SCOTTISH STATUTORY INSTRUMENTS

2013 No. 194

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013

Made - - - - 30th May 2013

Coming into force in accordance with rule 1

THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (RULES OF PROCEDURE IN CHILDREN'S HEARINGS) RULES 2013

PART 1

Introductory and General

- 1. Citation, commencement and application
- 2. Interpretation
- 2A Individuals to be afforded opportunity to participate

PART 2

Selection of children's hearings and pre-hearing panel members and duties of members

- 3. Selection of members of children's hearing and pre-hearing panel supplementary
- 4. Selection of chairing member for pre-hearing panels and children's hearings
- 5. Duties of members of the pre-hearing panel or children's hearing relating to documents and information
- 6. Duties of chairing member of a pre-hearing panel or children's hearing
- Procedure at children's hearings and pre-hearing panels where not otherwise specified

PART 3

Duties and roles of persons attending or preparing documents for children's hearings and pre-hearing panels

- 8. Requirement to include child's views in documents
- 9. Duties of safeguarder in respect of information and documents

- 10. Attendance at children's hearings by member of the Administrative Justice and Tribunals Council or the Scottish Committee of that Council or a member of an Area Support Team
- 11. Role of representatives

PART 4

General Duties of the Reporter

- 12. Record keeping by the Reporter of investigation and determination
- 13. Record keeping duties of the Reporter in relation to children's hearings
- 14. The statement of grounds
- 15. Duties of Reporters where information to be withheld from a person
- 16. Withholding of specified documents and information by the Reporter
- 17. Duties of the Reporter where a child is detained under a warrant to secure the attendance of the child
- 18. Notification and provision of information to a young child

Part 5

Attendance

Authorisation to attend

- 19. Attendance by individual afforded opportunity to participate at children's hearing
- 20. Attendance by representative of individual afforded opportunity to participate at children's hearing
- Attendance by custody officer, etc. at pre-hearing panel or children's hearing

Attendance by electronic means

- 20B Request to attend pre-hearing panel or hearing by electronic means
- 20C Requirement that person attend children's hearing only by electronic means

Exclusion

20D Exclusion from children's hearing or pre-hearing panel

PART 6

Arranging children's hearings – general

- 21. Application of Part
- 22. Notification of children's hearings general
- 23. Other information to be given with notification of a children's hearing to the child and each relevant person
- Other information to be given with notification of a children's hearing to individuals with an opportunity to participate
- 24. Other information to be given with notification of a children's hearing to certain other persons
- 25. Information to be sent to the members of the children's hearing
- 26. Provision of information prior to children's hearing

Changes to legislation: There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013. (See end of Document for details)

PART 7

Specific provision for arranging grounds hearings

- 27. Additional information to be given to the child and each relevant person in relation to a grounds hearing
- 28. Information to be given to the members of the grounds hearing
- 29. Provision of information for a grounds hearing where section 69(3) (determination under section 66: referral to children's hearing) of the Act applies or following the making of a child protection order under section 38 (consideration by sheriff: application by local authority only) or 39 (consideration by sheriff: application by local authority or other person) of the Act
- 30. Arranging a grounds hearing where a compulsory supervision order is already in force in relation to the child

PART 8

Specific provision for arranging a children's hearing to be held under section 119 (children's hearing following deferral or proceedings under Part 10) of the Act

- 31. Provision of information to the child, relevant persons and any appointed safeguarder for a children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies
- 32. Information to be given to the members of the children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies
- 33. Provision of information for children's hearing to which section 119 (children's hearing following deferral or proceedings under Part 10) of the Act applies where section 109(7) (determination: power to make interim compulsory supervision order etc.), 115(5) (recall: power to refer other grounds) or 117(5) (new section 67 ground established: sheriff to refer to children's hearing) of the Act also applies.

PART 9

Specific provision for arranging a children's hearing to which section 137 (duty to arrange children's hearing) of the Act applies

- 34. Provision of information to the child and relevant persons for a children's hearing to which section 137 (duty to arrange children's hearing) of the Act applies
- 35. Information to be given to the members of the children's hearing to which section 137 (duty to arrange children's hearing) of the Act applies
- 36. Provision of information for a review hearing where section 136 (duty to initiate review where child transferred) of the Act applies

PART 10

Arranging a grounds hearing where grounds hearing or review hearing has deferred or application made to the sheriff

- 37. Papers to be sent when new grounds presented after grounds hearing deferred or application made to the sheriff
- 38. Papers to be sent when new grounds presented after review hearing deferred

PART 11

Arranging other children's hearings

- 39. Arranging a children's hearing under section 45 (review by children's hearing where child in place of safety) or 46 (review by children's hearing where order prevents removal of child) of the Act 2nd working day hearing
- 40. Arranging a children's hearing under section 50 (children's hearing to provide advice to sheriff in relation to application) of the Act
- 41. Provision of information for a children's hearing under section 96(2) (children's hearing to consider need for further interim compulsory supervision order)
- 42. Arranging a children's hearing under section 126 (review of contact direction) of the Act
- 43. Arranging a children's hearing under section 142 (review of determination that person be deemed a relevant person)
- 44. Arranging a children's hearing for the purposes of section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995

PART 12

Pre-hearing panels and determination of matters which may be referred to pre-hearing panels

- 44A Specification of matters that may be determined by pre-hearing panel
- 45. Arranging pre-hearing panel determination of relevant person status
- Arranging pre-hearing panels to determinate opportunity to participate notice to persons other than person seeking opportunity
- Arranging pre-hearing panels to determine opportunity to participate notice to person seeking opportunity
- 46. Arranging pre-hearing panels to determine matter in section 79(3) (referral of certain matters for pre-hearing determination) of the Act
- 46A Arranging pre-hearing panels to determine whether deeming of relevant person to end
- 47. Provision of information to pre-hearing panel
- 47A Procedure at pre-hearing panel general
- 48. Procedure at pre-hearing panel determination of whether to deem an individual to be a relevant person
- 48A Procedure at pre-hearing panel determination of whether individual to be afforded opportunity to participate
- 49. Procedure at pre-hearing panel determination of matters not relating to relevant person status
- 49A Procedure at pre-hearing panel determination of whether to end deemed relevant person status
 - 50. Notice of pre-hearing panel determination
- 51. Provision of information to persons deemed to be relevant persons
- 52. Notification of matter to be determined under section 79 (referral of certain matters for pre-hearing determination) where not practicable to arrange a pre-hearing panel before the date fixed for the children's hearing
- 52A Notification of matter to be determined under section 79 person seeking opportunity to participate
- 53. Provision of information relating to matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act to the children's hearing

Changes to legislation: There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013. (See end of Document for details)

- 54. Children's hearing determining a matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act
- 55. Children's hearings' power to determine whether a person should be deemed to be a relevant person where no referral made under section 79 (referral of certain matters for pre-hearing determination) of the Act
- 55A Children's hearings' power to determine whether person to be afforded opportunity to participate where no referral made under section 79 of the Act

PART 13

Appointment of safeguarder and safeguarders' reports

- 56. Appointment of safeguarder by pre-hearing panel or children's hearing
- 57. Duty of Reporter on receipt of report from safeguarder

PART 14

Procedure at children's hearings – general

58. Children's hearings procedure - general

PART 15

Procedure at grounds hearing and children's hearings to which section 119 (children's hearing following deferral or proceedings under Part 10) or 137 (duty to arrange children's hearing) of the Act applies

- 59. Procedure at a grounds hearing grounds put to the child and relevant person
- 60. Procedure where section 91(1) (grounds accepted: powers of grounds hearing), 119(1) (children's hearing following deferral or proceedings under Part 10), or 138(1) (powers of children's hearing on review) of the Act applies
- 61. Procedure when proceedings under section 91(2) (grounds accepted: powers of grounds hearing), 119(2) (children's hearing following deferral or proceedings under Part 10) or 138(2) (powers of children's hearing on review) of the Act
- 62. Procedure where section 91(3) (grounds accepted: powers of grounds hearing), 119(3) (children's hearing following deferral or proceedings under Part 10) or 138(3) (powers of children's hearing on review) of the Act applies
- 63. Grounds hearing procedures where section 93 (grounds not accepted: application to sheriff or discharge) or 94 (child or relevant person unable to understand grounds) of the Act applies
- 64. Procedure where section 95 (child fails to attend grounds hearing) of the Act applies
- 65. Procedure where report required under section 141 (preparation of report in circumstances relating to permanence order or adoption) of the Act
- 66. Procedure where there is a review of determination that person be deemed a relevant person
- 67. Breach of duties imposed by sections 144 (implementation of compulsory supervision order: general duties of implementation authority) or 145 (duty where order requires child to reside in certain place) of the Act

PART 16

Procedure where Part 10 of these Rules applies

- 68. Procedure where rule 37 applies
- 69. Procedure where rule 38 applies

PART 17

Procedure at other children's hearings

- 70. Procedure at a children's hearing held under section 45 (review by children's hearing where child in place of safety) or 46 (review by children's hearing where order prevents removal of child) of the Act
- 71. Procedure where Reporter receives notice under section 49 (notice of application for variation or termination) of the Act after arranging hearing under section 45 or 46 (review by children's hearing where child in place of safety or order prevents removal of child) of the Act
- 72. Procedure where hearing held by virtue of section 50 (children's hearing to provide advice to sheriff in relation to application) of the Act
- 73. Procedure at a children's hearing arranged under section 96(2) (children's hearing to consider need for further interim compulsory supervision order) of the Act
- 74. Procedure at a children's hearing held under section 126 (review of contact direction) of the Act
- 75. Procedure where advice required under section 49 (reference or remit to children's hearing) of the Criminal Procedure (Scotland) Act 1995
- 76. Procedure where application to suspend the decision of the children's hearing made under section 158 (compulsory supervision order: suspension pending appeal) of the Act
- 77. Procedure at a children's hearing where a report is required under section 95(2) of the Adoption and Children (Scotland) Act 2007 (duty of children's hearing to prepare report for court)

PART 18

General issues for children's hearings

- 78. Procedure where a warrant to secure attendance may be granted under section 123 (general power to grant warrant to secure attendance) of the Act
- 79. Procedure where advice sought by children's hearing from National Convener under section 8 (provision of advice to children's hearing) of the Act
- 80. Requirements where compulsory supervision order to be made
- 81. Requirements where section 126 (review of contact direction) of the Act applies
- 82. Requirements where section 127 (referral where failure to provide education for excluded pupil) of the Act applies
- 83. Requirements where section 128 (duty to consider applying for parenting order) of the Act applies

PART 19

Procedure at a pre-hearing panel or a children's hearing where a non-disclosure request is made

84. Non-disclosure requests

Changes to legislation: There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013. (See end of Document for details)

- 85. Determination of a non-disclosure request
- 86. Procedure following receipt of a non-disclosure request made prior to a children's hearing
- 87. Procedure following receipt of a non-disclosure request made during a children's hearing

PART 20

Notifying decisions

- 88. Notifying decision of a children's hearing to the child, relevant person and appointed safeguarder
- Notifying decision of a children's hearing to an individual afforded an opportunity to participate
- 89. Information to be given to the implementation authority and others
- 90. Information to be given to the chief constable and use of that information
- 91. Notifying decision of section 45 or 46 (review of children's hearing where child in place of safety or order prevents removal of child) hearing
- 92. Notifying decision of section 126 (review of contact direction) hearing
- 93. Notifying decision of section 158 (compulsory supervision order: suspension pending appeal) hearing

PART 21

Specific provision for children's hearings arranged under the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013

- 94. Provision of information for review of secure accommodation authorisation
- 95. Procedure where children's hearing to review secure accommodation authorisation
- 96. Notifying decision of review of secure accommodation authorisation

PART 22

Miscellaneous

- 97. Travelling and subsistence expenses
- 98. Authentication of documents
- 99. Written communications
- 100. Service of notification and documents

Signature

Explanatory Note

Changes to legislation:
There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013.