



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 9

#### CHILDREN'S HEARING

##### *Grounds hearing*

#### **90 Grounds to be put to child and relevant person**

- (1) At the opening of a children's hearing arranged by virtue of section 69(2) or 95(2) (the "grounds hearing") the chairing member must—
  - (a) explain to the child and each relevant person in relation to the child each section 67 ground that is specified in the statement of grounds, and
  - (b) ask them whether they accept that each ground applies in relation to the child.
- (2) This section is subject to section 94.

#### **91 Grounds accepted: powers of grounds hearing**

- (1) This section applies where—
  - (a) each ground specified in the statement of grounds is accepted, or
  - (b) at least one of the grounds specified in the statement of grounds is accepted and the grounds hearing considers that it is appropriate to make a decision on whether to make a compulsory supervision order on the basis of the ground or grounds that have been accepted.
- (2) If the grounds hearing considers that it is appropriate to do so, the grounds hearing may defer making a decision on whether to make a compulsory supervision order until a subsequent children's hearing.
- (3) If the grounds hearing does not exercise the power conferred by subsection (2) the grounds hearing must—
  - (a) if satisfied that it is necessary to do so for the protection, guidance, treatment or control of the child, make a compulsory supervision order, or
  - (b) if not so satisfied, discharge the referral.

- (4) In subsection (1), “accepted” means accepted by the child and (subject to sections 74 and 75) each relevant person in relation to the child.

## **92 Powers of grounds hearing on deferral**

- (1) This section applies where under section 91(2) the grounds hearing defers making a decision in relation to a child until a subsequent children’s hearing.
- (2) If the grounds hearing considers that the nature of the child’s circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the grounds hearing may make an interim compulsory supervision order in relation to the child.
- (3) If the grounds hearing considers that it is necessary to do so for the purpose of obtaining any further information, or carrying out any further investigation, that is needed before the subsequent children’s hearing, the hearing may make a medical examination order.

## **93 Grounds not accepted: application to sheriff or discharge**

- (1) This section applies where—
- (a) at least one of the grounds specified in the statement of grounds is accepted but the grounds hearing does not consider that it is appropriate to make a decision on whether to make a compulsory supervision order on the basis of the ground or grounds that have been accepted, or
  - (b) none of the grounds specified in the statement of grounds is accepted.
- (2) The grounds hearing must—
- (a) direct the Principal Reporter to make an application to the sheriff for a determination on whether each ground that is not accepted by the child and (subject to sections 74 and 75) each relevant person in relation to the child is established, or
  - (b) discharge the referral.
- (3) Subsections (4) and (5) apply if the grounds hearing gives a direction under subsection (2)(a).
- (4) The chairing member must—
- (a) explain the purpose of the application to the child and (subject to sections 74 and 75) each relevant person in relation to the child, and
  - (b) inform the child that the child is obliged to attend the hearing before the sheriff unless excused by the sheriff.
- (5) If the grounds hearing considers that the nature of the child’s circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the grounds hearing may make an interim compulsory supervision order in relation to the child.
- (6) An interim compulsory supervision order made under subsection (5) may not include a measure of the kind mentioned in section 83(2)(f)(i).
- (7) In subsection (1), “accepted” means accepted by the child and (subject to sections 74 and 75) each relevant person in relation to the child.

#### **94 Child or relevant person unable to understand grounds**

- (1) Subsection (2) applies where the grounds hearing is satisfied that the child or a relevant person in relation to the child—
  - (a) would not be capable of understanding an explanation given in compliance with section 90(1) in relation to a ground, or
  - (b) has not understood the explanation given in compliance with section 90(1) in relation to a ground.
- (2) The grounds hearing must—
  - (a) direct the Principal Reporter to make an application to the sheriff to determine whether the ground is established, or
  - (b) discharge the referral in relation to the ground.
- (3) In the case mentioned in subsection (1)(a), the chairing member need not comply with section 90(1) in relation to that ground as respects the person who would not be capable of understanding an explanation of the ground.
- (4) If the grounds hearing gives a direction under subsection (2)(a), the chairing member must—
  - (a) in so far as is reasonably practicable comply with the requirement in paragraph (a) of section 93(4), and
  - (b) comply with the requirement in paragraph (b) of that section.
- (5) If the grounds hearing gives a direction under subsection (2)(a), section 93(5) applies.

#### **95 Child fails to attend grounds hearing**

- (1) This section applies where—
  - (a) a child fails to attend a grounds hearing arranged by virtue of section 69(2) or subsection (2), and
  - (b) the child was not excused from attending the grounds hearing.
- (2) The grounds hearing may require the Principal Reporter to arrange another grounds hearing.