

Status: This version of this provision is prospective.

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Section 16 is up to date with all changes known to be in force on or before 18 June 2024. 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



Children (Care and Justice) (Scotland) Act 2024

2024 asp 5

PART 2

CRIMINAL JUSTICE AND PROCEDURE

Safeguards for children involved in criminal proceedings

PROSPECTIVE

16 Steps to safeguard welfare and safety of children in criminal proceedings

- (1) The 1995 Act is amended as follows.
- (2) In section 50 (children and certain proceedings), after subsection (6) insert—
 - “(7) In complying with subsection (6) the court must, in particular, consider what steps might be taken to facilitate the participation of the child in the proceedings while safeguarding the child’s welfare and, where reasonably practicable, take those steps.”.
- (3) After section 70A insert—

“Children

70B Solemn proceedings against children

- (1) Where solemn proceedings are brought in respect of an offence alleged to have been committed by a child, the court may sit either in a different building or room from that in which it usually sits or on different days from those on which other courts in the building are engaged in criminal proceedings.

Status: This version of this provision is prospective.

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Section 16 is up to date with all changes known to be in force on or before 18 June 2024. 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

- (2) Where solemn proceedings are brought in respect of an offence alleged to have been committed by a child, the court may direct that no person is to be present at any sitting for the purposes of such proceedings except—
 - (a) members and officers of the court,
 - (b) parties to the case before the court, their solicitors and counsel, jurors, witnesses and other persons directly concerned in that case,
 - (c) *bona fide* representatives of news gathering or reporting organisations present for the purpose of the preparation of contemporaneous reports of the proceedings,
 - (d) such other persons as the court may specially authorise to be present.
- (3) A court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child may, if it thinks fit, proceed with the hearing and determination of the charge or application even though it is discovered that the person in question is not a child.
- (4) Where solemn proceedings are brought in respect of an offence alleged to have been committed by a child who is charged jointly with a person who is not a child, the court must, in considering whether to take the steps mentioned in [subsection \(1\)](#) or to make a direction as mentioned in [subsection \(2\)](#), have regard to the rights of the person with whom the child is jointly charged to effectively participate in the proceedings.”
- (4) In section 142 (summary proceedings against children), in subsection (5), at the end insert “: but see section 142A”.
- (5) After that section insert—

“142A Summary proceedings where child accused along with an adult

- (1) Where summary proceedings are brought in respect of an offence alleged to have been committed by a child who is charged jointly with a person who is not a child, the sheriff may sit either in a different building or room from that in which the sheriff usually sits or on different days from those on which other courts in the building are engaged in criminal proceedings.
- (2) Where summary proceedings are brought in respect of an offence alleged to have been committed by a child who is charged jointly with a person who is not a child, the sheriff may direct that no person is to be present at any sitting for the purposes of such proceedings except—
 - (a) members and officers of the court,
 - (b) parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case,
 - (c) *bona fide* representatives of news gathering or reporting organisations present for the purpose of the preparation of contemporaneous reports of the proceedings,
 - (d) such other persons as the sheriff may specially authorise to be present.
- (3) A sheriff sitting summarily for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child may, if the sheriff thinks fit, proceed with the hearing and determination of the charge or application even though it is discovered that the person in question is not a child.

Status: This version of this provision is prospective.

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Section 16 is up to date with all changes known to be in force on or before 18 June 2024. 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](#)

- (4) Subsections (3) and (4) of section 142 apply to summary proceedings to which this section applies as they apply to such proceedings to which section 142 applies.
- (5) The sheriff must, in considering whether to take the steps mentioned in [subsection \(1\)](#) or to make a direction as mentioned in [subsection \(2\)](#), have regard to the rights of the person with whom the child is jointly charged to effectively participate in the proceedings.”.

Commencement Information

II S. 16 not in force at Royal Assent, see [s. 38\(3\)](#)

Status:

This version of this provision is prospective.

Changes to legislation:

Children (Care and Justice) (Scotland) Act 2024, Section 16 is up to date with all changes known to be in force on or before 18 June 2024. 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.

[View outstanding changes](#)

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

- Act power to modify conferred by 1995 c. 36, s. 33A (as inserted) by [2024 asp 5 s. 30\(2\)](#)
- Act power to modify conferred by 2010 asp 8, s. 190(2A) (as substituted) by [2024 asp 5 s. 29\(2\)\(b\)](#)