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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 194**

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

**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.

(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.

**[<sup>F1</sup>Individuals to be afforded opportunity to participate**

- 2A.**—(1) This rule applies only in respect of children's hearings held, or to be held, by virtue of—
- (a) section 69(2) of the Act (determination under section 66: referral to children's hearing),
  - (b) Parts 9 to 11 of the Act (children's hearing; proceedings before sheriff; subsequent children's hearings), or
  - (c) Part 13 of the Act (review of compulsory supervision order).
- (2) An individual is to be afforded an opportunity to participate in relation to a children's hearing if the Reporter is satisfied, or a pre-hearing panel or children's hearing has determined—
- (a) that the criteria in paragraph (3) are met by the individual in relation to the children's hearing, or
  - (b) in the case of a children's hearing arranged (wholly or partly) in consequence of a request being made under section 132A of the Act (right of person not afforded opportunity to participate to require review), that subsection (2) of that section applies to the individual.
- (3) The criteria referred to in paragraph (2) are—
- (a) the individual is living or has lived with the child,
  - (b) the individual and the child have an ongoing relationship with the character of a relationship between siblings (whether or not they have a parent in common),
  - (c) the children's hearing is likely to make a decision significantly affecting contact or the possibility of contact between the individual and the child, and
  - (d) the individual is capable of forming a view on the matter of contact between the individual and the child.
- (4) In considering whether the criteria in paragraph (3) are met, regard is to be had to the views of the child and any relevant person.
- (5) These Rules give an individual who is to be afforded an opportunity to participate the rights mentioned in section 79(5ZA) of the Act (referral of certain matters for pre-hearing determination).]

**Textual Amendments**

- F1** Rule 2A inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, PART 1.