

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 14 – Implementation of Orders

Implementation of compulsory supervision order

Section 146 – Breach of duties imposed by sections 144 and 145

210. This section applies where it appears to the Children's Hearing when making a decision about a compulsory supervision order that the local authority specified in the order ("the implementation authority") is not fulfilling the obligations contained in the order.
211. Subsection (2) provides that the Children's Hearing may direct the National Convener to notify the implementation authority of an intended application by the National Convener to enforce the authority's duty. Subsections (3) and (4) relate to the conditions of the notice. The notice must set out how the local authority is in breach of its duties and state that if the local authority does not perform its duties within 21 days of the notice the National Convener, on the direction of the Children's Hearing, will make an application to enforce the local authority's duty. A copy of the notice served on the implementation authority must also be sent to the child and each relevant person.
212. Subsection (5) provides that where a Children's Hearing gives a direction under subsection (2), the hearing must require that a further review of the compulsory supervision order take place as soon as possible after 28 days have expired from the day the notice was given. Subsection (6) provides that if the review hearing considers that the implementation authority is still not fulfilling the obligations contained in the compulsory supervision order, the Children's Hearing may direct the National Convener to proceed with an application to the sheriff principal under section 147. Subsection (7) makes clear that the Children's Hearing must not take account of the resources available to the implementation authority when considering whether to direct the National Convener to make an application to enforce the authority's duty.