

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15 – Appeals

Appeals to the sheriff principal and Court of Session

Section 163 – Appeals to the sheriff principal and Court of Session: children's hearings etc.

233. Subsections (1) and (3) provide for the child, relevant person, Safeguarder (the appeal may also be made jointly by any of these parties) or the Principal Reporter, to appeal to the sheriff principal or the Court of Session by stated case against a determination by the sheriff of: an application to establish the grounds for referral under section 67; (other than 67(2)(j) if the case was remitted under the Criminal Procedure (Scotland) Act), an application for a review of a grounds determination; an appeal against a decision of the Children's Hearing; an application under section 98 for an extension of an interim compulsory supervision order or an application under section 99 for a further extension of an interim compulsory supervision order. Appeals under subsection (1) may also be made against the decision of a sheriff to make an interim compulsory supervision order and make an interim variation of a compulsory supervision order.
234. Subsections (2) and (3) provide for the child, their relevant person, Safeguarder (the appeal may also be made jointly by any of these parties) or the reporter, to appeal to the Court of Session by stated case and with the leave of the sheriff principal, against the sheriff principal's decision under subsection (1). Subsection (4) makes clear that a Safeguarder appointed by a Children's Hearing may not appeal against the decision of the sheriff in relation to a grounds determination or the review of a grounds determination. Subsection (5) provides that the reporter may not appeal against a determination by the sheriff confirming a decision of a Children's Hearing.
235. Subsections (6) and (7) provide for the references to "child" and "relevant person" in subsection (3) to be adjusted in line with section 110(2) which provides for circumstances where the review of the grounds determination occurs when the person who was the subject of the grounds determination is no longer a "child" and the person who was a relevant person in relation to the child is no longer a "relevant person". Subsection (8) provides that an appeal made under this section must be made within 28 days of the determination or decision being appealed. Subsection (9) provides that an appeal under this section may be made on a point of law or in respect of any procedural irregularity. Subsection (10) provides that, on deciding the appeal, the sheriff principal or Court of Session must remit the case back to the sheriff for disposal. Subsection (11) provides that a determination of an appeal by the Court of Session made under subsections (1) or (2) is final. Subsection (12) makes clear that appeal rights under this section also cover a review of a finding that a ground is established where that is a new ground originally established by the sheriff under section 117.