

ACT OF ADJOURNAL (CRIMINAL PROCEDURE RULES) 1996 SI 1996/513

SCHEDULE 2

CRIMINAL PROCEDURE RULES 1996

PART II General

CHAPTER 6 PROCEEDINGS INVOLVING CHILDREN

Interpretation of this Chapter

6.1 In this Chapter—

"the Act of 1937" means the Children and Young Persons (Scotland) Act 1937;

"court" means the sheriff sitting as a court of summary jurisdiction.

Application of summary procedure

6.2 The procedure in summary proceedings shall apply, in relation to proceedings against a child as it applies to proceedings against an adult, subject to the provisions of the Act of 1937, the Act of 1995 and this Chapter.

Assistance for unrepresented child

6.3 (1) Where a child is unrepresented in any proceedings, the parent or guardian of the child may assist him in conducting his defence.

(2) Where the parent or guardian of the child cannot be found, or cannot in the opinion of the court reasonably be required to attend, the court may allow a relative or other responsible person to assist the child in conducting his defence.

Procedure in summary proceedings

6.4 In a case where a child is brought before a court on a complaint, the sheriff—

(a) shall explain to the child the substance of the charge in simple language suitable to his age and understanding, and shall then ask the child whether he admits the charge;

(b) if satisfied, after trial or otherwise, that the child has committed an offence, shall so inform the child and—

(i) the child and his parent, guardian, relative or other responsible person assisting the child, or the person representing the child, shall be given an opportunity to make a statement, and

(ii) shall obtain such information as to the general conduct, home surroundings, school record, health and character of the child as may enable the sheriff to deal with the case in the best interests of the child and may remand the child for such enquiry as may be necessary; and

(c) if the sheriff considers it necessary in the interests of the child while considering disposal after conviction, may require the parent, guardian, relative or other responsible person assisting the child, or the person representing the child, or the child, as the case may be, to withdraw from the court.

Failure to comply with probation order (*Omitted on 1 February 2011 (see SSI 2010/418) although continues to have effect where necessary in consequence of article 3 of SSI 2010/413*)

6.5 (1) Any citation requiring the appearance of a child before the court in respect of a failure to comply with a probation order shall be accompanied by a notice—

- (a) giving the reasons for the issue of such citation, and
- (b) stating in what respects it is alleged that any one or more of the requirements of the probation order has or have not been complied with by him;

and, in any case where the child has been apprehended without prior citation, such a notice shall be handed to him in court.

(2) On the child appearing in court, the sheriff shall explain to the child in simple language suitable to his age and understanding the effect of the notice, and shall then ask him whether he admits having failed to comply with the requirements of the probation order as alleged.

(3) Where the child does not admit the alleged failure to comply with the requirements of the probation order, the proceedings shall thereafter be conducted and the matter shall be determined by the court in the same manner as if the same were a matter which had arisen for determination on the original complaint.

Separation of children at sittings

6.6 (1) The court shall take steps, so far as possible, to prevent children attending sittings of the court from mixing with one another.

(2) If this cannot be achieved by holding separate sittings or fixing different hours for the different cases and types of cases coming before it, the court may order additional waiting rooms to be brought into use or may provide for an attendant in the waiting room.

Restrictions on reports of proceedings involving children

6.7 (1) Any direction made by a court under subsection (3)(a) (person under 16 is a witness only) of section 47 (restriction on report of proceedings involving children) of the Act of 1995 shall specify the person in respect of whom the direction is made.

(2) Any direction made by a court under subsection (3)(b) of section 47 of the Act of 1995 (restrictions dispensed with) shall specify the person in respect of

whom the direction is made and the extent to which the provisions of the section are dispensed with in relation to that person.

(3) Any such direction shall be pronounced in open court and its terms shall be recorded in the record of proceedings; and the direction as so recorded shall be authenticated by the signature of the clerk of court.