



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 8

PRE-HEARING PANEL

79 Referral of certain matters for pre-hearing determination

- (1) This section applies where a children's hearing is to be held in relation to a child by virtue of section 69(2) or Part 9 to 11 or 13.
- (2) The Principal Reporter—
 - (a) must refer the matter of whether a particular individual should be deemed to be a relevant person in relation to the child for determination by three members of the Children's Panel selected by the National Convener (a "pre-hearing panel") if requested to do so by—
 - (i) the individual in question,
 - (ii) the child, or
 - (iii) a relevant person in relation to the child,
 - (b) may refer that matter for determination by a pre-hearing panel on the Principal Reporter's own initiative,
 - (c) may refer a matter of a type mentioned in subsection (3) for determination by a pre-hearing panel—
 - (i) on the Principal Reporter's own initiative, or
 - (ii) following a request to the Principal Reporter from the child, a relevant person in relation to the child, or if a safeguarder has been appointed for the child, the safeguarder.
- (3) Those matters are—
 - (a) whether the child should be excused from attending the children's hearing,
 - (b) whether a relevant person in relation to the child should be excused from attending the children's hearing,
 - (c) whether it is likely that the children's hearing will consider making a compulsory supervision order including a secure accommodation authorisation in relation to the child,
 - (d) a matter specified in rules under section 177(2)(a).

- (4) For the purposes of subsection (3)(a), the pre-hearing panel may excuse the child from attending the children's hearing only if—
 - (a) the pre-hearing panel is satisfied that any of paragraphs (a) to (c) of section 73(3) applies, or
 - (b) the child may be excused under rules under section 177.
- (5) For the purposes of subsection (3)(b), the pre-hearing panel may excuse a relevant person in relation to the child from attending the children's hearing only if—
 - (a) the pre-hearing panel is satisfied that section 74(3)(a) or (b) applies, or
 - (b) the relevant person may be excused under rules under section 177.
- (6) A member of the Children's Panel selected for a pre-hearing panel may (but need not) be a member of the children's hearing.

80 Determination of matter referred under section 79

- (1) This section applies where the Principal Reporter refers a matter to a pre-hearing panel under section 79(2).
- (2) The Principal Reporter must arrange a meeting of the pre-hearing panel for a date before the date fixed for the children's hearing.
- (3) If it is not practicable for the Principal Reporter to comply with subsection (2), the children's hearing must determine the matter referred at the beginning of the children's hearing.

81 Determination of claim that person be deemed a relevant person

- (1) This section applies where a matter mentioned in section 79(2)(a) (a "relevant person claim") is referred to a meeting of a pre-hearing panel.
- (2) Where the relevant person claim is referred along with any other matter, the pre-hearing panel must determine the relevant person claim before determining the other matter.
- (3) The pre-hearing panel must deem the individual to be a relevant person if it considers that the individual has (or has recently had) a significant involvement in the upbringing of the child.
- (4) Where the pre-hearing panel deems the individual to be a relevant person, the individual is to be treated as a relevant person for the purposes of Parts 7 to 15, 17 and 18 in so far as they relate to—
 - (a) the children's hearing,
 - (b) any subsequent children's hearing under Part 11,
 - (c) any pre-hearing panel held in connection with a children's hearing mentioned in paragraph (a), (b) or (e),
 - (d) any compulsory supervision order, interim compulsory supervision order, medical examination order, or warrant to secure attendance made by—
 - (i) a hearing mentioned in paragraph (a) or (b),
 - (ii) the sheriff in any court proceedings falling within paragraph (f),
 - (e) any children's hearing held for the purposes of reviewing a compulsory supervision order falling within paragraph (d),

- (f) any court proceedings held in connection with a hearing mentioned in paragraph (a), (b) or (e),
 - (g) any court proceedings held in connection with an order or warrant falling within paragraph (d),
 - (h) the implementation of an order or warrant falling within paragraph (d).
- (5) The Scottish Ministers may by order—
- (a) amend subsection (3),
 - (b) in consequence of provision made under paragraph (a), make such other amendments as appear to the Scottish Ministers to be necessary or expedient to—
 - (i) section 43,
 - (ii) section 48,
 - (iii) section 51,
 - (iv) this section,
 - (v) section 142.
- (6) An order under subsection (5) is subject to the affirmative procedure.
- (7) Where, by virtue of section 80(3), the children's hearing is to determine the relevant person claim, references in subsections (2) to (4) (other than paragraph (c) of subsection (4)) to the pre-hearing panel are to be read as references to the children's hearing.

82 Appointment of safeguarder

- (1) A pre-hearing panel may appoint a safeguarder for the child to whom the children's hearing relates.
- (2) A pre-hearing panel must record an appointment made under subsection (1).
- (3) If a pre-hearing panel appoints a safeguarder, it must give reasons for the decision.
- (4) Subsection (1) does not apply where a safeguarder has already been appointed.
- (5) A safeguarder appointed under this section is to be treated for the purposes of this Act (other than this section) as being appointed by a children's hearing by virtue of section 30.