



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 4

POLICE INVESTIGATORY AND OTHER POWERS

CHAPTER 2

SEARCH OF CHILDREN UNDER 12

Search under order

38 Appeal against decision under section 36

- (1) An appeal taken to the Sheriff Appeal Court under section 110 of the Courts Reform (Scotland) Act 2014 against a decision of the sheriff under section 36 may be taken only where the sheriff, on an application made by a constable or by or on behalf of the child to whom the decision relates, gives permission.
- (2) Permission to appeal against such a decision must be applied for—
 - (a) where an order is made under section 36, before the end of the period of 3 working days beginning with the day after the day on which the child is provided with a copy of the order under section 37,
 - (b) where the sheriff refuses to make such an order, before the end of the period of 3 working days beginning with the day after the day on which the decision is made.
- (3) An appeal against the decision of the sheriff under section 36 must be taken before the end of the period of 3 working days beginning with the day on which permission to appeal is given.
- (4) A decision of the Sheriff Appeal Court on an appeal against the sheriff's decision is final.
- (5) Subsection (6) applies where—

Status: *This is the original version (as it was originally enacted).*

- (a) the Sheriff Appeal Court upholds or varies the order appealed against, and
 - (b) the order as upheld or varied authorises an action mentioned in section 36(4) which, at the time the appeal is determined, has not been carried out.
- (6) The Sheriff Appeal Court may, in substitution for the period mentioned in section 36(5), specify a period for which any such action is authorised.
- (7) Any period specified by virtue of subsection (6) must not exceed 7 days beginning with the day on which the appeal is determined.