
STATUTORY INSTRUMENTS

1997 No. 291

Act of Sederunt (Child Care and Maintenance Rules) 1997

CHAPTER 3

CHILDREN (SCOTLAND) ACT 1995

PART VII

PROCEDURE IN APPLICATIONS UNDER SECTION 65(7) OR (9) OF THE ACT

Hearing of evidence

3.47.—(1) In the case of any condition mentioned in section 52(2) of the Act (conditions relative to compulsory measures of supervision), the sheriff shall, in relation to any ground of referral which is in dispute, hear evidence tendered by or on behalf of the Principal Reporter, including evidence given pursuant to an application granted under rule 3.23.

(2) At the close of the evidence led by the Principal Reporter in a case where it is disputed that the condition mentioned in paragraph (i) of section 52(2) of the Act is satisfied, the sheriff shall consider whether sufficient evidence has been led to establish that condition is satisfied and shall give all the parties an opportunity to be heard on the question of sufficiency of evidence.

(3) Where the sheriff is not satisfied that sufficient evidence has been led as mentioned in paragraph (2), he shall make a finding to that effect.

(4) Where the sheriff is satisfied that sufficient evidence has been led as mentioned in paragraph (2), the child, the relevant person and any safeguarder appointed may give evidence and call witnesses with regard to the condition in question.

(5) Where the nature of the case or of any evidence to be given is such that the sheriff is satisfied that it is in the interests of the child that he should not be present at any stage of the proceedings, the sheriff may exclude the child from the hearing during that stage and in that event any safeguarder appointed and the relevant person or representative of the child shall be permitted to remain during the absence of the child.

(6) Subject to paragraph (7), the sheriff may exclude any person, including the relevant person, while any child is giving evidence if the sheriff is satisfied that this is necessary in the interests of the child and that—

- (a) he must do so in order to obtain the evidence of the child; or
- (b) the presence of the person or persons in question is causing, or is likely to cause, significant distress to the child.

(7) Where the relevant person is not legally represented at the hearing and has been excluded under paragraph (6), the sheriff shall inform that relevant person of the substance of any evidence given by the child and shall give that relevant person an opportunity to respond by leading evidence or otherwise.

(8) Where evidence in a referral has been heard in part and a safeguarder thereafter becomes a party to proceedings, the sheriff may order the evidence to be reheard in whole or in part.