
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 468

Act of Sederunt (Sheriff Appeal Court Rules) 2021

PART 7

SPECIAL APPEAL PROCEEDINGS

CHAPTER 32

**APPEALS BY STATED CASE UNDER PART 15 OF THE
CHILDREN'S HEARINGS (SCOTLAND) ACT 2011**

Application and interpretation of this Chapter

32.1.—(1) This Chapter applies to an appeal by stated case under section 163(1) (appeals to sheriff principal and Court of Session: children's hearings etc.), 164(1) (appeals to sheriff principal and Court of Session: relevant persons), 165(1) (appeals to sheriff principal and Court of Session: contact and permanence orders) and 167(1) (appeals to sheriff principal: section 166) of the Children's Hearings (Scotland) Act 2011(1).

(2) In this Chapter, "parties" means the parties specified in rule 3.59(2) of the Act of Sederunt (Child Care and Maintenance Rules) 1997 (appeals: applications for stated case)(2).

Transmission of appeal

32.2.—(1) Within 4 days after the sheriff has signed the stated case, the sheriff clerk must—

- (a) send the parties a copy of the stated case;
- (b) transmit to the Clerk—
 - (i) the stated case;
 - (ii) all documents and productions in the case.

(2) On receipt of the stated case, the Clerk must fix a hearing and intimate the date, time and place of that hearing to the parties.

Hearing of appeal

32.3.—(1) At the hearing, a party may only raise questions of law or procedural irregularities of which notice has not been given if the Court permits the party to do so.

(2) Where the Court grants permission, it may do so on such conditions as to expenses or otherwise as the Court thinks fit.

(1) [2011 asp 1](#). Section 164 was amended by the Children (Scotland) Act [2020 \(asp 16\)](#), section 26(3). Sections 163, 164, 165 and 167 are prospectively amended by the Children (Scotland) Act 2020, section 27(1) to (6).

(2) [S.I. 1997/291](#), last amended by [S.S.I. 2019/147](#). Rule 3.59 was last amended by [S.S.I. 2016/194](#).

Determination of appeal

32.4.—(1) At the conclusion of the hearing, the Court may either give its decision orally or reserve judgment.

(2) Where the Court reserves judgment, it must give its decision in writing within 28 days.

(3) The President of the Sheriff Appeal Court may vary the period in paragraph (2).

Leave to appeal to the Court of Session

32.5.—(1) This rule applies to applications for leave to appeal to the Court of Session under sections 163(2), 164(2) or 165(2) of the Children’s Hearings (Scotland) Act 2011.

(2) An application is to be made in Form 32.5.

(3) Such an application must be lodged within 7 days after the date on which the Court gave its decision on the appeal.

(4) On receipt of an application, the Clerk must—

(a) fix a hearing to take place before the procedural Appeal Sheriff no later than 14 days after the application is received;

(b) intimate the date, time and place of that hearing to the parties.