



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 14

#### IMPLEMENTATION OF ORDERS

##### *Power to transfer child in cases of urgent necessity*

#### **143 Transfers in cases of urgent necessity**

- (1) Subsection (2) applies where a child is residing at a particular place by virtue of a compulsory supervision order or interim compulsory supervision order containing a measure of the type mentioned in section 83(2)(a).
- (2) If it is in the interests of the child or another child in the place that the child be moved out of the place as a matter of urgent necessity then, despite the order, the chief social work officer may transfer the child to another place.

##### *Implementation of compulsory supervision order*

#### **144 Implementation of compulsory supervision order: general duties of implementation authority**

- (1) The implementation authority must give effect to a compulsory supervision order.
- (2) The implementation authority must in particular comply with any requirements imposed on it in relation to the child by the compulsory supervision order.
- (3) The duties which an implementation authority may be required to carry out under a compulsory supervision order include securing or facilitating the provision for the child of services of a kind which the implementation authority does not provide.

#### **145 Duty where order requires child to reside in certain place**

- (1) Subsection (2) applies where, under a compulsory supervision order, a child is required to reside—

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- (a) in accommodation provided by the parents or relatives of the child, or by any person associated with them or the child, or
  - (b) in any other accommodation not provided by a local authority.
- (2) The implementation authority must from time to time—
- (a) investigate whether, while the child is resident in that accommodation, any conditions imposed under the compulsory supervision order are being complied with, and
  - (b) if the authority considers that conditions are not being complied with, take such steps as the authority considers reasonable.

#### **146 Breach of duties imposed by sections 144 and 145**

- (1) This section applies where, on determining the review of a compulsory supervision order under section 138(3), it appears to the children's hearing that the implementation authority is in breach of a duty in relation to the child imposed on the authority under section 144 or 145.
- (2) The children's hearing may direct the National Convener to give the authority notice in accordance with subsection (3) of an intended application by the National Convener to enforce the authority's duty.
- (3) The notice must—
- (a) set out the respects in which the authority is in breach of its duty in relation to the child, and
  - (b) state that if the authority does not perform that duty before the expiry of the period of 21 days beginning with the day on which the notice is given, the National Convener, on the direction of the children's hearing, is to make an application to enforce the authority's duty.
- (4) The National Convener must, at the same time as giving the notice, send a copy of the notice to—
- (a) the child,
  - (b) each relevant person in relation to the child.
- (5) If a children's hearing gives a direction under subsection (2), the children's hearing must require that a further review of the compulsory supervision order take place on or as soon as is reasonably practicable after the expiry of the period of 28 days beginning on the day on which the notice is given.
- (6) If, on that further review, it appears to the children's hearing carrying out the further review that the authority continues to be in breach of its duty, the children's hearing may direct the National Convener to make an application under section 147.
- (7) In determining whether to direct the National Convener to make an application under section 147 to enforce the authority's duty, the children's hearing must not take into account any factor relating to the adequacy of the means available to the authority to enable it to comply with the duty.

#### **147 Application for order**

- (1) The National Convener must, if directed to do so under section 146(6), apply to the relevant sheriff principal for an order to enforce an implementation authority's duty in relation to a child.
- (2) The relevant sheriff principal is the sheriff principal of the sheriffdom in which the principal office of the implementation authority is situated.
- (3) The National Convener may not make such an application, despite the direction given under section 146(6), unless—
  - (a) the National Convener has given the authority notice in relation to the duty in compliance with a direction given under section 146(2), and
  - (b) the authority has failed to carry out the duty within the period specified in the notice.
- (4) The application is to be made by summary application.

#### **148 Order for enforcement**

- (1) The sheriff principal may, on an application by the National Convener under section 147, make an order requiring the implementation authority that is in breach of a duty imposed by virtue of a compulsory supervision order to carry out that duty.
- (2) Such an order is final.

#### *Compulsory supervision orders etc.: further provision*

#### **149 Compulsory supervision orders etc.: further provision**

- (1) The Scottish Ministers may by regulations make provision about—
  - (a) the transmission of information relating to a child who is the subject of an order or warrant mentioned in subsection (2) to any person who, by virtue of the order or warrant, has or is to have control over the child,
  - (b) the provision of temporary accommodation for the child,
  - (c) the taking of the child to any place in which the child is required to reside under the order or warrant,
  - (d) the taking of the child to—
    - (i) a place of safety under section 169 or 170,
    - (ii) a place to which the child falls to be taken to under section 169(2), or
    - (iii) a person to whom the child falls to be taken to under section 170(2).
- (2) The orders and warrants are—
  - (a) a compulsory supervision order,
  - (b) an interim compulsory supervision order,
  - (c) a medical examination order,
  - (d) a warrant to secure attendance.

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*Movement restriction conditions: regulations etc.*

**150 Movement restriction conditions: regulations etc.**

- (1) The Scottish Ministers may by regulations prescribe—
  - (a) restrictions, or
  - (b) monitoring arrangements,
 that may be imposed as part of a movement restriction condition.
- (2) Regulations under subsection (1) may in particular—
  - (a) prescribe the maximum period for which a restriction may have effect,
  - (b) prescribe methods of monitoring compliance with a movement restriction condition,
  - (c) specify devices that may be used for the purpose of that monitoring,
  - (d) prescribe the person or class of person who may be designated to carry out the monitoring, and
  - (e) require that the condition be varied to designate another person if the person designated ceases to be prescribed, or fall within a class of person, prescribed under paragraph (d).
- (3) Regulations under subsection (1) are subject to the affirmative procedure.
- (4) The Scottish Ministers may—
  - (a) make arrangements (contractual or otherwise) to secure the services of such persons as they think fit to carry out monitoring, and
  - (b) make those arrangements in a way that provides differently for different areas or different forms of monitoring.
- (5) Nothing in any enactment or rule of law prevents the disclosure to a person providing a service under an arrangement made under subsection (4) of information relating to a child where the disclosure is made for the purposes only of the full and proper provision of monitoring.

*Secure accommodation*

**151 Implementation of secure accommodation authorisation**

- (1) Subsections (3) and (4) apply where a relevant order or warrant made in relation to a child includes a secure accommodation authorisation.
- (2) A relevant order or warrant is—
  - (a) a compulsory supervision order,
  - (b) an interim compulsory supervision order,
  - (c) a medical examination order,
  - (d) a warrant to secure attendance.
- (3) The chief social work officer may implement the authorisation only with the consent of the person in charge of the residential establishment containing the secure accommodation in which the child is to be placed (the “head of unit”).
- (4) The chief social work officer must remove the child from secure accommodation if—

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- (a) the chief social work officer considers it unnecessary for the child to be kept there, or
  - (b) the chief social work officer is required to do so by virtue of regulations made under subsection (6).
- (5) A secure accommodation authorisation ceases to have effect once the child is removed from secure accommodation under subsection (4).
- (6) The Scottish Ministers may by regulations make provision in relation to decisions—
- (a) by the chief social work officer—
    - (i) whether to implement a secure accommodation authorisation,
    - (ii) whether to remove a child from secure accommodation,
  - (b) by the head of unit whether to consent under subsection (3).
- (7) Regulations under subsection (6) may in particular—
- (a) specify—
    - (i) the time within which a decision must be made,
    - (ii) the procedure to be followed,
    - (iii) the criteria to be applied,
    - (iv) matters to be taken into account or disregarded,
    - (v) persons who must be consulted,
    - (vi) persons who must consent before a decision has effect,
  - (b) make provision about—
    - (i) notification of decisions,
    - (ii) the giving of reasons for decisions,
    - (iii) reviews of decisions,
    - (iv) the review of the order or warrant containing the secure accommodation authorisation where the head of unit does not consent.
- (8) Regulations under subsection (6) are subject to the affirmative procedure.

## **152 Secure accommodation: placement in other circumstances**

- (1) The Scottish Ministers may by regulations make provision specifying circumstances in which a child falling within subsection (3) may be placed in secure accommodation.
- (2) Regulations under subsection (1) may in particular include provision for and in connection with—
- (a) the procedure to be followed in deciding whether to place a child in secure accommodation,
  - (b) the notification of decisions,
  - (c) the giving of reasons for decisions,
  - (d) the review of decisions,
  - (e) the review of placements by a children's hearing.
- (3) A child falls within this subsection if—
- (a) a relevant order or warrant is in force in relation to the child, and
  - (b) the relevant order or warrant does not include a secure accommodation authorisation.

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- (4) A relevant order or warrant is—
  - (a) a compulsory supervision order,
  - (b) an interim compulsory supervision order,
  - (c) a medical examination order,
  - (d) a warrant to secure attendance.
- (5) Regulations under subsection (1) are subject to the affirmative procedure.

### **153      Secure accommodation: regulations**

- (1) The Scottish Ministers may by regulations make provision about children placed in secure accommodation by virtue of this Act.
- (2) Regulations under subsection (1) may in particular include provision—
  - (a) imposing requirements on the Principal Reporter,
  - (b) imposing requirements on the implementation authority in relation to a compulsory supervision order or an interim compulsory supervision order,
  - (c) imposing requirements on the relevant local authority for a child in relation to a medical examination order or a warrant to secure attendance,
  - (d) in connection with the protection of the welfare of the children.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.