

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15 – Appeals

Appeal against decision of children's hearing

Section 156 – Determination of appeal

224. This section provides that if the sheriff is satisfied that the decision appealed against is justified, the sheriff must confirm the decision (subsection (1)(a)) and may take one or more of the steps mentioned in subsection (3) if satisfied that the child's circumstances have changed since the decision, which was under appeal, was made (subsection (1) (b)). The steps available to the sheriff under subsection (3) are: to require the Principal Reporter to arrange a Children's Hearing for any purpose that a hearing could be arranged under the Act (this reflects the fact that the case may be at different stages in the process – for example, a grounds hearing, subsequent hearing or review hearing); the continuation, variation or termination of any order, interim variation or warrant which is in effect; discharge the child from any further hearings or proceedings in relation to the grounds of referral which stimulated the referral to the Children's Hearing; or to make an interim compulsory supervision order, interim variation or warrant to secure attendance.
225. Subsection (2) applies where the sheriff is not satisfied that the decision under appeal is justified. If the decision under appeal relates to a warrant to secure attendance the sheriff must recall that warrant. Where the decision under appeal is an interim compulsory supervision order or a medical examination order, the sheriff must terminate that order. Otherwise the sheriff may also take one or more of the steps set out in subsection (3). Subsection (4) ensures that, where a child is discharged under those powers, all existing orders and warrants in effect in relation to that child also terminate at that point. Subsection (5) provides that the fact that the sheriff continues or varies an order, or grants a warrant, under subsection (1)(b) or (2)(b) does not prevent a subsequent Children's Hearing from continuing, varying or terminating any order or warrant issued by the sheriff under this section.