

2013 No. 149

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Act 2011 (Compulsory Supervision Orders etc.: Further Provision) Regulations 2013

Made - - - - - *14th May 2013*

Laid before the Scottish Parliament *15th May 2013*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 149(1) of the Children's Hearings (Scotland) Act 2011(a) and section 17(1) of the Children (Scotland) Act 1995(b) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Children's Hearings (Scotland) Act 2011 (Compulsory Supervision Orders etc.: Further Provision) Regulations 2013 and come into force on the same day as section 149 (compulsory supervision orders etc.: further provision) of the Act.

Interpretation and formal communications

2.—(1) In these Regulations—

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

“the Children's Hearings Rules” means the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013(c); and

“sheriff court rules” means the Act of Sederunt (Child Care and Maintenance Rules) 1997(d).

(2) Any information provided or any other type of communication made or given under these Regulations is a formal communication and section 193(2) to (4) applies to them as it does to other formal communications under the Act.

Transmission of information relating to a child: compulsory supervision order

3.—(1) Where—

(a) a children's hearing or, as the case may be, a sheriff has made, continued or varied a compulsory supervision order or an interim variation of a compulsory supervision order in relation to a child;

(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 paragraph 9 of schedule 2 to the Adoption and Children (Scotland) Act 2007 (asp 4).

(c) S.S.I. 2013/XXX.

(d) S.I. 1997/291 as relevantly amended by S.S.I. 2013/XXX.

- (b) a person, other than the implementation authority or a relevant person in relation to the child, has or is to have control over the child by virtue of the order; and
- (c) it appears to the implementation authority that any report, or part of a report, on the child and the child's social background which is put to the children's hearing or sheriff for consideration of the case would assist that person in the care and supervision of the child,

then the implementation authority must act in accordance with paragraph (2).

(2) As soon as practicable after the implementation authority receives—

- (a) notice under the Children's Hearings Rules of the making, continuation or variation of the compulsory supervision order or of the interim variation of a compulsory supervision order; or
- (b) notice under the sheriff court rules of the continuation or variation of the compulsory supervision order or of the making, continuation or variation of an interim variation of a compulsory supervision order,

the implementation authority must give a copy of that report, or part of that report, to the person referred to in paragraph (1)(b).

(3) Where at any time while a compulsory supervision order is in force in relation to a child it appears to the implementation authority that any information it has about the child or the child's circumstances is relevant to the care of the child, it must make that information available to any person who has, or is to have, control over the child by virtue of the compulsory supervision order.

Transmission of information relating to a child: interim compulsory supervision order

4.—(1) Where—

- (a) a children's hearing or, as the case may be, a sheriff has made, continued, extended, varied, extended and varied, further extended or further extended and varied an interim compulsory supervision order in relation to a child;
- (b) a person, other than the implementation authority or a relevant person in relation to the child, has or is to have control over the child by virtue of the order; and
- (c) it appears to the implementation authority that any report, or part of a report, on the child and the child's social background which is put to the children's hearing or sheriff for consideration of the case would assist that person in the care and supervision of the child,

then the implementation authority must act in accordance with paragraph (2).

(2) As soon as practicable and, in any case, no later than 2 working days after receiving notice under—

- (a) the Children's Hearings Rules of the making or variation of the interim compulsory supervision order; or
- (b) the sheriff court rules of the making, extension, variation, extension and variation, further extension or further extension and variation of the interim compulsory supervision order,

the implementation authority must give a copy of that report, or part of that report, to the person referred to in paragraph (1)(b).

(3) Where at any time while an interim compulsory supervision order is in force in relation to a child it appears to the implementation authority that any information it has about the child or the child's circumstances is relevant to the care of the child, it must make that information available to any person who has, or is to have, control over the child by virtue of the interim compulsory supervision order.

Transmission of information relating to a child: medical examination order

5.—(1) Where—

- (a) a children's hearing or, as the case may be, a sheriff has made, continued or varied a medical examination order in relation to a child;
- (b) a person, other than the relevant local authority or a relevant person in relation to the child, has or is to have control over the child by virtue of the order; and
- (c) it appears to the relevant local authority that any report, or part of a report, on the child and the child's social background which is put to the children's hearing or sheriff for consideration of the case would assist that person in the care and supervision of the child,

the relevant local authority must act in accordance with paragraph (2).

(2) As soon as practicable and, in any case, no later than 2 working days after the relevant local authority receives—

- (a) notice under the Children's Hearings Rules of the making or variation of the medical examination order;
- (b) notice under the sheriff court rules of the continuation or variation of the medical examination order,

the relevant local authority must give a copy of that report, or part of that report, to the person referred to in paragraph (1)(b).

(3) Where at any time while a medical examination order is in force in relation to a child it appears to the relevant local authority that any information they have about the child or the child's circumstances is relevant to the care of the child, it must make that information available to any person who has, or is to have, control over the child by virtue of the medical examination order.

Provision of temporary accommodation for the child: compulsory supervision order

6. Where—

- (a) a children's hearing or, as the case may be, a sheriff has made, continued or varied a compulsory supervision order in relation to a child; and
- (b) the child is required to reside in a residential establishment or other place specified in the order; but
- (c) the implementation authority is unable to make immediate arrangements for the child's reception in that establishment or place,

the implementation authority must arrange for the child to be temporarily accommodated in a suitable place, other than the place specified in the order, for any period not exceeding 22 days commencing on the date of the making, continuation or variation of the order.

Provision of temporary accommodation for the child: interim compulsory supervision order

7. Where—

- (a) a children's hearing or, as the case may be, a sheriff has made, continued, extended, varied, extended and varied, further extended or further extended and varied an interim compulsory supervision order in relation to a child; and
- (b) the child is required to reside in a residential establishment or other place specified in the order; but
- (c) the implementation authority is unable to make immediate arrangements for the child's reception in that establishment or place,

the implementation authority must arrange for the child to be temporarily accommodated in a suitable place, other than the place specified in the order, for any period not exceeding 22 days

commencing on the date of the making, continuation, extension, variation, extension and variation, further extension or further extension and variation of the order.

Provision of temporary accommodation for the child: medical examination order

8. Where—

- (a) a children's hearing or, as the case may be, a sheriff has made, continued or varied a medical examination order in relation to a child; and
- (b) the child is required to reside at a clinic, hospital or other establishment specified in the order; but
- (c) the relevant local authority is unable to make immediate arrangements for the child's reception in that clinic, hospital or other establishment,

the relevant local authority must arrange for the child to be temporarily accommodated in a suitable place, other than the place specified in the order, for any period not exceeding 22 days commencing on the date of the making, continuation or variation of the order.

Taking of the child to a place or person

9.—(1) Whenever it is necessary to take a child to any place in which the child is required to reside under a compulsory supervision order or an interim compulsory supervision order it is the duty of the implementation authority to ensure that the child is taken to that place.

(2) Whenever it is necessary to take a child to any place in which the child is required to reside under a medical examination order it is the duty of the relevant local authority to ensure that the child is taken to that place.

(3) Subject to paragraph (4), whenever it is necessary to take a child—

- (a) to a place of safety under section 169 (child absconding from place) or 170 (child absconding from person) of the Act;
- (b) to a place to which the child falls to be taken to under section 169(2) of the Act; or
- (c) to a person to whom the child falls to be taken to under section 170(2) of the Act,

it is the duty of the relevant local authority to ensure that the child is taken to that place of safety, place or person.

(4) In the case of a compulsory supervision order, or an interim compulsory supervision order or where section 143 (transfers in cases of urgent necessity) of the Act applies, it is the duty of the implementation authority to ensure that the child is taken to that place of safety, place or person as specified in paragraph 3(a) to (c).

Revocation

10. The Children's Hearings (Transmission of Information etc.) (Scotland) Regulations 1996(a) are revoked.

AILEEN CAMPBELL

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
14th May 2013

(a) S.I. 1996/3260.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision further to the Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) about compulsory supervision orders, interim compulsory supervision orders and medical examination orders under section 149 (compulsory supervision orders etc.: further provision) of the 2011 Act.

Regulations 3, 4 and 5 make provision for the transfer of reports or other information in relation to a child from the implementation authority or relevant local authority to a person who is, by virtue of a compulsory supervision order, an interim compulsory supervision order or a medical examination order, to have control of the child. This transmission of information will take place when it would assist that person in taking care of the child.

Regulations 6, 7 and 8 make provision in connection with the duty of an implementation authority or relevant local authority to accommodate a child in some other suitable place where they are unable to make arrangements for accommodation of the child in the place specified in a compulsory supervision order, an interim compulsory supervision order or a medical examination order.

Regulation 9 makes provision in connection with the taking of a child to any place, place of safety or person as required under a compulsory supervision order, an interim compulsory supervision order, a medical examination order or under section 169 (child absconding from place) or 170 (child absconding from person) of the 2011 Act.

Regulation 10 revokes the Children’s Hearings (Transmission of Information etc.) (Scotland) Regulations 1996 (S.I. 1996/3260).

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