



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 20

#### GENERAL

##### *Subordinate legislation*

#### **195 Subordinate legislation**

- (1) Any power of the Scottish Ministers to make subordinate legislation under this Act is exercisable by statutory instrument.
- (2) Any such power includes power to make—
  - (a) such incidental, supplementary, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,
  - (b) different provision for different purposes.
- (3) Except in any case where subordinate legislation under this Act is subject to the affirmative procedure or the super-affirmative procedure, subordinate legislation under this Act is subject to the negative procedure.
- (4) Subsections (2) and (3) do not apply to an order under section 206(2).

#### **196 Negative procedure**

- (1) Subsection (2) applies where subordinate legislation under this Act is subject to the negative procedure.
- (2) The statutory instrument containing the subordinate legislation is subject to annulment in pursuance of a resolution of the Scottish Parliament.

#### **197 Affirmative procedure**

- (1) Subsection (2) applies where subordinate legislation under this Act is subject to the affirmative procedure.

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**Changes to legislation:** Children's Hearings (Scotland) Act 2011, Cross Heading: Subordinate legislation is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (2) The subordinate legislation must not be made unless a draft of the statutory instrument containing the subordinate legislation has been laid before, and approved by resolution of, the Scottish Parliament.

## **198 Super-affirmative procedure**

- (1) Subsections (2) to (6) apply where subordinate legislation under this Act is subject to the super-affirmative procedure.
- (2) The subordinate legislation must not be made unless a draft of the statutory instrument containing the subordinate legislation has been laid before, and approved by resolution of, the Scottish Parliament.
- (3) Before laying a draft instrument before the Parliament under subsection (2), the Scottish Ministers must consult—
- (a) such persons who are under 21 years of age as they consider appropriate, and
  - (b) such other persons as they consider appropriate.
- (4) For the purposes of such a consultation, the Scottish Ministers must—
- (a) lay a copy of the proposed draft instrument before the Parliament,
  - (b) publish in such a manner as the Scottish Ministers consider appropriate a copy of the proposed draft instrument, and
  - (c) have regard to any representations about the proposed draft instrument that are made to them within 60 days of the date on which the copy of the proposed draft instrument is laid before the Parliament.
- (5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.
- (6) When laying a draft instrument before the Parliament under subsection (2), the Scottish Ministers must also lay before the Parliament an explanatory document giving details of—
- (a) the consultation carried out under subsection (3),
  - (b) any representations received as a result of the consultation, and
  - (c) the changes (if any) made to the proposed draft instrument as a result of those representations.

**Changes to legislation:**

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**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\(5\)\(b\)](#)