



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 9

CHILDREN'S HEARING

Grounds hearing

90 Grounds to be put to child and relevant person

(1) At the opening of a children's hearing arranged by virtue of section 69(2) or 95(2) (the “grounds hearing”) the chairing member must—

- [^{F1}(a) explain to the child and each relevant person in relation to the child—
 - (i) each section 67 ground specified in the statement of grounds, and
 - (ii) the supporting facts in relation to that ground,]
- (b) ask them whether they accept that each ground applies in relation to the child.

[^{F2}(1A) In relation to each ground that a person accepts applies in relation to the child, the chairing member must ask the person whether the person accepts each of the supporting facts.

(1B) Where under subsection (1A) any person does not accept all of the supporting facts in relation to a ground, the ground is taken for the purposes of this Act to be accepted at the grounds hearing only if the grounds hearing considers that—

- (a) the person has accepted sufficient of the supporting facts to support the conclusion that the ground applies in relation to the child, and
- (b) it is appropriate to proceed in relation to the ground on the basis of only those supporting facts which are accepted by the child and each relevant person.

(1C) Where a ground is taken to be accepted for the purposes of this Act by virtue of subsection (1B), the grounds hearing must amend the statement of grounds to delete any supporting facts in relation to the ground which are not accepted by the child and each relevant person.

(1D) In this section, “supporting facts”, in relation to a section 67 ground, means facts set out in relation to the ground by virtue of section 89(3)(b).]

(2) This section is subject to section 94.

Changes to legislation: Children's Hearings (Scotland) Act 2011, Cross Heading: Grounds hearing is up to date with all changes known to be in force on or before 24 July 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

Textual Amendments

- F1** S. 90(1)(a) substituted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), **ss. 85(a)**, 102(3); S.S.I. 2014/353, art. 2(2)(3), Sch.
- F2** S. 90(1A)-(1D) inserted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), **ss. 85(b)**, 102(3); S.S.I. 2014/353, art. 2(2)(3), Sch.

Commencement Information

- I1** S. 90 in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**

91 Grounds accepted: powers of grounds hearing

- (1) This section applies where—
- each ground specified in the statement of grounds is accepted, or
 - at least one of the grounds specified in the statement of grounds is accepted and the grounds hearing considers that it is appropriate to make a decision on whether to make a compulsory supervision order on the basis of the ground or grounds that have been accepted.
- (2) If the grounds hearing considers that it is appropriate to do so, the grounds hearing may defer making a decision on whether to make a compulsory supervision order until a subsequent children's hearing.
- (3) If the grounds hearing does not exercise the power conferred by subsection (2) the grounds hearing must—
- if satisfied that it is necessary to do so for the protection, guidance, treatment or control of the child, make a compulsory supervision order, or
 - if not so satisfied, discharge the referral.
- [^{F3}(3A) In deciding whether to exercise the power conferred by subsection (2), the grounds hearing must consider whether to require the Principal Reporter to obtain any report, from any person, which the grounds hearing considers relevant to any matter to be determined by the subsequent children's hearing.]
- (4) In subsection (1), “accepted” means accepted by the child and (subject to sections 74 and 75) each relevant person in relation to the child.

Textual Amendments

- F3** S. 91(3A) inserted (17.12.2021) by [Age of Criminal Responsibility \(Scotland\) Act 2019 \(asp 7\)](#), **ss. 77(2)**, 84(2); S.S.I. 2021/449, reg. 2

Modifications etc. (not altering text)

- C1** S. 91 applied (with modifications) (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Rules 2013 \(S.S.I. 2013/194\)](#), arts. 1(1), **68(2)** (with art. 1(2))

Commencement Information

- I2** S. 91 in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**

Changes to legislation: Children's Hearings (Scotland) Act 2011, Cross Heading: Grounds hearing is up to date with all changes known to be in force on or before 24 July 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

92 Powers of grounds hearing on deferral

- (1) This section applies where under section 91(2) the grounds hearing defers making a decision in relation to a child until a subsequent children's hearing.
- (2) If the grounds hearing considers that the nature of the child's circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the grounds hearing may make an interim compulsory supervision order in relation to the child.
- (3) If the grounds hearing considers that it is necessary to do so for the purpose of obtaining any further information, or carrying out any further investigation, that is needed before the subsequent children's hearing, the hearing may make a medical examination order.

Commencement Information

I3 S. 92 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

93 Grounds not accepted: application to sheriff or discharge

- (1) This section applies where—
 - (a) at least one of the grounds specified in the statement of grounds is accepted but the grounds hearing does not consider that it is appropriate to make a decision on whether to make a compulsory supervision order on the basis of the ground or grounds that have been accepted, or
 - (b) none of the grounds specified in the statement of grounds is accepted.
- (2) The grounds hearing must—
 - (a) direct the Principal Reporter to make an application to the sheriff for a determination on whether each ground that is not accepted by the child and (subject to sections 74 and 75) each relevant person in relation to the child is established, or
 - (b) discharge the referral.
- (3) Subsections (4) and (5) apply if the grounds hearing gives a direction under subsection (2)(a).
- (4) The chairing member must—
 - (a) explain the purpose of the application to the child and (subject to sections 74 and 75) each relevant person in relation to the child, and
 - (b) inform the child that the child is obliged to attend the hearing before the sheriff unless excused by the sheriff.
- (5) If the grounds hearing considers that the nature of the child's circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the grounds hearing may make an interim compulsory supervision order in relation to the child.
- (6) An interim compulsory supervision order made under subsection (5) may not include a measure of the kind mentioned in section 83(2)(f)(i).
- (7) In subsection (1), “accepted” means accepted by the child and (subject to sections 74 and 75) each relevant person in relation to the child.

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Modifications etc. (not altering text)

- C2** S. 93 applied (with modifications) (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Rules 2013 \(S.S.I. 2013/194\)](#), arts. 1(1), **68(3)(a)** (with art. 1(2))

Commencement Information

- I4** S. 93 in force at 24.6.2013 by [S.S.I. 2013/195](#), arts. 2, 3

94 Child or relevant person unable to understand grounds

- (1) Subsection (2) applies where the grounds hearing is satisfied that the child or a relevant person in relation to the child—
 - (a) would not be capable of understanding an explanation given in compliance with section 90(1) in relation to a ground, or
 - (b) has not understood the explanation given in compliance with section 90(1) in relation to a ground.
- (2) The grounds hearing must—
 - (a) direct the Principal Reporter to make an application to the sheriff to determine whether the ground is established, or
 - (b) discharge the referral in relation to the ground.
- (3) In the case mentioned in subsection (1)(a), the chairing member need not comply with section 90(1) in relation to that ground as respects the person who would not be capable of understanding an explanation [^{F4}given in compliance with section 90(1) in relation to] the ground.
- (4) If the grounds hearing gives a direction under subsection (2)(a), the chairing member must—
 - (a) in so far as is reasonably practicable comply with the requirement in paragraph (a) of section 93(4), and
 - (b) comply with the requirement in paragraph (b) of that section.
- (5) If the grounds hearing gives a direction under subsection (2)(a), section 93(5) applies.

Textual Amendments

- F4** Words in s. 94(3) substituted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), s. 102(3), [Sch. 5 para. 12\(4\)](#); [S.S.I. 2014/353](#), art. 2(2)(3), [Sch.](#)

Commencement Information

- I5** S. 94 in force at 24.6.2013 by [S.S.I. 2013/195](#), arts. 2, 3

95 Child fails to attend grounds hearing

- (1) This section applies where—
 - (a) a child fails to attend a grounds hearing arranged by virtue of section 69(2) or subsection (2), and
 - (b) the child was not excused from attending the grounds hearing.

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- (2) The grounds hearing may require the Principal Reporter to arrange another grounds hearing.
- [^{F5}(3) Subsection (4) applies where under subsection (2) the grounds hearing requires the Principal Reporter to arrange another grounds hearing.
- (4) If the grounds hearing considers that the nature of the child's circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the grounds hearing may make an interim compulsory supervision order in relation to the child.
- (5) An interim compulsory supervision order made under subsection (4) may not include a measure of the kind mentioned in section 83(2)(f)(i).]

Textual Amendments

F5 S. 95(3)-(5) inserted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), **ss. 86, 102(3)**; [S.S.I. 2014/353](#), **art. 2(2)(3)**, Sch.

Commencement Information

I6 S. 95 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 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\(5\)\(b\)](#)