
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

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

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 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.