



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 15 **S**

#### APPEALS

##### *Other appeals*

#### **160 Appeal to sheriff against relevant person determination **S****

- (1) A person mentioned in subsection (2) may appeal to the sheriff against—
  - [<sup>F1</sup>(a) a determination of a pre-hearing panel or a children's hearing that an individual—
    - (i) is or is not to be deemed a relevant person in relation to a child,
    - (ii) is to continue to be deemed, or is no longer to be deemed, a relevant person in relation to a child,]
  - (b) a determination of a review under section 142(2) that an individual is to continue to be deemed, or no longer to be deemed, a relevant person in relation to a child.
- (2) The persons are—
  - (a) the individual in question,
  - (b) the child,
  - (c) a relevant person in relation to the child,
  - (d) two or more persons mentioned in paragraphs (a) to (c) acting jointly.
- (3) If satisfied that the determination to which the appeal relates is justified, the sheriff must confirm the determination.
- (4) If not satisfied, the sheriff must—
  - (a) quash the determination, and
  - [<sup>F2</sup>(b) where the determination is of one of the following kinds, make an order deeming the individual to be a relevant person in relation to the child—
    - (i) a determination of a pre-hearing panel or children's hearing under section 81 that the individual is not to be deemed a relevant person in relation to the child,

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- (ii) a determination of a pre-hearing panel or children's hearing under section 81A that the person is no longer to be deemed a relevant person in relation to the child.]
- (5) Where the sheriff makes an order under subsection (4)(b), section 81(4) applies to the individual as if a pre-hearing panel had deemed the individual to be a relevant person.
- (6) An appeal under this section must be—
  - (a) made before the expiry of the period of 7 days beginning with the day on which the determination is made,
  - (b) heard and disposed of before the expiry of the period of 3 days beginning with the day on which the appeal is made.

#### Textual Amendments

- F1** S. 160(1)(a) substituted (26.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **Sch. 5 para. 12(8)**; S.S.I. 2014/353, art. 2(2)(3), Sch.
- F2** S. 160(4)(b) substituted (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 26(2), 34(2)**; S.S.I. 2020/412, reg. 2(2)(d)

#### Commencement Information

- I1** S. 160 in force at 24.6.2013 by S.S.I. 2013/195, **arts. 2, 3**

## 161 Appeal to sheriff against decision affecting contact or permanence order **S**

- (1) A person mentioned in subsection (2) may appeal to the sheriff against a relevant decision of a children's hearing in relation to a child.
- (2) The person is an individual (other than a relevant person in relation to the child) in relation to whom—
  - (a) a contact order is in force regulating contact between the individual and the child,
  - (b) a permanence order is in force which specifies arrangements for contact between the individual and the child, or
  - (c) the conditions specified for the purposes of section 126(2)(b) are satisfied.
- (3) A relevant decision is a decision under section 126(6) relating to a compulsory supervision order.
- (4) If the sheriff is satisfied that the relevant decision is justified, the sheriff must confirm the decision.
- (5) If not satisfied, the sheriff must vary the compulsory supervision order by varying or removing the measure contained in the order under section 83(2)(g).
- (6) An appeal under this section must be—
  - (a) made before the expiry of the period of 21 days beginning with the day on which the relevant decision is made,
  - (b) heard and disposed of before the expiry of the period of 3 days beginning with the day on which the appeal is made.

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#### Commencement Information

**I2** S. 161 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

### 162 Appeal to sheriff against decision to implement secure accommodation authorisation **S**

- (1) This section applies where a relevant order or warrant made in relation to a child includes a secure accommodation authorisation.
- (2) A relevant order or warrant is—
  - (a) a compulsory supervision order,
  - (b) an interim compulsory supervision order,
  - (c) a medical examination order,
  - (d) a warrant to secure attendance.
- (3) The child or a relevant person in relation to the child may appeal to the sheriff against a relevant decision in relation to the authorisation.
- (4) A relevant decision is a decision by the chief social work officer—
  - (a) to implement the authorisation,
  - (b) not to implement the authorisation,
  - (c) to remove the child from secure accommodation.
- (5) An appeal under subsection (3) may be made jointly by—
  - (a) the child and one or more relevant persons in relation to the child, or
  - (b) two or more relevant persons in relation to the child.
- (6) An appeal must not be held in open court.
- (7) The Scottish Ministers may by regulations make further provision about appeals under subsection (3).
- (8) Regulations under subsection (7) may in particular—
  - (a) specify the period within which an appeal may be made,
  - (b) make provision about the hearing of evidence during an appeal,
  - (c) make provision about the powers of the sheriff on determining an appeal,
  - (d) provide for appeals to the [<sup>F3</sup>Sheriff Appeal Court] and Court of Session against the determination of an appeal.
- (9) Regulations under subsection (7) are subject to the affirmative procedure.

#### Textual Amendments

**F3** Words in s. 162(8)(d) substituted (1.1.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential and Supplemental Provisions\) Order 2015 \(S.S.I. 2015/402\)](#), art. 1, [Sch. para. 7\(3\)](#) (with art. 5)

#### Commencement Information

**I3** S. 162 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)