
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 452

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules 1999 and Sheriff Appeal Court Rules Amendment) (Age of Criminal Responsibility (Scotland) Act 2019) 2021

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules 1999 and Sheriff Appeal Court Rules Amendment) (Age of Criminal Responsibility (Scotland) Act 2019) 2021.

(2) It comes into force on 17th December 2021.

(3) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Summary Application Rules 1999

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(1) is amended in accordance with this paragraph.

(2) After Part LII (care homes: emergency intervention orders)(2) of Chapter 3 (rules on applications under specific statutes)(3), insert—

“PART LIII

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) ACT 2019

Application and interpretation of this Part

3.53.1.—(1) This Part applies to applications under—

(a) section 34 (application for order authorising search in relation to child under 12);

(b) section 42 (application for child interview order);

(c) section 61 (application for order authorising taking of prints and samples from child),
of the Age of Criminal Responsibility (Scotland) Act 2019(4).

(2) In this Part, “the 2019 Act” means the Age of Criminal Responsibility (Scotland) Act 2019 and, unless the context otherwise requires, words and expressions used in this Part and in the 2019 Act have the meaning given by that Act.

(1) S.I. 1999/929, last amended by S.I. 2020/942.

(2) Part LII was inserted by S.S.I. 2020/166.

(3) Chapter 3 was last amended by S.S.I. 2020/166.

(4) 2019 asp 7.

Form of application

3.53.2. An application under—

- (a) section 34 of the 2019 Act must be made in Form 76;
- (b) section 42 of the 2019 Act must be made in Form 77;
- (c) section 61 of the 2019 Act must be made in Form 78.

Processing of application

3.53.3.—(1) On receipt by the court of an application to which this Part applies, it must be placed before the sheriff forthwith.

(2) Rule 2.5 (order for intimation to interested persons by the sheriff) does not apply to applications to which this Part applies.

(3) Where—

- (a) under sections 35(2), 43(2) or 62(2) (consideration of need for enquiry or hearing) of the 2019 Act, the sheriff considers it appropriate to enquire or hold a hearing;
- (b) under sections 35(3), 43(3) or 62(3) (consideration of opportunity to make representations) of the 2019 Act, the sheriff considers that any of the persons mentioned in paragraphs (a) to (d) of those subsections should be given an opportunity to make representations,

the sheriff may make such order as the sheriff thinks fit in relation to that.

Form of order

3.53.4. An order under—

- (a) section 36 (order authorising search in relation to child under 12) of the 2019 Act must be in Form 79;
- (b) section 44(2) (child interview order) of the 2019 Act must be in Form 80;
- (c) section 63 (order authorising taking of prints and samples from child) of the 2019 Act must be in Form 81.

Permission to appeal to Sheriff Appeal Court

3.53.5.—(1) An application for permission to appeal against a decision of the sheriff under sections 36, 44(2) or 63 of the 2019 Act must be made by motion.

(2) Within 1 day after permission to appeal has been granted by the sheriff, the court must transfer the process to the Clerk of the Sheriff Appeal Court.”.

(3) In schedule 1 (forms)(5), after Form 75 insert Forms 76 to 81 as set out in schedule 1 of this Act of Sederunt.

Amendment of the Sheriff Appeal Court Rules 2015

3.—(1) The Act of Sederunt (Sheriff Appeal Court Rules) 2015(6) is amended in accordance with this paragraph.

(2) In rule 6.1 (application of this Chapter)(7), after paragraph (d) insert—

(5) Schedule 1 was last amended by [S.S.I. 2017/460](#).

(6) [S.S.I. 2015/356](#), last amended by [S.S.I. 2021/226](#).

(7) Rule 6.1 was amended by [S.S.I. 2015/419](#).

“(da) an appeal under section 38(3), 44(3) or 67(3) of the Age of Criminal Responsibility (Scotland) Act 2019(8) (see Chapter 31);”.

(3) After Chapter 30 (appeals by stated case under Part 15 of the Children’s Hearings (Scotland) Act 2011)(9), insert—

“CHAPTER 31

Appeals under Part 4 of the Age of Criminal Responsibility (Scotland) Act 2019

Application of this Chapter

31.1. This Chapter applies to an appeal against the decision of a sheriff under section 38(3), 44(3) and 67(3) of the Age of Criminal Responsibility (Scotland) Act 2019(10).

Form of appeal

31.2.—(1) An appeal is made by lodging a note of appeal in Form 31.2.

(2) Rule 6.2(2)(a) to (ba) and (f) to (g) applies for the purpose of making an appeal under this rule.

Hearing of appeal

31.3.—(1) On receipt of the appeal, the Clerk must fix forthwith a hearing to take place within 3 working days (within the meaning of section 76 of the Age of Criminal Responsibility (Scotland) Act 2019) and intimate the date, time and place of that hearing to—

- (a) the constable who applied for the order to which the decision relates;
- (b) the child or person acting on behalf of the child to whom the decision relates;
- (c) any other person the Court considers has an interest in the proceedings.

Determination of appeal

31.4.—(1) At the conclusion of the hearing, the Court may either give its decision orally or reserve judgment.

(2) Where the Court reserves judgment, it must give its decision in writing within 28 days.

(3) The President of the Sheriff Appeal Court may vary the period in paragraph (2).”.

(4) In schedule 1 (administrative provisions)(11), after paragraph 1(3)(h) insert—

“(ha) a hearing fixed under Chapter 31 (appeals under Part 4 of the Age of Criminal Responsibility (Scotland) Act 2019);”.

(5) In schedule 2 (forms)(12), after Form 30.5 insert Form 31.2 as set out in schedule 2 of this Act of Sederunt.

(8) 2019 asp 7.

(9) Chapter 30 was last amended by S.S.I. 2016/194.

(10) 2019 asp 7.

(11) Schedule 1 was last amended by S.S.I. 2016/315.

(12) Schedule 2 was last amended by S.S.I. 2017/186.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Edinburgh
2nd December 2021

CJM SUTHERLAND
Lord President
I.P.D.