



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 5

#### CHILD ASSESSMENT AND CHILD PROTECTION ORDERS

##### *Variation or termination of order by sheriff*

#### **48 Application for variation or termination**

- (1) An application may be made by any of the following persons to the sheriff to vary a child protection order—
  - (a) the child in respect of whom the order is made,
  - (b) a relevant person in relation to the child,
  - (c) a person not falling within paragraph (b) who has (or recently had) a significant involvement in the upbringing of the child,
  - (d) the person who applied for the child protection order,
  - (e) the person specified in the child protection order under section 37(2)(a),
  - (f) the Principal Reporter,
  - (g) any other person prescribed by rules of court.
- (2) An application may be made by any of the persons mentioned in subsection (1)(a) to (g) (other than the Principal Reporter) to the sheriff to terminate a child protection order.
- (3) An application under this section may be made only—
  - (a) before the commencement of a children's hearing arranged under section 45 or 46, or
  - (b) if the children's hearing arranged under section 45 or 46 continues the child protection order (with or without variation), within 2 working days after the day on which the child protection order is continued.

#### **Commencement Information**

**II** S. 48 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**Changes to legislation:** Children's Hearings (Scotland) Act 2011, Cross Heading: Variation or termination of order by sheriff is up to date with all changes known to be in force on or before 26 January 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

#### 49 Notice of application for variation or termination

A person applying under section 48 for variation or termination must, as soon as practicable after making the application, give notice of it to—

- (a) the person who applied for the child protection order (unless the person is the applicant),
- (b) the person specified in the child protection order under section 37(2)(a) (unless the person is the applicant),
- (c) the child (unless the child is the applicant),
- (d) each relevant person in relation to the child (unless the relevant person is the applicant),
- (e) the relevant local authority for the child (unless the local authority is the applicant),
- (f) the Principal Reporter (unless the Principal Reporter is the applicant), and
- (g) any other person to whom the applicant is required to give notice under rules of court.

##### Commencement Information

**I2** S. 49 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

#### 50 Children's hearing to provide advice to sheriff in relation to application

The Principal Reporter may arrange a children's hearing for the purpose of providing any advice the children's hearing may consider appropriate to assist the sheriff in the determination of an application under section 48.

##### Commencement Information

**I3** S. 50 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

#### 51 Determination by sheriff

- (1) This section applies where an application is made under section 48 in relation to a child protection order.
- (2) The sheriff must, before determining the application, give the following persons an opportunity to make representations—
  - (a) the applicant,
  - (b) the child in respect of whom the child protection order is made,
  - (c) each relevant person in relation to the child,
  - (d) any person not falling within paragraph (c) who the sheriff considers to have (or to recently have had) a significant involvement in the upbringing of the child,
  - (e) the applicant for the child protection order,
  - (f) the relevant local authority for the child (if the authority did not apply for the child protection order),
  - (g) the Principal Reporter.

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- (3) The application must be determined within 3 working days after the day on which it is made.
- (4) The child protection order ceases to have effect at the end of that period if the application is not determined within that period.
- (5) The sheriff may—
  - (a) terminate the child protection order if the sheriff is not satisfied of—
    - (i) where the order was made under section 38, the matters mentioned in subsection (2)(a) to (d) of that section, or
    - (ii) where the order was made under section 39, the matters mentioned in subsection (2)(a) and (b) of that section,
  - (b) vary the child protection order (including by terminating, varying or including an information non-disclosure direction, a contact direction or a parental responsibilities and rights direction), or
  - (c) confirm the child protection order.
- (6) If the sheriff orders that the child protection order is to be terminated, the order ceases to have effect at the end of the hearing before the sheriff.

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**Commencement Information**

**I4** S. 51 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\(5\)\(b\)](#)