



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 8

PRE-HEARING PANEL

79 Referral of certain matters for pre-hearing determination

(1) ^[F1]Subsections (2) to (5) apply] where a children's hearing is to be held in relation to a child by virtue of section 69(2) or Part 9 to 11 or 13.

^[F2](1A) Subsection (5A) applies (in addition to subsections (2) to (5)) where the children's hearing is—

- (a) a subsequent children's hearing under Part 11, or
- (b) held for the purposes of reviewing a compulsory supervision order.]

(2) The Principal Reporter—

- (a) must refer the matter of whether a particular individual should be deemed to be a relevant person in relation to the child for determination by three members of the Children's Panel selected by the National Convener (a “pre-hearing panel”) if requested to do so by—
 - (i) the individual in question,
 - (ii) the child, or
 - (iii) a relevant person in relation to the child,

- (b) may refer that matter for determination by a pre-hearing panel on the Principal Reporter's own initiative,

^[F3](ba) must, if requested to do so by an individual, refer for determination by a pre-hearing panel the matter of whether the individual meets the criteria specified in rules under section 177 to be afforded the rights mentioned in subsection (5ZA) in relation to the children's hearing,

(bb) must refer for determination by a pre-hearing panel the matter of whether subsection (2) of section 132A applies to an individual if—

- (i) the individual has requested a review of a compulsory supervision order under that section, and
- (ii) the Principal Reporter is not satisfied that the subsection applies to the individual.]

Changes to legislation: Children's Hearings (Scotland) Act 2011, Section 79 is up to date with all changes known to be in force on or before 27 May 2023. 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

- (c) may refer a matter of a type mentioned in subsection (3) for determination by a pre-hearing panel—
 - (i) on the Principal Reporter's own initiative, or
 - (ii) following a request to the Principal Reporter from the child, a relevant person in relation to the child, or if a safeguarder has been appointed for the child, the safeguarder.
- (3) Those matters are—
 - (a) whether the child should be excused from attending the children's hearing,
 - (b) whether a relevant person in relation to the child should be excused from attending the children's hearing,
 - (c) whether it is likely that the children's hearing will consider making a compulsory supervision order including a secure accommodation authorisation in relation to the child,
 - (d) a matter specified in rules under section 177(2)(a).
- (4) For the purposes of subsection (3)(a), the pre-hearing panel may excuse the child from attending the children's hearing only if—
 - (a) the pre-hearing panel is satisfied that any of paragraphs (a) to (c) of section 73(3) applies, or
 - (b) the child may be excused under rules under section 177.
- [^{F4}(5ZA) The rights referred to in subsection (2)(ba) are the following rights, as provided for in rules under section 177 and subject to such conditions and limitations as the rules specify—
 - (a) the right to be notified of the hearing,
 - (b) the right to provide a report or other document to the hearing,
 - (c) the right to be provided with documents specified in the rules,
 - (d) authorisation to attend the hearing,
 - (e) the right to be represented at the hearing.]
- (5) For the purposes of subsection (3)(b), the pre-hearing panel may excuse a relevant person in relation to the child from attending the children's hearing only if—
 - (a) the pre-hearing panel is satisfied that section 74(3)(a) or (b) applies, or
 - (b) the relevant person may be excused under rules under section 177.
- [^{F5}(5A) The Principal Reporter—
 - (a) must refer the matter of whether an individual deemed to be a relevant person by virtue of section 81 should continue to be deemed to be a relevant person in relation to the child for determination by a pre-hearing panel if requested to do so by—
 - (i) the individual so deemed,
 - (ii) the child, or
 - (iii) a relevant person in relation to the child,
 - (b) may refer that matter for determination by a pre-hearing panel on the Principal Reporter's own initiative.]
- (6) A member of the Children's Panel selected for a pre-hearing panel may (but need not) be a member of the children's hearing.

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Textual Amendments

- F1** Words in s. 79(1) substituted (26.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 84(2)(a)**, 102(3); S.S.I. 2014/353, art. 2(2)(3), Sch.
- F2** S. 79(1A) inserted (26.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 84(2)(b)**, 102(3); S.S.I. 2014/353, art. 2(2)(3), Sch.
- F3** S. 79(2)(ba)(bb) inserted (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 25(2)(a)**, 34(2); S.S.I. 2020/412, reg. 2(2)(c)
- F4** S. 79(5ZA) inserted (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 25(2)(b)**, 34(2); S.S.I. 2020/412, reg. 2(2)(c)
- F5** S. 79(5A) inserted (26.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8), **ss. 84(2)(c)**, 102(3); S.S.I. 2014/353, art. 2(2)(3), Sch.
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Commencement Information

- I1** S. 79 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\(5\)\(b\)](#)