Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 17

PROCEEDINGS UNDER PART 10: EVIDENCE

173 Cases involving sexual behaviour: evidence

(1) This section applies where—

(a) an application is made to the sheriff—

(i) to determine whether a section 67 ground is established, or

(ii) to review a grounds determination, and

(b) the ground involves sexual behaviour engaged in by any person.

(2) In hearing the application the sheriff must not, unless the sheriff makes an order under section 175, admit evidence, or allow questioning of a witness designed to elicit evidence, which shows or tends to show one or more of the circumstances mentioned in subsection (3) in relation to a person mentioned in subsection (4).

(3) The circumstances are that the person—

(a) is not of good character (whether in relation to sexual matters or otherwise),

(b) has, at any time, engaged in sexual behaviour not forming part of the subject-matter of the ground,

(c) has, at any time (other than shortly before, at the same time as or shortly after the acts which form part of the subject-matter of the ground), engaged in behaviour (not being sexual behaviour) that might found an inference that the person is not credible or the person's evidence is not reliable,

(d) has, at any time, been subject to any condition or predisposition that might found the inference that the person is not credible or the person's evidence is not reliable.

(4) The persons are—

(a) the child,

(b) a person giving evidence for the purposes of the hearing,

(c) any other person evidence of whose statements is given for the purposes of the hearing.

Changes to legislation: *Children's Hearings (Scotland) Act 2011, Section 173 is up to date with all changes known to be in force on or before 15 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) In subsection (4)(c), "statements" includes any representations, however made or expressed, of fact or opinion.

(6) In this section and section 174, references to sexual behaviour engaged in include references to having undergone or been made subject to any experience of a sexual nature.

Commencement Information

I1 S. 173 in force at 24.6.2013 by S.S.I. 2013/195, **arts. 2**, 3

Changes to legislation:
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View outstanding changes

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. 7A inserted by 2024 asp 5 s. 2(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. 57A57B and cross-heading inserted by 2024 asp 5 s. 3(7)
- s. 62(5)(q)-(u) inserted by 2020 asp 9 s. 8(2)(b)
- s. 83(2)(ca)(cb) inserted by 2024 asp 5 s. 5(2)(a)
- s. 83(2A) inserted by 2024 asp 5 s. 4(2)(b)
- s. 83(4A) inserted by 2024 asp 5 s. 6(2)(b)
- s. 138(6)(aa) inserted by 2024 asp 5 s. 11(2)(a)(ii)
- s. 138(7A) inserted by 2024 asp 5 s. 11(2)(b)
- s. 144(6) amendment to earlier affecting provision S.S.I. 2022/225, reg. 13(4) by 2024 asp 5 Sch. para. 27(2)(b)
- s. 150(2)(ca)(cb) inserted by 2024 asp 5 s. 6(3)(c)
- 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)
- s. 177(2)(ha) inserted by 2024 asp 5 s. 2(3)
- s. 179A(5A)(5B) inserted by 2024 asp 5 s. 8(2)(b)
- s. 179B(3)-(6) inserted by 2024 asp 5 s. 8(3)(c)
- s. 179C(4) inserted by 2024 asp 5 s. 8(4)(b)
- s. 179D inserted by 2024 asp 5 s. 9(2)