

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 13 – Review of Compulsory Supervision Order

Functions of Principal Reporter and children's hearing

Section 138 – Powers of children's hearing on review

199. This section applies to Children's Hearings arranged to review a compulsory supervision order in relation to a child.
200. The review is only complete when the hearing is in a position to make a decision as to what course of action is in the best interests of the child. Deferral of a decision may be considered appropriate, for example, because a particular report has not been completed in time, or the accuracy of a report is being challenged or because further assessment of the child is required in order to fully determine the child's needs. Subsection (2) provides that a hearing may defer a decision to a subsequent hearing where the hearing considers it appropriate to do so. Subsection (3) provides that if the review hearing does not defer to a subsequent hearing then the hearing must terminate, vary, or continue the compulsory supervision order in relation to the child. An order may not be continued for a period exceeding one year. Subsection (4) provides that the hearing may only vary or continue a compulsory supervision order if it is necessary to do so for the protection, guidance treatment or control of the child. Subsection (5) places a duty on the hearing, when varying or continuing a compulsory supervision order, to consider making a measure to regulate contact between the child and another person.
201. Subsections (6) and (7) provide that where the hearing terminates the compulsory supervision order, the hearing must consider whether the child is in need of voluntary supervision or guidance and, if so, make a statement to that effect. If such a statement is made, the relevant local authority is then under a duty to provide such voluntary supervision or guidance as the child is willing to accept. Subsections (8) and (9) provide that where the review hearing decides to defer consideration of the case, the hearing may require the attendance of the child and the relevant person at that subsequent hearing even where they were excused from attending the original review hearing.