

# CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 15 – Appeals**

#### **Requirement imposed on local authority: review and appeal**

##### *Section 166 – Review of requirement imposed on local authority*

240. This section applies where a duty is imposed on a local authority under a compulsory supervision order, interim compulsory supervision order or a medical examination order by a Children's Hearing or by the sheriff. If the local authority on which the duty is imposed is satisfied that it is not the relevant local authority for that particular child then the local authority may apply to the sheriff for a review of the decision to impose the duty upon it. The term "relevant local authority" for the child is defined in section 201.
241. Subsection (3) gives the sheriff discretion as to whether to hear evidence from any of the persons listed in subsection (4). Subsections (6) and (7) provide that the sheriff must determine which local authority is the relevant local authority for the child and if the local authority that made the application for review is the relevant local authority for the child then the sheriff must confirm the original decision of the hearing or sheriff. Subsection (8) provides that if the sheriff finds that another local authority is the relevant local authority for the child, the sheriff must vary the order so that the duty imposed by it falls on that other local authority. The sheriff may also make an order for that local authority to reimburse such sums as the sheriff may determine to the local authority which make the application for review for any costs incurred in relation to the duty.

##### *Section 167 – Appeals to the sheriff principal: section 166*

242. This section provides for a right of appeal on the part of a local authority from the decision of the sheriff under section 166(6) or (8)(b). The child to whom the determination relates, a relevant person in relation to that child and persons representing the child or relevant person may also appeal the decision of the sheriff under section 166(6). This appeal is by stated case to the sheriff principal and must be made within 28 days from the making of the determination or order under section 166. The appeal may be on a point of law or in respect of any procedural irregularity. After determining the appeal the sheriff principal must remit the case to the sheriff for disposal and the sheriff principal's determination is final.