

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 19 – Legal Aid and Advice

Section 191 – Legal aid and advice

New Part 5a – Children's Legal Aid

Section 28E – Availability of children's legal aid: relevant person

287. This section mirrors section 28D, providing for children's legal aid to be available to the relevant person (as opposed to the child) in respect of proceedings before a sheriff for variation or termination of a child protection order and court proceedings connected with a Children's Hearing.
288. Subsection (2) provides for children's legal aid to be available to the relevant person in respect of proceedings before a sheriff where SLAB is satisfied that the conditions in subsection (3) are met: that it is reasonable in the circumstances of the case for children's legal aid to be made available to the relevant person; and that the expenses of the case cannot be met without causing undue hardship to the relevant person. These are similar to the merits and means tests set out in section 28D(3) for determining whether children's legal aid should be made available to the child, save that section 28E does not require it to be in the best interests of the child that children's legal aid be made available to the relevant person.
289. Subsection (4) provides for children's legal aid to be available to the relevant person in respect of appeal proceedings before the sheriff principal or the Court of Session where the conditions in subsection (5) are met. The conditions are that SLAB is satisfied that the merits and means tests described in the preceding paragraph are met and, further, that the relevant person has substantial grounds for making or responding to the appeal. Subsection (6) defines "relevant person", for the purposes of the relevant sections to be inserted into the 1986 Act, so that it has the same meaning which it is given in this Act.