

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Child Assessment and Child Protection Orders

Variation or termination of order by sheriff

Section 48 – Application for variation or termination

50. This section relates to an application to the sheriff to vary or terminate a child protection order. Subsection (1) sets out the persons eligible to seek a variation of a child protection order and subsection (2) sets out the persons eligible to apply for the termination of a child protection order. The Principal Reporter cannot apply for a termination. Subsection (3) provides that an application to the sheriff can only be made before a Children's Hearing arranged under section 45 or 46 is commenced or if the order was continued by a Children's Hearing arranged under section 45 or 46 within 2 working days from the continuation of the order.

Section 49 – Notice of application for variation or termination

51. This section identifies those individuals who must be informed where an application has been made to have a child protection order varied or terminated.

Section 50 – Children's hearing to provide advice to sheriff in relation to application

52. This section provides the Principal Reporter with the power to convene a Children's Hearing for the purposes of providing advice to assist the sheriff in determining an application to vary or terminate a child protection order under section 48.

Section 51 – Determination by sheriff

53. This section relates to the sheriff's determination of an application under section 48. It stipulates that the sheriff must provide an opportunity for the persons listed in subsection (2) to make representations before the sheriff makes a determination. Subsections (3) and (4) set out the timescale for determination of the application and provide for the order to cease if the application is not determined within three working days. Subsection (5) provides that the sheriff may terminate, vary or confirm the child protection order. Any termination has immediate effect.