



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 17

PROCEEDINGS UNDER PART 10: EVIDENCE

175 Sections 173 and 174: application to sheriff for order as to evidence

- (1) On the application of a person mentioned in subsection (2), the sheriff may, if satisfied as to the matters mentioned in subsection (3) make an order—
 - (a) admitting evidence of the kind mentioned in section 173(2),
 - (b) allowing questioning of the kind mentioned in that section,
 - (c) enabling evidence of the kind mentioned in section 174(2) to be taken.
- (2) Those persons are—
 - (a) the child,
 - (b) a relevant person in relation to the child,
 - (c) the Principal Reporter,
 - (d) a safeguarder appointed [^{F1}in relation to the child by virtue of section 30].
- (3) Those matters are—
 - (a) the evidence or questioning will relate only to—
 - (i) a specific occurrence or specific occurrences of sexual behaviour or other behaviour demonstrating the character of the person,
 - (ii) specific facts demonstrating the character of the person,
 - (iii) a specific occurrence or specific occurrences of sexual behaviour or other behaviour demonstrating a condition or predisposition to which the person is or has been subject, or
 - (iv) specific facts demonstrating a condition or predisposition to which the person is or has been subject,
 - (b) the occurrence, occurrences or facts are relevant to establishing the ground, and
 - (c) the probative value of the evidence is significant and is likely to outweigh any risk of prejudice to the proper administration of justice arising from its being admitted or elicited.

Changes to legislation: Children's Hearings (Scotland) Act 2011, Section 175 is up to date with all changes known to be in force on or before 15 December 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

- (4) References in this section to an occurrence or occurrences of sexual behaviour include references to undergoing or being made subject to any experience of a sexual nature.
- (5) In this section “proper administration of justice” includes—
- (a) appropriate protection of the person's dignity and privacy, and
 - (b) ensuring the facts and circumstances of which the sheriff is made aware are relevant to an issue to be put before the sheriff and commensurate with the importance of that issue to the sheriff's decision on the question whether the ground is established.

Textual Amendments

- F1** Words in s. 175(2)(d) substituted (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **Sch. 1 para. 20(18)**

Commencement Information

- I1** S. 175 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\(5\)\(b\)](#)