

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 12 – Children’s Hearings

Section 136 – Supervision requirements: duties of local authorities

299. **Section 136** places a new duty on local authorities to implement decisions of children’s hearings contained in supervision requirements and empowers hearings to require the Reporter to apply for an order from the sheriff court requiring a local authority in breach of its duty to perform that duty. The section also sets out the procedures to be observed.
300. Subsection (1)(a) states that a hearing may impose duties on the local authority and that these duties may include the securing or facilitating of services other than those provided by the local authority.
301. Subsection (1)(b) sets out the procedure to be observed. In new subsection (7A), where the Reporter is required to send the notice to any person appointed under section 41 of the 1995 Act. This may be a safeguarder, a curator ad litem or a legal representative appointed under the Children’s Hearings (Legal Representation) (Scotland) Rules 2002.
302. Section 71 of the Children (Scotland) Act 1995 places a duty on the local authority to give effect to a supervision requirement. Section 136(2) introduces an additional requirement that where a hearing imposes duties on a local authority in the context of a supervision requirement, the local authority must perform these duties.
303. **Section 136(3)** introduces a new section into the 1995 Act to specify the procedures and circumstances in which the Reporter may apply to the sheriff principal for an order and that the sheriff principal’s decision shall be final.