
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013

Made - - - -

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 150(1) of the Children's Hearings (Scotland) Act 2011(a) and sections 17 and 31 of the Children (Scotland) Act 1995(b), and all other powers enabling them to do so.

In accordance with sections 150(3) and 197(2) of the Children's Hearings (Scotland) Act 2011 a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 and come into force on the same day as section 150 (movement restriction conditions: regulations etc.) of the Act.

(2) The Intensive Support and Monitoring (Scotland) Regulations 2008(c) are revoked.

(3) Regulation 5(c) of the Restriction of Liberty Order etc. (Scotland) Regulations 2013(d) is revoked.

Interpretation

2. In these Regulations—

“the Act” means the Children's Hearings (Scotland) Act 2011;

“child's plan” is construed in accordance with regulation 3;

(a) 2011 asp 1.

(b) 1995 c.36. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46); section 17 was amended by schedule 2, paragraph 9 of the Adoption and Children (Scotland) Act 2007 (asp 4) and prospectively by schedule 5, paragraph 2(4) of the Children's Hearings (Scotland) Act 2011. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(c) S.S.I. 2008/75.

(d) S.S.I. 2013/6.

“relevant person” includes a person who is to be treated as the child’s relevant person by virtue of a decision under section 81(3) (determination of claim that person be deemed a relevant person), 160(4)(b) (appeal to sheriff against relevant person determination) or 164(6) (appeals to sheriff principal and Court of Session: relevant persons) of the Act;

“responsible local authority officer” means an officer of the implementation authority authorised by it in relation to the arrangements concerned with a compulsory supervision order or an interim compulsory supervision order which contains a movement restriction condition, and a child’s plan.

Monitoring arrangements: child’s plan

3.—(1) The monitoring arrangements imposed as part of a movement restriction condition contained within a compulsory supervision order or an interim compulsory supervision order must include the preparation by the implementation authority of a child’s plan.

(2) The implementation authority must endeavour to agree the child’s plan with the child and any relevant person in relation to the child.

(3) A child’s plan must, so far as is practicable, address the immediate and longer term needs of the child with a view to safeguarding and promoting the child’s welfare.

(4) A child’s plan, and any matters relating to that plan or its review, must be recorded in writing.

(5) That requirement may be satisfied by a child’s plan, its review or any such matter, being in electronic form which is—

- (a) sent by electronic means, and
- (b) capable of being reproduced in legible form.

(6) The matters set out by the implementation authority in a child’s plan must include details of the services to be provided relative to a compulsory supervision order or interim compulsory supervision order which contains a movement restriction condition to meet the care, education and health needs of the child and, in particular—

- (a) the provision of, or means of accessing, alternative accommodation to that specified in accordance with regulation 6(1)(a), together with particulars of those persons who are to be notified, and by whom, when such accommodation is provided or accessed;
- (b) the provision of a crisis response service, being a service to be provided by or on behalf of the implementation authority, by way of immediate support for the child under reference to the child’s plan, which service must include a telephone contact facility, accessible on a 24 hours per day basis, for every day of the year, both by the child, by any person designated in accordance with regulation 4(1), and by any other person identified in the plan as requiring such access; and
- (c) the arrangements which are to be made for evaluating the child’s participation, progress and cooperation in relation to the child’s plan, and the provision which is to be made for regular reports.

(7) The implementation authority must also set out, within the child’s plan, the arrangements for review of the plan by the authority, including in particular the date or dates when the plan is to be reviewed, subject always to such review taking place within 3 months of the plan being completed, or within 3 months of the children’s hearing or a sheriff, as the case may be, imposing a compulsory supervision order or interim compulsory supervision order which contains a movement restriction condition, whichever date is the later.

(8) The implementation authority must provide the Principal Reporter with a copy of the child’s plan upon its completion, together with any revised version of the plan which may from time to time be prepared by the authority, and a brief report setting out the circumstances of, and the reasons for, such revision.

Monitoring arrangements: designation and functions of persons

4.—(1) Where a children’s hearing or a sheriff, as the case may be, is making, varying, continuing, extending, extending and varying, further extending or further extending and varying a compulsory supervision order or an interim compulsory supervision order which contains a movement restriction condition, the hearing or sheriff must designate—

- (a) a responsible local authority officer; or
- (b) any person employed or otherwise instructed by the implementation authority to carry out the functions set out in paragraph (2); and
- (c) in relation to monitoring compliance in accordance with regulation 7, any person whose services may, by contract or otherwise, be secured.

(2) The person designated by paragraph (1)(a) or (b) must—

- (a) monitor the child’s compliance with all of the measures contained in the compulsory supervision order or the interim compulsory supervision order, including their participation, progress and cooperation in relation to the child’s plan; and
- (b) review, at no more than weekly intervals, the child’s compliance with the matters referred to in sub-paragraph (a), in conjunction with the child, and having regard to such other information as may be obtained by that person from any relevant person, and any provider of services identified in the child’s plan.

Variation of designation of persons

5.—(1) A children’s hearing or a sheriff, as the case may be, which has designated a person to monitor compliance with a compulsory supervision order or an interim compulsory supervision order which contains a movement restriction condition must, where that person is no longer within the provision made under regulation 4, vary the designation accordingly.

(2) Where a children’s hearing or a sheriff, as the case may be, varies the designation, the children’s hearing or sheriff, as the case may be must also, at the same time, notify the child in relation to whom the compulsory supervision order or the interim compulsory supervision order containing the movement restriction condition was made of that variation, together with such other persons including any provider of services as may be affected by that variation.

Restrictions and monitoring arrangements

6.—(1) Where a children’s hearing or a sheriff, as the case may be, is making, varying, continuing, extending, extending and varying, further extending or further extending and varying a compulsory supervision order or an interim compulsory supervision order which contains a movement restriction condition, the following are prescribed restrictions and monitoring arrangements which must be imposed, for the purposes of section 150(1)(a) and (b) of the Act—

- (a) the place at which the child is required to reside;
- (b) the days of the week during which the child is required to remain at that place, and the period or periods when the child is required to remain there, which period or periods must not exceed 12 hours in any one day; and
- (c) the period for which the movement restriction condition is to have effect, which period must not exceed 6 months.

(2) Where a children’s hearing or a sheriff, as the case may be, is making, varying, continuing, extending, extending and varying, further extending or further extending and varying a compulsory supervision order or an interim compulsory supervision order which contains a movement restriction condition, the following are prescribed restrictions and monitoring arrangements which may be imposed, for the purposes of section 150(1)(a) and (b) of the Act—

- (a) any address, location or place which the child is required not to enter;
- (b) any requirements relative to the arrangements for monitoring compliance with the measures contained in the compulsory supervision order or the interim compulsory

- supervision order and in particular relative to the discharge of functions by any person designated by regulation 4(1);
- (c) any requirements relative to the child's participation in, or cooperation with, the child's plan;
 - (d) any contingency arrangements relative to—
 - (i) sub-paragraph (a); or
 - (ii) paragraphs (1)(a) and (b),which the children's hearing or sheriff considers necessary when imposing a movement restriction condition; and
 - (e) any planned respite care arrangements for the child which the children's hearing or sheriff considers necessary when imposing a movement restriction condition.

Methods of monitoring compliance

7.—(1) The following methods of monitoring compliance of a child with the restrictions and requirements of a movement restriction condition are prescribed for the purposes of section 150(2)(b) of the Act, and may be specified in the compulsory supervision order or the interim compulsory supervision order—

- (a) radio and electronic monitoring of the child's presence at, or absence from, the place at which the child is required to reside, or any address, location or place which the child is required not to enter, by means of a regular radio signal transmitted by a transmitter device attached to the child with the transmitted signal received by a radio receiving and monitoring service located at such address, location or place, with the relevant information received and processed by said radio receiving and monitoring service periodically passed by telephone line to a central computer at a monitoring centre; and
- (b) radio and electronic monitoring of the child's presence at, or absence from, the place at which the child is required to reside, or any address, location or place which the child is required not to enter, by a mobile receiver which receives radio signals transmitted by transmitter device attached to the child.

(2) The method of monitoring in paragraph (1)(b) can only be used if it is not reasonably practicable to use the method in paragraph (1)(a).

Specified devices

8. The devices specified for the purposes of section 150(2)(c) of the Act and which may be used for monitoring the compliance of a child with a movement restriction condition are those devices listed in Schedule 2 to the Restriction of Liberty Order etc. (Scotland) Regulations 2013.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under the Children's Hearings (Scotland) Act 2011 and the Children (Scotland) Act 1995, make provision regarding the arrangements for monitoring compliance with a movement restriction condition within a compulsory supervision order or an interim compulsory supervision order.

Regulation 1(2) revokes the Intensive Support and Monitoring (Scotland) Regulations 2008 (S.S.I. 2008/75). Regulation 1(3) revokes regulation 5(c) of the Restriction of Liberty Order etc. (Scotland) Regulations 2013 (S.S.I. 2013/6).

Regulation 3 makes provision in connection with a child's plan which must be prepared by the implementation authority as part of the monitoring arrangements imposed as part of a movement restriction condition.

Regulations 4 and 5 make provision in connection with the designation of persons or variation of designation for the purposes of monitoring a child's compliance with a movement restriction condition and the intervals at which such compliance must be reviewed.

Regulation 6 provides for certain restrictions and monitoring arrangements which must be imposed as part of a movement restriction condition and others which may be so imposed.

Regulation 7 prescribes the methods of monitoring permitted for the monitoring of compliance of a child with the restrictions and requirements of a movement restriction condition.

Regulation 8 provides that the devices that may be used for the monitoring of compliance of a child with the restrictions and requirements of a movement restriction condition are those listed in S.S.I. 2013/6.

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