

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 3 - Children and vulnerable adults

Part 1 - Children

Child assessment and child protection orders

49. Section 35 of the 2011 Act provides for the local authority to apply to the sheriff for a child assessment order authorising an assessment to be made of a child's health or development or of the way in which the child has been or is being treated or neglected. Section 35(5) provides that the period during which the order has effect must begin no later than 24 hours after the order is granted, and must not exceed three days.
50. Paragraph 2(2) of schedule 3 of the Act modifies section 35(5) of the 2011 Act so that the period during which the order has effect must begin no later than 48 hours after the order is granted, and must not exceed 5 days.
51. Under section 37 of the 2011 Act, a person can apply to the sheriff for a child protection order ("CPO") to authorise the taking of certain steps in order to protect a child, such as the taking of a child to a place of safety or preventing the removal of a child from a place. Where a CPO is in force in respect of a child authorising such steps, sections 45 and 46 of the 2011 Act provide for the review of such a CPO by a children's hearing which must be held on the second working day after the day on which the child is taken to the place of safety or, where the CPO prevents removal of a child, the day on which the CPO is made (referred to as a "second working day hearing"). Section 47 of the 2011 Act enables the children's hearing to continue, vary or terminate the CPO.
52. Section 48 of the 2011 Act provides that certain persons can make an application to the sheriff to vary or terminate a CPO before commencement of the second working day hearing or, if that hearing has continued the CPO, within 2 working days of the hearing. The sheriff must then determine the application in accordance with section 51.
53. Although under section 53 of the 2011 Act, the Principal Reporter has the power to terminate or vary a CPO, subsection (4) provides that this power does not apply if a children's hearing arranged under section 45 or 46 has commenced or proceedings before a sheriff under section 48 have commenced.
54. Section 54 provides that a CPO will cease to have effect after a maximum period of 8 working days from the day on which the child is taken to a place of safety or, where the CPO prevents removal of a child, from the day on which the CPO is made. Commencement of a children's hearing arranged under section 69 or the Principal Reporter giving notice of a decision to not proceed to a children's hearing will result in earlier termination of the CPO.
55. Subparagraphs (3) to (5) of paragraph 2 respectively repeal (temporarily) sections 45 to 47 of the 2011 Act and the requirement to hold a second working day hearing

*These notes relate to the Coronavirus (Scotland) Act
2020 (asp 7) which received Royal Assent on 6 April 2020*

and modify the timescales for an application for its variation or termination under section 48 and its determination by the sheriff under section 51. Paragraph 2(6) makes a consequential modification to section 53(4) of the 2011 Act. Paragraph 2(7) provides that these modifications of the 2011 Act do not apply in relation to a CPO made before these provisions come into force.