



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 7 **S**

ATTENDANCE AT CHILDREN'S HEARING

73 **Child's duty to attend children's hearing** **S**

- (1) This section applies where by virtue of this Act a children's hearing is, or is to be, arranged in relation to a child.
- (2) The child must attend the children's hearing unless the child is excused under subsection (3) or rules under section 177.
- (3) A children's hearing may excuse the child from attending all or part of the children's hearing if the children's hearing is satisfied that—
 - (a) the hearing relates to the ground mentioned in section 67(2)(b), (c), (d) or (g) and the attendance of the child at the hearing, or that part of the hearing, is not necessary for a fair hearing,
 - (b) the attendance of the child at the hearing, or that part of the hearing, would place the child's physical, mental or moral welfare at risk, or
 - (c) taking account of the child's age and maturity, the child would not be capable of understanding what happens at the hearing or that part of the hearing.
- (4) Where the children's hearing is a grounds hearing, the children's hearing may excuse the child from attending during an explanation given in compliance with section 90(1) only if it is satisfied that, taking account of the child's age and maturity, the child would not be capable of understanding the explanation.

Commencement Information

II S. 73 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

74 **Relevant person's duty to attend children's hearing** **S**

- (1) This section applies where by virtue of this Act a children's hearing is, or is to be, arranged in relation to a child.

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- (2) Each relevant person in relation to the child who is notified of the children's hearing by virtue of rules under section 177 must attend the children's hearing unless the relevant person is—
 - (a) excused under subsection (3) or rules under section 177, or
 - (b) excluded from the children's hearing under section 76(2).
- (3) A children's hearing may excuse a relevant person from attending all or part of the children's hearing if the children's hearing is satisfied that—
 - (a) it would be unreasonable to require the relevant person's attendance at the hearing or that part of the hearing, or
 - (b) the attendance of the relevant person at the hearing, or that part of the hearing, is unnecessary for the proper consideration of the matter before the hearing.
- (4) A relevant person who is required to attend a children's hearing under subsection (2) and fails to do so commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I2 S. 74 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

75 Power to proceed in absence of relevant person **S**

- (1) This section applies where a relevant person in relation to a child is required by section 74(2) to attend a children's hearing and fails to do so.
- (2) The children's hearing may, if it considers it appropriate to do so, proceed with the children's hearing in the relevant person's absence.

Commencement Information

I3 S. 75 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

76 Power to exclude relevant person from children's hearing **S**

- (1) This section applies where a children's hearing is satisfied that the presence at the hearing of a relevant person in relation to the child—
 - (a) is preventing the hearing from obtaining the views of the child, or
 - (b) is causing, or is likely to cause, significant distress to the child.
- (2) The children's hearing may exclude the relevant person from the children's hearing for as long as is necessary.
- (3) After the exclusion has ended, the chairing member of the children's hearing must explain to the relevant person what has taken place in the relevant person's absence.

Commencement Information

I4 S. 76 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

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77 Power to exclude relevant person's representative from children's hearing **S**

- (1) This section applies where a children's hearing is satisfied that the presence at the hearing of a representative of a relevant person in relation to the child—
 - (a) is preventing the hearing from obtaining the views of the child, or
 - (b) is causing, or is likely to cause, significant distress to the child.
- (2) The children's hearing may exclude the representative from the children's hearing for as long as is necessary.
- (3) After the exclusion has ended, the chairing member of the children's hearing must explain to the representative what has taken place in the representative's absence.

Commencement Information

I5 S. 77 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

78 Rights of certain persons to attend children's hearing **S**

- (1) The following persons have a right to attend a children's hearing—
 - (a) the child (whether or not the child has been excused from attending),
 - (b) a person representing the child,
 - (c) a relevant person in relation to the child (unless that person is excluded under section 76(2)),
 - (d) a person representing a relevant person in relation to the child (unless that person is excluded under section 77(2)),
 - (e) the Principal Reporter,
 - (f) if a safeguarder is appointed under this Act in relation to the child, the safeguarder,
 - ^{F1}(g)
 - (h) a member of an area support team (acting in that person's capacity as such),
 - (i) subject to subsection (5), a representative of a newspaper or news agency.
- (2) No other person may attend a children's hearing unless—
 - (a) the person's attendance at the hearing is considered by the chairing member of the children's hearing to be necessary for the proper consideration of the matter before the children's hearing,
 - (b) the person is otherwise granted permission to attend by the chairing member of the children's hearing, or
 - (c) the person is authorised or required to attend by virtue of rules under section 177.
- (3) The chairing member may not grant permission to a person under subsection (2)(b) if the child or a relevant person in relation to the child objects to the person attending the children's hearing.
- (4) The chairing member must take all reasonable steps to ensure that the number of persons present at a children's hearing at the same time is kept to a minimum.
- (5) The children's hearing may exclude a representative of a newspaper or news agency from any part of the hearing where it is satisfied that—
 - (a) it is necessary to do so to obtain the views of the child, or

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- (b) the presence of that person is causing, or is likely to cause, significant distress to the child.
- (6) Where a person is excluded under subsection (5), after the exclusion has ended, the chairing member may explain to the person, where appropriate to do so, the substance of what has taken place in the person's absence.

[^{F2}(7) In this section “children’s hearing” includes a pre-hearing panel.]

Textual Amendments

- F1** S. 78(1)(g) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), **Sch. para. 42**
- F2** S. 78(7) inserted (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **Sch. 1 para. 20(9)**
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Commencement Information

- I6** S. 78 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\(5\)\(b\)](#)