



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 10

PROCEEDINGS BEFORE SHERIFF

Application to establish grounds

101 Hearing of application

- (1) This section applies where an application is made to the sheriff by virtue of section 93(2)(a) or 94(2)(a).
- (2) The application must be heard not later than 28 days after the day on which the application is lodged.
- (3) The application must not be heard in open court.

102 Jurisdiction and standard of proof: offence ground

- (1) This section applies where an application is to be made to the sheriff to determine whether the ground mentioned in section 67(2)(j) is established in relation to a child.
- (2) The application must be made to the sheriff who would have jurisdiction if the child were being prosecuted for the offence or offences.
- (3) The standard of proof in relation to the ground is that which applies in criminal proceedings.
- (4) It is immaterial whether the application also relates to other section 67 grounds.

103 Child's duty to attend hearing unless excused

- (1) This section applies where an application is made to the sheriff by virtue of section 93(2)(a) or 94(2)(a).
- (2) The child to whom the application relates must attend the hearing of the application unless the child is excused from doing so under subsection (3).

Status: This is the original version (as it was originally enacted).

- (3) The sheriff may excuse the child from attending all or part of the hearing of the application where—
 - (a) the hearing relates to the ground mentioned in section 67(2)(b), (c), (d) or (g) and the attendance of the child at the hearing, or that part of the hearing, is not necessary for a fair hearing,
 - (b) the attendance of the child at the hearing, or that part of the hearing, would place the child's physical, mental or moral welfare at risk, or
 - (c) taking account of the child's age and maturity, the child would not be capable of understanding what happens at the hearing or that part of the hearing.
- (4) The child may attend the hearing of the application even if the child is excused from doing so under subsection (3).
- (5) If the child is not excused from attending the hearing but the child does not attend the sheriff may grant a warrant to secure attendance in relation to the child.
- (6) Subsection (7) applies if—
 - (a) the hearing of the application is to be continued to another day, and
 - (b) the sheriff is satisfied that there is reason to believe that the child will not attend on that day.
- (7) The sheriff may grant a warrant to secure attendance in relation to the child.

104 Child and relevant person: representation at hearing

- (1) This section applies where an application is made to the sheriff by virtue of section 93(2)(a) or 94(2)(a).
- (2) The child may be represented at the hearing of the application by another person.
- (3) A relevant person in relation to the child may be represented at the hearing of the application by another person.
- (4) A person representing the child or relevant person at the hearing need not be a solicitor or advocate.