

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 – Children's Hearing

Grounds hearing

Section 93 – Grounds not accepted: application to sheriff or discharge

139. This section sets out the procedure where at least one of the grounds specified in the statement of grounds is not accepted by the child and each relevant person in relation to the child and the hearing does not consider it appropriate to proceed on the basis of the ground(s) that are accepted or where none of the grounds are accepted. The grounds hearing must direct the Principal Reporter to make an application to the sheriff for a determination on whether each ground that is not accepted is established or discharge the referral.
140. Subsection (4) applies where the hearing decides to refer the ground(s) to the sheriff for establishment of grounds, the chairing member must explain the purpose of this application to the child and each relevant person who is there and inform the child of the child's obligation to attend the hearing before the sheriff. Subsection (5) enables the Children's Hearings to make an interim compulsory supervision order if the hearing considers it is necessary for the protection, guidance, treatment and control of the child and that it is necessary as a matter of urgency. Where an interim compulsory supervision order is made it may not include a requirement to arrange a medical or other examination under section 83(2)(f)(i). This reflects current practice; examinations are for investigative purposes linked to the needs of the child and are not for the establishment of facts relating to the grounds for referral.