



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 15

APPEALS

Appeals to sheriff principal and Court of Session

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

- (1) A person mentioned in subsection (3) may appeal by stated case to the sheriff principal or the Court of Session against—
 - (a) a determination by the sheriff of—
 - (i) an application to determine whether a section 67 ground (other than the ground mentioned in section 67(2)(j) if the case was remitted to the Principal Reporter under section 49 of the Criminal Procedure (Scotland) Act 1995) is established,
 - (ii) an application under section 110(2) for review of a finding that a section 67 ground is established,
 - (iii) an appeal against a decision of a children's hearing,
 - (iv) an application under section 98 for an extension of an interim compulsory supervision order,
 - (v) an application under section 99 for a further extension of an interim compulsory supervision order,
 - (b) a decision of the sheriff under section 100 to—
 - (i) make an interim compulsory supervision order,
 - (ii) make an interim variation of a compulsory supervision order.
- (2) A person mentioned in subsection (3) may, with leave of the sheriff principal, appeal by stated case to the Court of Session against the sheriff principal's decision in an appeal under subsection (1).
- (3) The persons are—
 - (a) the child,
 - (b) a relevant person in relation to the child,
 - (c) a safeguarder appointed in relation to the child by virtue of section 30,

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- (d) two or more persons mentioned in paragraphs (a) to (c) acting jointly, and
 - (e) the Principal Reporter.
- (4) Despite subsections (1) and (2), a safeguarder may not—
- (a) appeal against a determination by the sheriff of a type mentioned in subsection (1)(a)(i) or (ii), or a decision of the sheriff of a type mentioned in subsection (1)(b),
 - (b) appeal to the Court of Session against the sheriff principal's decision in such an appeal.
- (5) Despite subsection (1), the Principal Reporter may not appeal against a determination by the sheriff confirming a decision of a children's hearing.
- (6) Subsection (7) applies in relation to—
- (a) an appeal against a determination by the sheriff of an application under section 110(2) for review of a finding that a section 67 ground is established,
 - (b) an appeal to the Court of Session against the sheriff principal's decision in such an appeal.
- (7) In subsection (3)(a) and (b)—
- (a) the references to the child are to the person in relation to whom the section 67 ground was established (even if that person is no longer a child),
 - (b) the reference to a relevant person in relation to the child includes a person who was, at the time the section 67 ground was established, a relevant person in relation to the child.
- (8) An appeal under this section must be made before the expiry of the period of 28 days beginning with the day on which the determination or decision appealed against was made.
- (9) An appeal under this section may be made—
- (a) on a point of law, or
 - (b) in respect of any procedural irregularity.
- (10) On deciding an appeal under subsection (1), the sheriff principal or the Court of Session must remit the case to the sheriff for disposal in accordance with such directions as the court may give.
- (11) A decision in an appeal under subsection (1) or (2) by the Court of Session is final.
- (12) In subsection (1)(a)(ii), the reference to a determination by the sheriff of an application under section 110(2) for review of a finding that a section 67 ground is established includes a reference to a determination under section 117(2)(a) that a ground is established.

Commencement Information

II S. 163 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

164 Appeals to sheriff principal and Court of Session: relevant persons

- (1) A person mentioned in subsection (3) may appeal by stated case to the sheriff principal or the Court of Session against a decision of the sheriff in an appeal against ^{F1}—

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- (a) a decision of the sheriff in an appeal against a determination of a pre-hearing panel or children's hearing that an individual—
 - (i) is or is not to be deemed a relevant person in relation to a child,
 - (ii) is to continue to be deemed, or is no longer to be deemed, a relevant person in relation to a child,
 - (b) a decision of the sheriff in an appeal against a determination of a review under section 142(2) that an individual is to continue to be deemed, or is no longer to be deemed, a relevant person in relation to a child.]
- (2) A person mentioned in subsection (3) may, with leave of the sheriff principal, appeal by stated case to the Court of Session against the sheriff principal's decision in an appeal under subsection (1).
- (3) The persons are—
- (a) the individual in question,
 - (b) the child,
 - (c) a relevant person in relation to the child,
 - (d) two or more persons mentioned in paragraphs (a) to (c) acting jointly.
 - [^{F2}(e) the Principal Reporter.]
- [^{F3}(3A) Despite subsection (1), the Principal Reporter may not appeal against a decision by the sheriff confirming a determination of a children's hearing.]
- (4) An appeal under this section must be made before the expiry of the period of 28 days beginning with the day on which the decision appealed against is made.
- (5) An appeal under this section may be made—
- (a) on a point of law, or
 - (b) in respect of any procedural irregularity.
- (6) On deciding an appeal under subsection (1), the sheriff principal or the Court of Session must remit the case to the sheriff for disposal in accordance with such directions as the court may give.
- (7) A decision in an appeal under subsection (1) or (2) by the Court of Session is final.

Textual Amendments

- F1** S. 164(1)(a)(b) substituted for words in s. 164(1) (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 26(3)(a)**, 34(2); [S.S.I. 2020/412](#), [reg. 2\(2\)\(d\)](#)
- F2** S. 164(3)(e) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 26(3)(b)**, 34(2); [S.S.I. 2020/412](#), [reg. 2\(2\)\(d\)](#)
- F3** S. 164(3A) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 26(3)(c)**, 34(2); [S.S.I. 2020/412](#), [reg. 2\(2\)\(d\)](#)
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Commencement Information

- I2** S. 164 in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**

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165 Appeals to sheriff principal and Court of Session: contact and permanence orders

- (1) A person mentioned in subsection (3) may appeal by stated case to the sheriff principal or the Court of Session against a decision of the sheriff in an appeal under section 161.
- (2) A person mentioned in subsection (3) may, with leave of the sheriff principal, appeal by stated case to the Court of Session against the sheriff principal's decision in an appeal under subsection (1).
- (3) The person is an individual (other than a relevant person in relation to the child) in relation to whom—
 - (a) a contact order is in force regulating contact between the individual and the child,
 - (b) a permanence order is in force which specifies arrangements for contact between the individual and the child, or
 - (c) the conditions specified for the purposes of section 126(2)(b) are satisfied.
- (4) An appeal under this section must be made before the expiry of the period of 28 days beginning with the day on which the decision appealed against was made.
- (5) An appeal under this section may be made—
 - (a) on a point of law,
 - (b) in respect of any procedural irregularity.
- (6) On deciding an appeal under subsection (1), the sheriff principal or the Court of Session must remit the case to the sheriff for disposal in accordance with such directions as the court may give.
- (7) A decision in an appeal under subsection (1) or (2) by the Court of Session is final.

Commencement Information

I3 S. 165 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 163 cross-heading substituted by [2020 asp 16 s. 27\(2\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)