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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 194**

**The Children's Hearings (Scotland) Act 2011 (Rules  
of Procedure in Children's Hearings) Rules 2013**

**PART 12**

**Pre-hearing panels and determination of matters  
which may be referred to pre-hearing panels**

**Arranging pre-hearing panel - determination of relevant person status**

**45.**—(1) Where a pre-hearing panel is to be arranged by virtue of section 79(2)(a) or (b) (referral of certain matters for pre-hearing determination) of the Act (whether or not it is also to determine any matter mentioned in section [F179(2)(ba) or (bb)]<sup>F2</sup>, (3) or (5A) of the Act), wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual requesting a determination that they be deemed a relevant person under section 79(2)(a) of the Act;
- (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (e) any appointed safeguarder;
- (f) [F3the three members][F3the members] of the pre-hearing panel;
- (g) the National Convener.

(3) The notice must inform—

- (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel;
- (b) the persons mentioned in paragraph (2)(a) to (e) that they—
  - (i) have the right to attend the pre-hearing panel;
  - (ii) [F4subject to paragraph (3A)(b),] may make representations (orally or in writing) to the pre-hearing panel relating to whether the individual mentioned in paragraph (2) (c) or (d) should be deemed to be a relevant person;
  - (iii) may give any report or other document relevant to that matter for the consideration of the pre-hearing panel;
  - (iv) have the right to request that the Reporter takes all reasonable steps to enable the child, each relevant person, or the individual in question, as the case may be, to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication; and

*Status: Point in time view as at 26/07/2021. This version of this provision has been superseded.*

**Changes to legislation:** There are currently no known outstanding effects for the *The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, Section 45.* (See end of Document for details)

- (c) the individual mentioned in paragraph (2)(c) or (d) that the individual, if deemed a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act after that determination has been made, may request the pre-hearing panel to determine any matter mentioned in section 79(3) of the Act.

[<sup>F5</sup>(3ZA) Where the pre-hearing panel will also determine in respect of an individual a matter referred under section 79(2)(ba) or (bb) of the Act, the notice must—

- (a) state that fact and the name of the person,
- (b) inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(ba) or (bb) of the Act unless the individual is deemed to be a relevant person,
- (c) inform any individual whose status as a relevant person has been referred under section 79(5A) of the Act that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(ba) or (bb) of the Act unless the individual continues to be deemed to be a relevant person,
- (d) inform the persons mentioned in paragraph (2)(a), (b) or (e), subject to sub-paragraph (c), that they may—
  - (i) make representations (orally or in writing) to the pre-hearing panel in relation to the matter referred under section 79(2)(ba) or (bb) of the Act, and
  - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.]

[<sup>F6</sup>(3A) Where the pre-hearing panel will also determine a matter referred under section 79(5A) (a) or (b) (power to determine that deeming of person as relevant person to end) of the Act, the notice must—

- (a) state that fact and the name of the individual whose status as a relevant person has been referred under section 79(5A) of the Act;
- (b) inform the individual mentioned in sub-paragraph (a) that, notwithstanding paragraph (3) (b)(ii) above, the individual will not be entitled to take part in any discussion on matters referred under section 79(2)(a) or (b) of the Act unless they continue to be deemed to be a relevant person; and
- (c) inform the persons mentioned in paragraph (2)(a), (b) or (e) that they may—
  - (i) make representations (orally or in writing) to the pre-hearing panel in relation to the matter referred under section 79(5A) of the Act; and
  - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.]

(4) Where the pre-hearing panel will also determine any other matter referred under section 79(2) (c) of the Act the notice must state that fact and—

- (a) inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on that matter unless they are deemed to be a relevant person; <sup>F7</sup>...

[<sup>F8</sup>(aa) inform any individual whose status as a relevant person has been referred under section 79(5A) of the Act that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(c) unless they continue to be deemed to be a relevant person; and]

- (b) inform the persons mentioned in [<sup>F9</sup>paragraph] (2)(a), (b) or (e) [<sup>F10</sup>, subject to sub-paragraph (aa),] that they may—

- (i) make representations (orally or in writing) to the pre-hearing panel in relation to any matter to be determined by the panel; and
  - (ii) give any report or other document relevant to those matters for the consideration of the pre-hearing panel.
- [<sup>F11</sup>(5) Paragraph (6) applies where an individual is both—
- (a) a person in respect of whom a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act, and
  - (b) a person mentioned in paragraph (2)(c) or (d).
- (6) The notice—
- (a) is not to inform the individual referred to in paragraph (5) of the things that it would otherwise be required to by virtue of paragraph (3ZA), and
  - (b) is instead to inform the individual that the individual may—
    - (i) make representations (orally or in writing) to the pre-hearing panel relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act, and
    - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.
- (7) Paragraph (8) applies where an individual is both—
- (a) a person in respect of whom a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act, and
  - (b) a person whose status as a relevant person has been referred to the pre-hearing panel under section 79(5A) of the Act.
- (8) The notice—
- (a) is not to inform the individual referred to in paragraph (7) of the things that it would otherwise be required to by virtue of paragraph (3ZA), and
  - (b) is instead to inform the individual that—
    - (i) the individual may make representations (orally or in writing) to the pre-hearing panel relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act,
    - (ii) the individual may give any report or other document relevant to that matter for the consideration of the pre-hearing panel,
    - (iii) if a matter has been referred under section 79(2)(ba) or (bb) of the Act in respect of another person too, the individual will not be entitled to take part in any discussion on that matter unless the individual continues to be deemed to be a relevant person.]

#### Textual Amendments

- F1** Words in rule 45(1) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(12)(a)**
- F2** Paragraphs (ba) and (bb) are inserted into section 79(2) of the [Children's Hearings \(Scotland\) Act 2011 \(asp 1\)](#) by section 25 of the [Children \(Scotland\) Act 2020 \(asp 16\)](#).
- F3** Words in rule 45(2)(f) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 3 para. 1(9)** (with ss. 11-13) (which affecting provision expires (30.9.2021 at the end of the day) by [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021 \(asp 19\)](#), **ss. 2(1)(3), 11(2)**)

*Status: Point in time view as at 26/07/2021. This version of this provision has been superseded.*

**Changes to legislation:** *There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, Section 45. (See end of Document for details)*

- F4** Words in rule 45(3)(b)(ii) inserted (26.1.2015) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21), rules 1(1), **4(2)**
- F5** Rule 45(3ZA) inserted (26.7.2021) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 (S.S.I. 2021/68), rules 1, **2(12)(b)**
- F6** Rule 45(3A) inserted (26.1.2015) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21), rules 1(1), **4(3)**
- F7** Word in rule 45(4)(a) omitted (26.1.2015) by virtue of The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21), rules 1(1), **4(4)**
- F8** Rule 45(4)(aa) inserted (26.1.2015) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21), rules 1(1), **4(5)**
- F9** Word in rule 45(4)(b) inserted (26.1.2015) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21), rules 1(1), **4(6)(a)**
- F10** Words in rule 45(4)(b) inserted (26.1.2015) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21), rules 1(1), **4(6)(b)**
- F11** Rule 45(5)-(8) inserted (26.7.2021) by The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 (S.S.I. 2021/68), rules 1, **2(12)(c)**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, Section 45.