedure where report required under section 141 (preparation of report in circumstances relating to permanence order or adoption) of the Act

65.—(1) Where a children's hearing is required to produce a report under section 141 of the Act, subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, the chairing member must—

- (a) explain to the child and each relevant person the purpose of the report to be prepared;
- (b) inform the child and each relevant person of the substance of any document or information which is material to the advice to be contained in the report to be prepared by the children's hearing.

(2) Before preparing the report the children's hearing must subject to sections 73, 74, 75 and 79 of the Act—

- (a) discuss the case with the child and each relevant person and any safeguarder appointed;
- (b) seek the views of the child, each relevant person and the safeguarder on the arrangements which would be in the best interests of the child; and
- (c) confirm the advice to be contained in the report.

(3) The chairing member must—

- (a) make, or cause to be made, a report of the advice;
- (b) sign and date the report; and
- (c) give the report to the Reporter at the conclusion of the hearing.

(4) The Reporter must give a copy of the report within 5 days of receiving it under paragraph (3) to—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the court which requires to come to a decision about an application of the type mentioned in section 131(2)(c) or (e) (duty of implementation authority to require review) of the Act;
- (e) the chief social work officer of the implementation authority;
- (f) the couple making the application under section 29 (adoption by certain couples) of the Adoption and Children (Scotland) Act 2007⁽¹⁰⁾ or the person making the application under section 30 (adoption by one person) of that Act, as the case may be.

Procedure where there is a review of determination that person be deemed a relevant person

66.—(1) Where the children's hearing is reviewing whether an individual should continue to be deemed to be a relevant person under section 142(2) (review of determination that person be deemed a relevant person) of the Act the chairing member must inform those present of the purpose of the review.

(2) The chairing member—

⁽¹⁰⁾ 2007 asp 4.

- (a) must invite the child, each relevant person and any appointed safeguarder to express their views in relation to whether the individual should continue to be deemed to be a relevant person;
 - (b) may invite any other person present at the hearing, as the children's hearing considers appropriate, to express their views on that matter.
- (3) Where the children's hearing exercises the power under section 142(3) of the Act—
- (a) each member of the children's hearing must state their decision and the reasons for that decision;
 - (b) the chairing member must confirm and explain the decision of the children's hearing on the exercise of that power and the reasons for it;
 - (c) the chairing member must confirm that the individual will continue to be deemed to be a relevant person.
- (4) Where the children's hearing determine the review under section 142(2) of the Act—
- (a) each member of the children's hearing must state their determination on the matter and the reasons for that determination;
 - (b) the chairing member must—
 - (i) confirm and explain the determination of the children's hearing;
 - (ii) state the reasons for the determination; and
 - (iii) subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, inform the child, each relevant person, the individual in relation to whom the determination was made and any safeguarder appointed of the right to appeal the children's hearing's decision under section 160 (appeal to sheriff against relevant person determination) of the Act within 7 days of that determination;
- (5) As soon as practicable and no later than 2 working days from the day of the children's hearing the Reporter must give to the persons mentioned in paragraph (6) the information mentioned in paragraph (7).
- (6) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) the individual in relation to whom the determination was made.
- (7) That information is—
- (a) a copy of the determination of the children's hearing in relation to whether the individual should continue to be deemed to be a relevant person and the reasons for that determination; and
 - (b) details of the rights of the child, each relevant person and the individual in relation to whom the determination was made, to appeal that decision under section 160 of the Act.

Breach of duties imposed by sections 144 (implementation of compulsory supervision order: general duties of implementation authority) or 145 (duty where order requires child to reside in certain place) of the Act

67.—(1) Where the children's hearing direct the National Convener under section 146(2) (breach of duties imposed by sections 144 and 145) of the Act the chairing member—

- (a) must include in the record of the decision of the children's hearing details of the ways in which the implementation authority is in breach of its duty in relation to the child; and
 - (b) may prepare a report for the National Convener providing such additional information on that matter as the children's hearing considers appropriate.
- (2) As soon as practicable after the children's hearing the Reporter must give to the National Convener—
- (a) a copy of the children's hearing's decision; and
 - (b) any report prepared under paragraph (1)(b).
- (3) Where it appears to the children's hearing at the further review of the compulsory supervision order to be held by virtue of section 146(5) of the Act that the implementation authority continues to be in breach of its duty and the children's hearing under section 146(6) of the Act directs the National Convener to make an application under section 147 (application for order) of the Act the chairing member—
- (a) must include in the record of the decision of the children's hearing details of the ways in which the implementation authority continues to be in breach of its duty in relation to the child; and
 - (b) may prepare a further report for the National Convener providing such additional information on that matter as the children's hearing considers appropriate.
- (4) As soon as practicable after the children's hearing the Reporter must give to the National Convener—
- (a) a copy of the children's hearing's decision; and
 - (b) any report prepared under paragraph (3)(b).

PART 16

Procedure where Part 10 of these Rules applies

Procedure where rule 37 applies

68.—(1) This rule applies where rule 37 applies.

(2) In relation to the further grounds hearing referred to in rule 37, section 91 (grounds accepted: powers of grounds hearing) of the Act applies as if for subsections (2) and (3) there were substituted—

“(2) The grounds hearing is to be treated as if it were a hearing to which section 119 of the Act applies.”.

(3) Where the further grounds hearing proceeds under section 93(2)(a) (grounds not accepted: application to sheriff or discharge) or 94(2)(a) (child or relevant person unable to understand grounds) of the Act, sections 93 (grounds not accepted: application to sheriff or discharge) and 96 (children's hearing to consider need for further interim compulsory supervision order) of the Act apply as if they were modified as follows—

(a) in section 93 of the Act—

(i) after subsection (4) there were inserted—

“(4A) Subsection (5) applies if immediately before the grounds hearing an interim compulsory supervision order was not in force in relation to the child.”; and

(ii) after subsection (5) there were inserted—

“(5A) Subsection (5B) applies if immediately before the grounds hearing an interim compulsory supervision order was in force in relation to the child.

(5B) If the children’s hearing is satisfied that the nature of the child’s circumstances is such that for the protection, guidance, treatment or control of the child it is necessary that a further interim compulsory supervision order be made, the children’s hearing may make a further interim compulsory supervision order in relation to the child.”.

(iii) in subsection (6) after “subsection (5)” there were inserted “or (5B)”;

(b) in section 96 of the Act in subsection (1)(a) for “a grounds hearing” there were substituted “or 93(5B) a grounds hearing”.

(4) Where the further grounds hearing proceeds under section 93(2)(b) or 94(2)(b) of the Act the children’s hearing may proceed, where appropriate, as if the hearing was a hearing to which section 119 (children’s hearing following deferral or proceedings under Part 10) applies in relation to any section 67 ground previously accepted or determined by the sheriff to be established under section 108 (determination: ground established) or 117 (new section 67 ground established: sheriff to refer to children’s hearing) of the Act.

(5) In paragraph (4) “accepted” has the same meaning as in section 93(7) (grounds not accepted: application to sheriff or discharge) of the Act.

Procedure where rule 38 applies

69.—(1) This rule applies where rule 38 applies.

(2) Where the further grounds hearing proceeds under section 93(2)(a) (grounds not accepted: application to sheriff or discharge) or 94(2)(a) (child or relevant person unable to understand grounds) of the Act the grounds hearing may continue the compulsory supervision order until the subsequent children’s hearing.

(3) Where the further grounds hearing proceeds under section 93(2)(b) or 94(2)(b) of the Act the children’s hearing may proceed, where appropriate, to review the compulsory supervision order under section 138 (powers of children’s hearing on review) of the Act.

PART 17

Procedure at other children’s hearings

Procedure at a children’s hearing held under section 45 (review by children’s hearing where child in place of safety) or 46 (review by children’s hearing where order prevents removal of child) of the Act

70.—(1) This rule applies where a children’s hearing is held by virtue of section 45 or 46 of the Act.

(2) The chairing member—

- (a) must inform those present at the hearing of the substance of any relevant report or other relevant document;
- (b) must take all reasonable steps to obtain the views of the child, each relevant person and any appointed safeguarder in relation to—
 - (i) any report, document or matter being considered by the hearing; and
 - (ii) what, if any, measures would be in the best interests of the child;

- (c) may invite any other person present at the hearing, as the children's hearing considers appropriate, to express their views on, or provide any other information relevant to, any matter or action being considered by the hearing.
- (3) Each member of the children's hearing must—
 - (a) state their decision on whether the conditions for making the child protection order are met and the reasons for that decision; and
 - (b) where the decision is that the conditions are met state the member's decision in relation to whether the order should be varied and if so the authorisation or requirement to be included in the varied order and the reasons for the inclusion of the proposed authorisation or requirement.
- (4) The chairing member must—
 - (a) confirm and explain the decision of the children's hearing;
 - (b) state the reasons for that decision; and
 - (c) where the children's hearing decide to continue the child protection order, subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, inform the child, each relevant person and the other persons in section 48(1) (application for variation or termination) of the Act of the right to make an application to the sheriff under section 48(1) to vary the order or under section 48(2) of the Act to terminate the order, as the case may be.

Procedure where Reporter receives notice under section 49 (notice of application for variation or termination) of the Act after arranging hearing under section 45 or 46 (review by children's hearing where child in place of safety or order prevents removal of child) of the Act

71.—(1) Where the Reporter receives notice under section 49 of the Act of an application to vary or terminate the child protection order, after issuing the notice under rule 39 but before that hearing begins, the Reporter must, as soon as practicable before the beginning of the children's hearing, notify the persons mentioned in paragraph (2)—

- (a) that the Reporter has received notice under section 49 of the Act; and
 - (b) that the hearing will proceed as if it was arranged by virtue of section 50 (children's hearing to provide advice to sheriff in relation to application) of the Act.
- (2) Those persons are—
- (a) the child in respect of whom the child protection order is made;
 - (b) each relevant person;
 - (c) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (d) the person who applied for the child protection order or child assessment order, as the case may be;
 - (e) the person who applied for the child protection order to be varied or terminated;
 - (f) the person specified in the child protection order under section 37(2)(a) (child protection orders) of the Act;
 - (g) any other person to whom the applicant for variation or termination of the child protection order is required to give notice of the making of the application under rules of court;
 - (h) the three members of the children's hearing;
 - (i) any appointed safeguarder;

- (j) the chief social work officer of the relevant local authority for the child;
- (k) the National Convener.

Procedure where hearing held by virtue of section 50 (children's hearing to provide advice to sheriff in relation to application) of the Act

72.—(1) This rule applies where a children's hearing is held by virtue of section 50 of the Act.

(2) The chairing member—

- (a) must inform those present at the hearing of the substance of any relevant report or other relevant document;
- (b) must take all reasonable steps to obtain the views of the child, each relevant person and any appointed safeguarder in relation to—
 - (i) any report, document or matter being considered by the hearing; and
 - (ii) what, if any, advice would be in the best interests of the child;
- (c) may invite any other person present at the hearing as the children's hearing considers appropriate, to express their views on, or provide any other information relevant to, any matter or advice being considered by the hearing; and
- (d) must confirm to the child, each relevant person, the person who applied for the child protection order, the person who applied for the order to be varied or terminated, and any appointed safeguarder the advice to be given to the sheriff to assist the sheriff in the determination of the application under section 48 (application for variation or termination) of the Act.

(3) The chairing member must—

- (a) make, or cause to be made, a report of the advice;
- (b) sign and date the report; and
- (c) give the report to the Reporter at the conclusion of the hearing.

(4) As soon as possible following receipt of the report the Reporter must give a copy of the report to—

- (a) the child in respect of whom the child protection order is made;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the sheriff who is to determine the application under section 48 of the Act;
- (e) the person who applied for the child protection order, or child assessment order, as the case may be;
- (f) the person who applied for the child protection order to be varied or terminated;
- (g) the person specified in the child protection order under section 37(2)(a) (child protection orders) of the Act;
- (h) any person other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (i) any other person to whom the applicant for variation or termination of the child protection order is required to give notice of the making of the application under rules of court;
- (j) the chief social work officer of the relevant local authority for the child.

Procedure at a children's hearing arranged under section 96(2) (children's hearing to consider need for further interim compulsory supervision order) of the Act

73.—(1) This rule applies where a children's hearing is held by virtue of section 96(2) of the Act.

(2) The chairing member—

- (a) must inform those present of the substance of any relevant report or other relevant document;
- (b) must take all reasonable steps to obtain the views of the child, each relevant person and any appointed safeguarder in relation to—
 - (i) any report, document or matter being considered by the hearing; and
 - (ii) what, if any, measures would be in the best interests of the child; and
- (c) may invite any other person present at the hearing, as the children's hearing considers appropriate, to express their views on, or provide any other information relevant to, any matter or action being considered by the hearing.

(3) Each member of the children's hearing must—

- (a) state their decision on any exercise of the power conferred by section 96(3) of the Act and the reason for that decision;
- (b) where the decision is to make a further interim compulsory supervision order state the member's decision and the reasons in relation to any measure to be included in the order.

(4) The chairing member must—

- (a) confirm the decision of the children's hearing;
- (b) state the reasons for that decision; and
- (c) subject to sections 73 (child's duty to attend children's hearing), 74 (relevant person's duty to attend children's hearing), 75 (power to proceed in absence of relevant person) and 79 (referral of certain matters for pre-hearing determination) of the Act, inform the child, each relevant person and any appointed safeguarder of the right to appeal the children's hearing's decision to make an interim compulsory supervision order, under section 154 (appeal to sheriff against decision of children's hearing) of the Act within 21 days of that decision.

Procedure at a children's hearing held under section 126 (review of contact direction) of the Act

74.—(1) This rule applies where a children's hearing is held by virtue of section 126 of the Act.

(2) Where an individual claims that the conditions specified for the purposes of section 126(2)(b) of the Act are satisfied in relation to the individual, the children's hearing must consider that claim before reviewing the contact direction.

(3) Each member of the children's hearing must state whether the member considers that the conditions specified for the purposes of section 126(2)(b) of the Act are satisfied in relation to the individual and the reasons for reaching that view.

(4) The chairing member must confirm whether the children's hearing considers that the conditions specified for the purposes of section 126(2)(b) of the Act are satisfied in relation to the individual and the reason for reaching that view.

(5) After considering, where applicable, whether the conditions specified for the purposes of section 126(2)(b) are satisfied the children's hearing must, where proceeding to review a contact direction, seek views on the contact direction from—

- (a) the child;

- (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) any individual satisfying the conditions specified in an order under section 126(2)(b) of the Act;
 - (e) any individual who has a contact order regulating contact between the individual and the child;
 - (f) any individual who has a permanence order which specifies arrangements for contact between the individual and the child.
- (6) Each member of the children's hearings must state their decision in relation to the contact direction and their reasons for that decision.
- (7) The chairing member must—
- (a) confirm and explain the decision of the children's hearing in relation to the contact direction;
 - (b) state the reasons for that decision; and
 - (c) inform any individual of any applicable right of appeal of the children's hearing's decision under section 126(6) of the Act which that individual has under section 161 (appeal to sheriff against decision affecting contact or permanence order) of the Act.

Procedure where advice required under section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995

75.—(1) This rule applies where a children's hearing is held following a request to the Reporter under section 49(1)(b), (3) or (6) of the Criminal Procedure (Scotland) Act 1995(**11**).

- (2) The chairing member—
- (a) must inform those present at the hearing of the substance of any relevant report or other relevant document;
 - (b) must take all reasonable steps to obtain the views of the child, each relevant person and any appointed safeguarder in relation to—
 - (i) any report, document or matter being considered by the hearing; and
 - (ii) what, if any, advice or measures would be in the best interests of the child;
 - (c) may invite any other person present at the hearing, as the children's hearing considers appropriate, to express their views on, or provide any other information relevant to, any matter or advice being considered by the hearing; and
 - (d) must confirm to the child, each relevant person, and any appointed safeguarder the advice to be given to the court.
- (3) The chairing member must—
- (a) make, or cause to be made, a report of the advice;
 - (b) sign and date the report; and
 - (c) give the report to the Reporter at the conclusion of the hearing.
- (4) As soon as possible following receipt of the report the Reporter must give a copy of the report to—
- (a) the child;
 - (b) each relevant person;

(11) 1995 c.46.

- (c) any appointed safeguarder;
- (d) the court which made the request for advice under section 49 of the Criminal Procedure (Scotland) Act 1995;
- (e) the chief social work officer of the relevant local authority for the child.

Procedure where application to suspend the decision of the children's hearing made under section 158 (compulsory supervision order: suspension pending appeal) of the Act

76.—(1) Where the Reporter is required under section 158(2) of the Act to arrange a children's hearing, as soon as practicable the Reporter must give notice of the date, time and place of the children's hearing at which the application for the suspension of the children's hearing's decision will be considered, to the persons mentioned in paragraph (2).

(2) Those persons are—

- (a) the child;
- (b) any relevant person;
- (c) any appointed safeguarder;
- (d) the three members of the children's hearing;
- (e) the chief social work officer of the implementation authority for the child;
- (f) the National Convener.

(3) If the person who applied for the suspension of the children's hearing's decision under section 158 of the Act is required by section 73(2) (child's duty to attend children's hearing) or 74(2) (relevant person's duty to attend children's hearing) of the Act to attend the hearing and fails to do so the children's hearing may, if it considers it appropriate, take no further action in relation to the application.

(4) Before making any decision on the application under section 158 of the Act the children's hearing must invite the child, any relevant person and any appointed safeguarder present at the hearing to make such representations as they wish to make.

(5) Each member of the children's hearing must state their decision on the suspension of the children's hearing's decision under section 158 of the Act, and the reasons for that decision.

(6) The chairing member must confirm the decision of the children's hearing and the reasons for that decision.

Procedure at a children's hearing where a report is required under section 95(2) of the Adoption and Children (Scotland) Act 2007 (duty of children's hearing to prepare report for court)

77.—(1) This rule applies where a children's hearing is required to prepare a report by virtue of section 95(2) of the Adoption and Children (Scotland) Act 2007⁽¹²⁾ (permanence orders – duty of children's hearing to prepare report for court).

(2) The chairing member must explain to the child, any relevant person and any appointed safeguarder the purpose of the report to be prepared.

(3) The report must be prepared when the children's hearing have considered the case of the child and determined whether to make a compulsory supervision order or to vary, or vary and continue, the compulsory supervision order, as the case may be.

⁽¹²⁾ 2007 asp 4. Section 95 is amended by the Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/).

- (4) Before preparing the report the chairing member must explain to the child, any relevant person and any appointed safeguarder—
- (a) that the hearing has determined to make a compulsory supervision order or to vary, or vary and continue, the compulsory supervision order, as the case may be;
 - (b) the reasons for reaching that determination; and
 - (c) that the hearing is unable to make a decision to make a compulsory supervision order or to vary, or vary and continue, the compulsory supervision order, pending the decision of the sheriff on the permanence order application or to remit the case under section 96 (application: effect on compulsory supervision order) of the Adoption and Children (Scotland) Act 2007(13).
- (5) The chairing member must—
- (a) make, or cause to be made, a report of the advice;
 - (b) sign and date the report; and
 - (c) give the report to the Reporter.
- (6) The Reporter must, within 5 days of the hearing, give the report to—
- (a) the court which requires to come to a decision on the permanence order application;
 - (b) the child;
 - (c) any relevant person;
 - (d) any appointed safeguarder;
 - (e) the chief social work officer of the implementation authority for the child.

PART 18

General issues for children's hearings

Procedure where a warrant to secure attendance may be granted under section 123 (general power to grant warrant to secure attendance) of the Act

78.—(1) This rule applies where the children's hearing, on the application of the Reporter, is under section 123 of the Act considering granting a warrant to secure the attendance of the child at a children's hearing or a hearing to take place under Part 10 (proceedings before sheriff) of the Act.

(2) The children's hearing must seek the views of the child, each relevant person, and any appointed safeguarder, if present at the hearing.

(3) Where a warrant to secure the attendance of the child is granted, the Reporter must as soon as practicable give to the child, each relevant person and any appointed safeguarder—

- (a) a copy of the warrant; and
- (b) details of the rights of the child, each relevant person and the safeguarder to appeal the grant of the warrant under section 154 (appeal to sheriff against decision of children's hearing) of the Act.

(13) Section 96 is amended by the Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/).

Procedure where advice sought by children's hearing from National Convener under section 8 (provision of advice to children's hearing) of the Act

79.—(1) This rule applies where a children's hearing seeks advice under section 8 of the Act from the National Convener.

(2) Where a children's hearing defers making a decision or determination on any matter until a subsequent children's hearing and seeks advice from the National Convener under section 8 of the Act the chairing member must—

- (a) prepare a request for advice setting out the nature of the advice to be provided and such other details as the children's hearing considers appropriate;
- (b) include in the record of the children's hearing decision details of the request for advice and reasons for that request;
- (c) give that request for advice to the Reporter; and
- (d) direct the Reporter to forward to the National Convener the request for advice and a copy of the children's hearing decision and the reasons for that decision.

(3) Where the children's hearing has directed the Reporter to forward a request for advice to the National Convener the Reporter must, as soon as practicable and within 5 days of receiving the request prepared under paragraph (2), forward it to the National Convener.

(4) The National Convener must respond to any request for advice forwarded under paragraph (3) within 14 days of receiving the request.

(5) The children's hearing must give the advice received from the National Convener under paragraph (4) to all those present at the hearing.

Requirements where compulsory supervision order to be made

80. The children's hearing may not make a compulsory supervision order requiring a child to reside at a place where the child would be under the charge or control of a person who is not a relevant person or vary any compulsory supervision order so that it includes such a requirement unless the children's hearing has—

- (a) received and considered a report or information provided by the local authority or implementation authority under section 66(4) (investigation and determination by Principal Reporter), 69(4) (determination under section 66: referral to children's hearing), 137(4) or (5) (duty to arrange children's hearing) of the Act, as the case may be, which provides the local authority's or implementation authority's recommendations on—
 - (i) the needs of the child;
 - (ii) the suitability to meet those needs of the place or places in which the child is to reside by virtue of the compulsory supervision order;
 - (iii) the suitability to meet those needs of the person who is to have charge or control over the child; and
- (b) the local authority or implementation authority as the case may be have confirmed that in compiling the report they have carried out the procedures and gathered the information described in regulations 3 and 4 of the Looked After Children (Scotland) Regulations 2009(14).

Requirements where section 126 (review of contact direction) of the Act applies

81.—(1) This rule applies where—

- (a) section 69(2) or (3) of the Act applies;
- (b) Parts 9 to 11 or 13 of the Act apply;
- (c) following receipt of a notice under section 43 of the Act of the making of a child protection order the Reporter is required to arrange a children's hearing under section 69(2) of the Act which is to be held no later than—
 - (i) where the order contains an authorisation of the type mentioned in section 37(2)(b) of the Act, the end of the period of 8 working days beginning on the day the child was removed to a place of safety; or
 - (ii) where the order does not contain such an authorisation, the end of the period of 8 working days beginning on the day the order was made.

(2) Where this rule applies and a children's hearing is to be held in relation to a child the Reporter must notify the persons mentioned in paragraph (3) that a children's hearing is to be held in relation to a child, on the date to be specified in the notification, and, when issuing that notification, also give those persons the information mentioned in paragraphs (4) and (5).

- (3) Those persons are—
 - (a) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (b) any individual who has a contact order regulating contact between the individual and the child;
 - (c) any individual who has a permanence order which specifies arrangements for contact between the individual and the child.
- (4) That information is confirmation that, where a children's hearing—
 - (a) makes, continues or varies a compulsory supervision order; or
 - (b) makes an interim compulsory supervision order, interim variation of a compulsory supervision order or a medical examination order which is to have effect for more than 5 working days,

and the order contains (or is varied so as to contain) a contact direction, the Reporter must arrange a children's hearing under section 126 of the Act for the purposes of reviewing the contact direction if—

- (i) a contact order or permanence order mentioned in section 126(3) of the Act is in force; or
- (ii) the Reporter is requested to arrange a hearing by an individual who claims to have or recently have had significant involvement in the upbringing of the child.

(5) That information is confirmation that, where a children's hearing is arranged under section 126 of the Act, they will have the right to attend.

Requirements where section 127 (referral where failure to provide education for excluded pupil) of the Act applies

82.—(1) Where the children's hearing requires the National Convener under section 127(2) of the Act to make a referral to the Scottish Ministers, the chairing member—

- (a) must include in the record of the decision of the children's hearing details of the ways in which the education authority is in breach of its duty under section 14(3) (education for children unable to attend school etc.) of the Education (Scotland) Act 1980⁽¹⁵⁾ in relation to the child; and

(15) 1980 c.44.

- (b) may make, or cause to be made, a report for the National Convener providing such additional information on that matter as the children's hearing considers appropriate.
- (2) As soon as practicable after the children's hearing the Reporter must give to the National Convener—
 - (a) a copy of the children's hearing's decision and the reasons for the decision; and
 - (b) any report made under paragraph (1)(b).

Requirements where section 128 (duty to consider applying for parenting order) of the Act applies

- 83.** Where the children's hearing requires the Reporter under section 128(2) of the Act to consider whether to apply under section 102(3) (applications) of the Antisocial Behaviour etc. (Scotland) Act 2004⁽¹⁶⁾ for a parenting order in respect of a parent of the child, the chairing member—
- (a) must include in the record of the decision of the children's hearing details of the reasons why the children's hearing considers that it might be appropriate for a parenting order to be made in respect of that parent of the child; and
 - (b) may make, or cause to be made a report for the Reporter providing such additional information on that matter as the children's hearing considers appropriate.

PART 19

Procedure at a pre-hearing panel or a children's hearing where a non-disclosure request is made

Non-disclosure requests

- 84.**—(1) In this Part a “non-disclosure request” is a request made by any person that any document or part of a document or information contained in a document relating to a pre-hearing panel or to a children's hearing should be withheld from a specified person falling within the categories specified in section 177(2)(i)(ii) to (iv) of the Act on the grounds that disclosure of that document or part of the document or any information contained in it would be likely to cause significant harm to the child to whom the hearing relates.
- (2) The following documents may not be the subject of a non-disclosure request—
 - (a) the statement of grounds;
 - (b) a copy of any relevant remit by a court under section 49 of the Criminal Procedure (Scotland) Act 1995⁽¹⁷⁾;
 - (c) a copy of any relevant requirement by a sheriff under section 12(1A) or statement under section 12(1B) of the Antisocial Behaviour etc. (Scotland) Act 2004;
 - (d) any order or warrant to which the child is subject under the Act or these Rules.
 - (3) A non-disclosure request must—
 - (a) specify the document or part of the document or information for which non-disclosure is requested and give reasons in each instance for non-disclosure; and
 - (b) specify the persons to whom the document or part of the document or information is not to be disclosed and give reasons in each instance for non-disclosure.

⁽¹⁶⁾ 2004 asp 8.

⁽¹⁷⁾ 1995 c.46.

(4) In this Part reference to “children’s hearing” includes pre-hearing panel, where the non-disclosure request relates to documents or information to be considered at a pre-hearing panel.

Determination of a non-disclosure request

85.—(1) The Reporter must refer any non-disclosure request received from any person to a children’s hearing for determination.

(2) The Reporter may submit a non-disclosure request to a children’s hearing for determination at the Reporter’s own initiative.

Procedure following receipt of a non-disclosure request made prior to a children’s hearing

86.—(1) A children’s hearing must, except in the case of a grounds hearing, consider any non-disclosure request made prior to that hearing at the beginning of the children’s hearing.

(2) Where a non-disclosure request has been made prior to a grounds hearing, the non-disclosure request may be determined by the grounds hearing before making a decision on whether to make a compulsory supervision order.

(3) Where the children’s hearing requires to consider a request in accordance with paragraph (1) or paragraph (2) it may exclude from the children’s hearing the person to whom the documents are requested not to be disclosed where it considers that the presence of that person would prevent proper consideration of the non-disclosure request.

(4) The children’s hearing must consider and determine the non-disclosure request.

(5) The person excluded under paragraph (3) must be invited to return to the children’s hearing and advised of the children’s hearing’s determination under paragraph (4).

(6) Where the non-disclosure request is rejected under paragraph (4) the children’s hearing must ensure that the document or part of the document or information is given to the excluded person at such time, and in such manner, as it considers appropriate having regard to the best interests of the child to whom the hearing relates.

Procedure following receipt of a non-disclosure request made during a children’s hearing

87.—(1) A non-disclosure request may be made during a children’s hearing by the child, any relevant person, any appointed safeguarder, the Reporter or the author of any document that is the subject of the non-disclosure request.

(2) Where such a request is made the children’s hearing may exclude from the children’s hearing the person to whom the documents are requested not to be disclosed where it considers that the presence of that person would prevent proper consideration of the non-disclosure request.

(3) The children’s hearing must consider and determine the non-disclosure request.

(4) The person excluded under paragraph (2) must be invited to return to the children’s hearing and advised of the children’s hearing’s determination under paragraph (3).

(5) Where the non-disclosure request is rejected under paragraph (3) the children’s hearing must ensure that the document or part of the document or information is given to the excluded person at such time, and in such manner, as it considers appropriate having regard to the best interests of the child to whom the hearing relates.

PART 20

Notifying decisions

Notifying decision of a children's hearing to the child, relevant person and appointed safeguarder

88.—(1) Where by virtue of the Act or any other enactment a children's hearing has been held in relation to a child the Reporter must give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3) within 5 days of the children's hearing.

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder.

(3) That information is—

- (a) the decision of the children's hearing;
- (b) the reasons for that decision;
- (c) a copy of any compulsory supervision order, interim compulsory supervision order, medical examination order made, or warrant to secure attendance granted;
- (d) a notice of any right to appeal the children's hearing's decision under section 154 (appeal to sheriff against decision of children's hearing) or 160 (appeal to sheriff against relevant person determination) of the Act;
- (e) where the child or any relevant person is subject to an order under section 159 (frivolous and vexatious appeals) of the Act, confirmation of the need for that person to seek leave from the sheriff to appeal the decision;
- (f) details of any right to seek a suspension of the children's hearing's decision to make, vary, continue or terminate a compulsory supervision order under section 158 (compulsory supervision order: suspension pending appeal) of the Act;
- (g) details of the child's and each relevant person's right to seek a review of a compulsory supervision order under, or by virtue of, section 132 (right of child or relevant person to require review) of the Act.

(4) This rule does not apply where rules 66(7), 91, 92, 93 or 96 apply.

Information to be given to the implementation authority and others

89.—(1) Where rule 88 applies within 5 days of the children's hearing the Reporter must give to the persons mentioned in paragraph (2) the information mentioned in rule 88(3)(a) to (c).

(2) Those persons are—

- (a) the chief social work officer of the implementation authority where the decision was to make a compulsory supervision order or interim compulsory supervision order and in any other case the chief social work officer of the relevant local authority for the child;
- (b) any person who under the compulsory supervision order, interim compulsory supervision order, medical examination order or warrant to secure attendance is responsible for providing any service, support, or accommodation in respect of the child.

(3) Where by virtue of any compulsory supervision order, interim compulsory supervision order or medical examination order the person with whom the child is required to reside is a person other than the implementation authority or a relevant person paragraph (4) applies.

- (4) The Reporter must give the information mentioned in rule 88(3)(a) to (c)—
- (a) where a social work officer from the implementation authority or relevant local authority for the child, as the case may be, attended the children's hearing resulting in the order in question, and it is reasonably practicable to do so, to that social work officer immediately following the children's hearing;
 - (b) in any other case, to the chief social work officer of the implementation authority, or relevant local authority for the child, as the case may be, no later than the end of the working day following the conclusion of the children's hearing.

Information to be given to the chief constable and use of that information

90.—(1) Where rule 88 applies and the grounds hearing has proceeded under section 91(3) (grounds accepted: powers of grounds hearing) of the Act or, where rule 68 applies, section 119(3) (children's hearing following deferral or proceedings under Part 10) of the Act, the Reporter must notify the children's hearing's decision to the chief constable of the Police Service of Scotland under section 61 (constable's duty to provide information to Principal Reporter) of the Act or section 43(5) (arrangements where children arrested) of the Criminal Procedure (Scotland) Act 1995.

(2) Where rule 88 applies and the decision of the children's hearing is to make a compulsory supervision order in respect of a person aged 16 years or older, as soon as reasonably practicable, the Reporter must notify the chief constable of the area in which the person resides.

(3) When a child subject to a compulsory supervision order reaches the age of 16 years, the Reporter must, as soon as reasonably practicable, notify the chief constable of the area in which the child resides.

(4) Where section 199(3) and (4) (meaning of "child") of the Act applies to a person, the Reporter must, as soon as reasonably practicable, notify the chief constable of the area in which the person resides of—

- (a) the application of section 199(3) and (4) of the Act to that person; and
- (b) when a relevant event in section 199(5) of the Act has taken place in relation to that person.

(5) When a person under paragraph (2), (3) or (4) is no longer subject to a compulsory supervision order, the Reporter must, as soon as reasonably practicable, notify the chief constable of the area in which that person resides.

(6) Information disclosed to the chief constable under paragraph (1), (2), (3), (4) or (5) may be used by the chief constable and police forces only for the purpose of—

- (a) enabling or assisting them to perform their functions under or by virtue of this Act, the Police Act 1997(18), or the Protection of Vulnerable Groups (Scotland) Act 2007(19);
- (b) the prevention or detection of crime;
- (c) the apprehension or prosecution of offenders; or
- (d) the protection of children.

Notifying decision of section 45 or 46 (review of children's hearing where child in place of safety or order prevents removal of child) hearing

91.—(1) The Reporter must as soon as practicable after the hearing held by virtue of section 45 or 46 of the Act give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3).

- (2) Those persons are—

(18) 1997 c.50.
(19) 2007 asp 14.

- (a) the child in respect of whom the child protection order is made;
 - (b) each relevant person;
 - (c) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
 - (d) the person who applied for the child protection order or child assessment order, as the case may be;
 - (e) the person specified in the child protection order under section 37(2)(a) (child protection orders) of the Act;
 - (f) any other person prescribed by rules of court for the purposes of section 48 (application for variation or termination) or 49 (notice of application for variation or termination) of the Act;
 - (g) any appointed safeguarder.
- (3) That information is—
- (a) the decision of the children's hearing;
 - (b) the reasons for that decision;
 - (c) where the children's hearing's decision was to continue the child protection order, the right of those persons in paragraph (2) to make an application to the sheriff under section 48(1) of the Act to vary the order or under section 48(2) of the Act to terminate the order.
- (4) The Reporter must give to the persons mentioned in paragraph (5) the information mentioned in paragraph (3)(a) and (b).
- (5) Those persons are—
- (a) the chief social work officer of the relevant local authority for the child;
 - (b) any person who under the child protection order is responsible for providing any service, support, or accommodation in respect of the child

Notifying decision of section 126 (review of contact direction) hearing

92.—(1) Within 5 days of the children's hearing held under section 126 of the Act the Reporter must give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3).

- (2) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) any individual who has a contact order regulating contact between the individual and the child;
 - (e) any individual who has a permanence order which specifies arrangement for contact between the individual and the child;
 - (f) any person who requested a children's hearing be held under section 126(2)(b) of the Act.
- (3) That information is—
- (a) details of the decision of the children's hearing;
 - (b) the reasons for that decision;
 - (c) notice of any right to appeal the children's hearing's decision under section 161 (appeal to sheriff against decision affecting contact or permanence order) of the Act;

- (d) where the person is subject to an order under section 159 (frivolous and vexatious appeals) of the Act, confirmation of the need for that person to seek leave from the sheriff to appeal the decision.
- (4) The Reporter must give to the persons mentioned in paragraph (5) the information mentioned in paragraph (3)(a) and (b).
- (5) Those persons are—
 - (a) the implementation authority where the decision was to make a compulsory supervision order or interim compulsory supervision order and in any other case the relevant local authority for the child;
 - (b) any person who under the compulsory supervision order, interim compulsory supervision order, medical examination order or warrant to secure attendance is responsible for providing any service, support or accommodation in respect of the child.

Notifying decision of section 158 (compulsory supervision order: suspension pending appeal) hearing

93.—(1) Where a children's hearing has been held by virtue of section 158 of the Act the Reporter must give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3) within 5 days of the children's hearing.

- (2) Those persons are—
 - (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder.
- (3) That information is—
 - (a) the decision of the children's hearing;
 - (b) the reasons for that decision.

PART 21

Specific provision for children's hearings arranged under the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013

Provision of information for review of secure accommodation authorisation

94.—(1) This rule applies where a children's hearing is to be arranged by virtue of regulation 9 of the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013(20) ("the 2013 Regulations").

(2) As soon as practicable before the beginning of the children's hearing, the Reporter must notify the persons mentioned in paragraph (3) of the date, time and place of the hearing.

- (3) Those persons are-
 - (a) the child;
 - (b) each relevant person;

- (c) the chief social work officer who made the decision under regulation 4 or 7 of the 2013 Regulations;
 - (d) the head of unit who made the decision under regulation 6 of the 2013 Regulations;
 - (e) any appointed safeguarder;
 - (f) any individual other than a relevant person who appears to the Reporter to have or recently have had a significant involvement in the upbringing of the child;
 - (g) the three members of the children's hearing; and
 - (h) the National Convener.
- (4) The Reporter must, when issuing the notice under paragraph (2), provide those persons mentioned in paragraph (3)(a) to (g) with a copy of—
- (a) all decisions and reasons for those decisions made by all pre-hearing panels and children's hearings arranged in relation to the child;
 - (b) the decision of the chief social work officer made under regulation 5 of the 2013 Regulations; and
 - (c) the decision of the head of unit made under regulation 6 of the 2013 Regulations.

Procedure where children's hearing to review secure accommodation authorisation

95.—(1) This rule applies where a children's hearing is to be held by virtue of regulation 9 of the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 ("the 2013 Regulations").

(2) The children's hearing must provide the following persons with the opportunity to make representations if they are present at the hearing:—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the chief social work officer who made the decision under regulation 4 or 7 of the 2013 Regulations; and
- (e) the head of unit who made the decision under regulation 6 of the 2013 Regulations.

(3) Each member of the children's hearing must state their decision in relation to the secure accommodation authorisation and the reasons for that decision.

(4) The chairing member must—

- (a) confirm and explain the decision of the children's hearing in relation to the secure accommodation authorisation;
- (b) state the reasons for that decision; and
- (c) inform the child, each relevant person and any safeguarder appointed of any applicable right to appeal the children's hearing's decision under section 154 (appeal to sheriff against decision of children's hearing) of the Act within 21 days of that decision.

Notifying decision of review of secure accommodation authorisation

96.—(1) Within 5 days of the children's hearing held under regulation 9 of the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 ("the 2013 Regulations") the Reporter must give to the persons mentioned in paragraph (2) the information mentioned in paragraph (3).

(2) Those persons are—

- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) the chief social work officer who made the decision under regulation 4 or 7 of the 2013 Regulations;
 - (e) the head of unit who made the decision under regulation 6 of the 2013 Regulations.
- (3) The information is—
- (a) the decision of the children's hearing;
 - (b) the reasons for that decision;
 - (c) notice of any right to appeal the children's hearing's decision under section 154 (appeal to sheriff against decision of children's hearing) of the Act.

PART 22

Miscellaneous

Travelling and subsistence expenses

97.—(1) The persons mentioned in paragraph (2) may make a claim, to the relevant local authority for the child, in respect of that person's attendance at a pre-hearing panel or children's hearing.

- (2) Those persons are—
- (a) the child;
 - (b) any relevant person;
 - (c) any person representing the child or any relevant person;
 - (d) any interpreter acting on behalf of the child or any relevant person;
 - (e) any individual who claimed to have or recently have had significant involvement in the upbringing of the child;
 - (f) any individual who has a contact order regulating contact between the individual and the child;
 - (g) any individual who has a permanence order which specifies arrangements for contact between the individual and the child.

(3) Where a claim is made to the relevant local authority for the child under paragraph (1) the local authority must pay to the claimant travelling expenses and such other expenses and subsistence as have, in the opinion of the local authority, been reasonably incurred by the claimant.

(4) This rule does not apply to a solicitor or counsel representing the child or any relevant person at a pre-hearing panel or children's hearing.

Authentication of documents

98.—(1) Any order, warrant to secure the attendance of a child, notice, report, record or other writing required to be made, granted, given or kept by the children's hearing or pre-hearing panel or chairing member of that hearing under or by virtue of these Rules is sufficiently authenticated if it is signed by the chairing member of the relevant children's hearing or pre-hearing panel.

(2) Any document or notice authorised or required by these Rules to be kept or given by the Reporter is sufficiently authenticated if it is signed by the Reporter.

(3) Any copy of a document to be given to any person by the Reporter may be certified a true copy by the Reporter.

Written communications

99. Section 193 (formal communications) of the Act applies to these Rules and any type of communication made or given under these Rules is also a formal communication and section 193(2) to (4) applies to them.

Service of notification and documents

100. Any notice or other document authorised or required under these Rules to be given by the Reporter to any person may be given by the Reporter or by any police constable.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision about the procedure relating to children's hearings and pre-hearing panels under sections 177 and 195 of the Children's Hearings (Scotland) Act 2011 ("the 2011 Act").

Part 2 (rules 3 to 7) makes provision about: the selection of members of a pre-hearing panel and a children's hearing; the selection of a chairing member for pre-hearing panels and children's hearings; the duties of panel members in relation to the security of documents and information; and the particular duties of the chairing member. Rule 7 provides that the procedure at any children's hearing or pre-hearing panel is determined by the chairing member except where that procedure is provided for in the 2011 Act or in the Rules.

Part 3 (rules 8 to 11) makes provision about the duties of various persons attending children's hearings and pre-hearing panels or preparing documents for them. This includes: a duty on report writers to cover any views expressed by the child; a duty on safeguarders in relation to the security of documents and information; and the right of a representative of the child or relevant person to assist the person they are representing.

Part 4 (rules 12 to 18) makes provision in connection with the general duties of the Principal Reporter at children's hearings and pre-hearing panels. These functions include: information and record keeping; removing information from documents where that information is being withheld from a person; and withholding the whereabouts of the child or a relevant person in some circumstances. Rule 18 provides that the reporter need not send documents to very young children.

Part 5 (rules 19 and 20) makes further provision about the attendance at children's hearings and pre-hearing panels of various persons and enables the participation of such persons by telephone, video link or other means, in certain circumstances.

Part 6 (rules 21 to 26) makes general provision about the arranging of children's hearings. This includes: notification of the date, time and place of the children's hearing, by the reporter, to various persons including the child and each relevant person in relation to that child; the provision of other information to the child and each relevant person; and provision enabling the child or any relevant person to give a report or document to the children's hearings for its consideration.

Part 7 (rules 27 to 30) makes specific provision about the arranging of grounds hearings. This includes: additional information that the reporter must give to certain persons including the child and each relevant person prior to the grounds hearings; additional information that must be given to the panel members; additional information where the child has been kept in a place of safety under section 43 of the Criminal Procedure (Scotland) Act 1995 or where a child protection order has been made in relation to the child; and additional information where a grounds hearing is being arranged in relation to a child who is already subject to a compulsory supervision order.

Part 8 (rules 31 to 33) makes specific provision for arranging a children's hearing held under section 119 of the 2011 Act, which is a children's hearing held following the deferral of a previous children's hearing or following proceedings before the sheriff under Part 10 of the 2011 Act. This covers the provision of particular information to various persons when section 119 applies to that children's hearing.

Part 9 (rules 34 to 36) makes specific provision for arranging a children's hearing held under section 137 of the 2011 Act. Section 137 applies where a review of a compulsory supervision order, which is in force in relation to a child, is to be held. This covers the provision of particular information to various persons for children's hearings arranged under section 137.

Part 10 (rules 37 and 38) makes specific provision for arranging children's hearings where new grounds arise in relation to a child to whom a grounds hearing or a review hearing has already been deferred or where an application has already been made to the sheriff to establish the grounds.

Part 11 (rules 39 to 44) makes specific provision for arranging children's hearings: where a child protection order is in force in relation to the child; where the children's hearing is to provide advice to the sheriff about the potential variation or termination of a child protection order; where the children's hearing is to consider making a further interim compulsory supervision order; where the children's hearing is to review a contact direction under section 126 of the 2011 Act; where the children's hearing is to review whether an individual should continue to be deemed to be a relevant person in relation to the child under section 142 of the 2011 Act; and where the children's hearing is required to provide a report under section 49 of the Criminal Procedure (Scotland) Act 1995.

Part 12 (rules 45 to 55) makes provision about pre-hearing panels and the determination of matters which may be referred to pre-hearing panels. This includes: the arranging of pre-hearing panels to determine whether an individual should be deemed to be a relevant person in relation to the child; the arranging of pre-hearing panels for other purposes including excusing a child or relevant person from attending subsequent children's hearings; the provision of information and written representations to pre-hearing panels; the procedure to be followed when the pre-hearing panel is determining whether to deem an individual to be a relevant person; the procedure to be followed when other matters are being determined by the pre-hearing panel; notifying certain persons of the pre-hearing panel's determination; and notification and provision of information where the matters referred to the pre-hearing panel will be determined by the children's hearing instead because it is not practicable to arrange a pre-hearing panel. Rule 55 provides that a children's hearing can deem an individual to be a relevant person even if no referral has been made to a pre-hearing panel for the determination of that matter under section 79 of the 2011 Act.

Part 13 (rules 56 and 57) makes provision where the pre-hearing panel or the children's hearing appoints a safeguarder for the child, including in relation to the preparation of a report by the safeguarder.

Part 14 (rule 58) obliges the chairing member to conduct some functions at the beginning of a children's hearings such as explaining the purpose of the hearing and checking that certain persons have received all the relevant information for that hearing.

Part 15 (rules 59 to 67) makes provision about the procedure at: grounds hearings; hearings following the deferral of a children's hearing; hearings following proceedings before the sheriff; and hearings to review a compulsory supervision order. This includes the procedure in relation to: putting the grounds to the child and each relevant person; the acceptance of the grounds; where the grounds are not accepted and there is an application to the sheriff; where the child or a relevant person is unable to understand the grounds; where the child fails to attend the grounds hearing; where the children's hearing must prepare a report in circumstances relating to a permanence order or adoption; where the children's hearing is reviewing a determination that an individual be deemed to be a relevant person; and where the children's hearing is directing the National Convener of Children's Hearings Scotland concerning the implementation of a compulsory supervision order by a local authority.

Part 16 (rules 68 and 69) makes provision about the procedure which applies where rules 37 and 38 apply. This makes bespoke provision for children's hearings that are both a grounds hearing and a review hearing.

Part 17 (rules 70 to 77) makes provision for bespoke procedure at several different types of children's hearings. These are children's hearings held in relation to: the making of a child protection order; the giving of advice to the sheriff about an application for the variation or termination of a child protection order; considering the need for a further interim compulsory supervision order; the review of a contact direction under section 126 of the 2011 Act; giving advice under section 49 of the Criminal Procedure (Scotland) Act 1995; applications to suspend the decision of a children's hearing

pending an appeal; and making a report under section 95 of the Adoption and Children (Scotland) Act 2007.

Part 18 (rules 78 to 83) makes provision about a range of general procedural issues arising in children's hearings. This includes the procedure where: a warrant to secure the attendance of the child may be granted; advice is sought by the children's hearing from the National Convener; a compulsory supervision order is to be made in certain circumstances; section 126 of the 2011 Act concerning a review of a contact direction applies; the children's hearing is considering whether an education authority is failing to provide education for an excluded pupil; and the children's hearing is considering whether it might be appropriate for a parenting order to be made.

Part 19 (rules 84 to 87) makes provision concerning the procedure at a pre-hearing panel or a children's hearing where a non-disclosure request is made by any person. This includes provision concerning: information that must not be withheld; requests for non-disclosure of information prior to the children's hearing; the procedure to be followed by the children's hearing when considering a non-disclosure request; and requests for non-disclosure of information arising during a children's hearing.

Part 20 (rules 88 to 93) makes provision about the notification of children's hearings' decisions to certain persons. This includes providing the child, each relevant person and any safeguarder with, amongst other things, the children's hearings' decision, the reasons for that decision, and a copy of any order made or warrant granted by, the hearing. Information about certain decisions of children's hearings is also given, in certain circumstances, to the chief social work officer of the implementation local authority and the chief constable. Particular provision is made in relation to decisions of children's hearings held: where a child protection order has been made; concerning a review of a contact direction under section 126 of the 2011 Act; and concerning applications to suspend the decision of a children's hearing pending an appeal.

Part 21 (rules 94 to 96) makes specific provision for children's hearings arranged under the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013. These regulations are made under sections 151, 153 and 162 of the 2011 Act. The rules provide for the provision of information for children's hearings concerning the review of secure accommodation authorisations, the procedure for such children's hearings and the notification of decisions from these children's hearings.

Part 22 (rules 97 to 100) makes miscellaneous provision concerning: the expenses of those attending children's hearings; the authentication of documents, written communications and the service of documents.