



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 13

REVIEW OF COMPULSORY SUPERVISION ORDER

Requirement for review

129 Requirement under Antisocial Behaviour etc. (Scotland) Act 2004

- (1) Subsection (2) applies where—
 - (a) under section 12(1A) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) the sheriff requires the Principal Reporter to arrange a children's hearing in respect of a child, and
 - (b) a compulsory supervision order is in force in relation to the child.
- (2) The Principal Reporter must initiate a review of the compulsory supervision order.

130 Case remitted under section 49 of Criminal Procedure (Scotland) Act 1995

- (1) This section applies where, in relation to a child—
 - (a) a court remits a case under section 49 of the Criminal Procedure (Scotland) Act 1995 to the Principal Reporter to arrange for the disposal of the case by a children's hearing, and
 - (b) a compulsory supervision order is in force in relation to the child.
- (2) The Principal Reporter must initiate a review of the compulsory supervision order.
- (3) A certificate signed by the clerk of the court stating that the child has pled guilty to, or been found guilty of, the offence to which the case relates is conclusive evidence for the purposes of the children's hearing held for the purposes of reviewing the order that the offence was committed by the child.
- (4) This Act applies as if the plea of guilty, or the finding of guilt, were a determination of the sheriff under section 108 that the ground in section 67(2)(j) was established in relation to the child.

131 Duty of implementation authority to require review

- (1) The implementation authority must, by notice to the Principal Reporter, require a review of a compulsory supervision order in relation to a child where the authority is satisfied that one or more of the circumstances set out in subsection (2) exist.
- (2) Those circumstances are—
 - (a) the compulsory supervision order ought to be terminated or varied,
 - (b) the compulsory supervision order is not being complied with,
 - (c) the best interests of the child would be served by the authority making one of the following applications, and the authority intends to make such an application—
 - (i) an application under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4) (the “2007 Act”) for a permanence order,
 - (ii) an application under section 92 of the 2007 Act for variation of such an order,
 - (iii) an application under section 93 of the 2007 Act for amendment of such an order,
 - (iv) an application under section 98 of the 2007 Act for revocation of such an order,
 - (d) the best interests of the child would be served by the authority placing the child for adoption and the authority intends to place the child for adoption,
 - (e) the authority is aware that an application has been made and is pending, or is about to be made, under section 29 or 30 of the 2007 Act for an adoption order in respect of the child.
- (3) The Scottish Ministers may by regulations specify the period within which a requirement under subsection (1) must be made where the implementation authority is satisfied as to the existence of the circumstances mentioned in subsection (2)(a) to (d).
- (4) Different periods may be specified for different circumstances, or classes of circumstances.
- (5) Where an implementation authority is under a duty to require a review under subsection (1) by virtue of being satisfied as to the existence of the circumstances mentioned in subsection (2)(e), the authority must do so as soon as practicable after the authority becomes aware of the application.

132 Right of child or relevant person to require review

- (1) This section applies where a compulsory supervision order is in force in relation to a child.
- (2) The child may by giving notice to the Principal Reporter require a review of the order.
- (3) A relevant person in relation to the child may by giving notice to the Principal Reporter require a review of the order.
- (4) The order may not be reviewed—
 - (a) during the period of 3 months beginning with the day on which the order is made,
 - (b) if the order is continued or varied, during the period of 3 months beginning with the day on which it is continued or varied.

- (5) The Scottish Ministers may by regulations provide that, despite subsection (4), where the order includes a secure accommodation authorisation, the order may be reviewed during a period specified in the regulations.

133 Principal Reporter's duty to initiate review

The Principal Reporter must initiate a review of a compulsory supervision order in relation to a child if—

- (a) the order will expire within 3 months, and
- (b) the order would not otherwise be reviewed before it expires.

134 Duty to initiate review if child to be taken out of Scotland

- (1) This section applies where—
 - (a) a child is subject to a compulsory supervision order,
 - (b) a relevant person in relation to the child proposes to take the child to live outwith Scotland, and
 - (c) the proposal is not in accordance with the order or an order under section 11 of the 1995 Act.
- (2) The relevant person must give notice of the proposal to the Principal Reporter and the implementation authority at least 28 days before the day on which the relevant person proposes to take the child to live outwith Scotland.
- (3) If the Principal Reporter receives notice under subsection (2), the Principal Reporter must initiate a review of the compulsory supervision order.

135 Duty to initiate review: secure accommodation authorisation

- (1) Subsection (2) applies where a compulsory supervision order includes a secure accommodation authorisation (which has not ceased to have effect by virtue of section 151(5)).
- (2) The Principal Reporter must initiate a review of the order—
 - (a) before the end of the period of 3 months beginning with the day on which the order is made, and
 - (b) if the order is varied or continued, before the end of the period of 3 months beginning with the day on which it is varied or continued.

136 Duty to initiate review where child transferred

The Principal Reporter must initiate a review of a compulsory supervision order in relation to a child where the child is transferred under section 143(2).

Functions of Principal Reporter and children's hearing

137 Duty to arrange children's hearing

- (1) This section applies where a compulsory supervision order is in force in relation to a child and—

Status: This is the original version (as it was originally enacted).

- (a) a review of the order is required or initiated by virtue of any of—
 - (i) sections 107, 108, 115 and 117 (all as modified by section 118),
 - (ii) sections 116, 125, 129 to 136 and 146, or
 - (b) the child's case is referred to the Principal Reporter under section 96(3) or 106 of the Adoption and Children (Scotland) Act 2007 (asp 4).
- (2) The Principal Reporter must arrange a children's hearing to review the compulsory supervision order.
 - (3) If the review is initiated under section 136, the children's hearing must be arranged to take place before the expiry of the period of 3 working days beginning with the day on which the child is transferred.
 - (4) The Principal Reporter must require the implementation authority to give the Principal Reporter any reports that the authority has prepared in relation to the child and any other information which the authority may wish to give to assist the children's hearing.
 - (5) The Principal Reporter may require the implementation authority to give the Principal Reporter a report on—
 - (a) the child generally,
 - (b) any particular matter relating to the child specified by the Principal Reporter.
 - (6) The implementation authority may include in a report given to the Principal Reporter under subsection (4) or (5) information given to the authority by another person.

138 Powers of children's hearing on review

- (1) This section applies where a children's hearing is carrying out a review of a compulsory supervision order in relation to a child.
- (2) If the children's hearing considers that it is appropriate to do so, the children's hearing may defer making a decision about the compulsory supervision order until a subsequent children's hearing under this section.
- (3) Otherwise, the children's hearing may—
 - (a) terminate the compulsory supervision order,
 - (b) vary the compulsory supervision order,
 - (c) continue the compulsory supervision order for a period not exceeding one year.
- (4) The children's hearing may vary or continue a compulsory supervision order only if the children's hearing is satisfied that it is necessary to do so for the protection, guidance, treatment or control of the child.
- (5) If the children's hearing varies or continues a compulsory supervision order, the children's hearing must consider whether to include a measure of the type mentioned in section 83(2)(g).
- (6) If the children's hearing terminates the compulsory supervision order, the children's hearing must—
 - (a) consider whether supervision or guidance is needed by the child, and
 - (b) if so, make a statement to that effect.

- (7) If the children's hearing states that supervision or guidance is needed by the child, it is the duty of the relevant local authority for the child to give such supervision or guidance as the child will accept.
- (8) Subsection (9) applies where—
 - (a) a child or relevant person in relation to the child is excused under section 73(2), 74(2) or 79 from attending the children's hearing, and
 - (b) the hearing defers its decision until a subsequent children's hearing.
- (9) The children's hearing need not excuse the child or relevant person in relation to the child from attending the subsequent children's hearing.

139 Powers of children's hearing on deferral under section 138

- (1) This section applies where under subsection (2) of section 138 a children's hearing defers making a decision about the compulsory supervision order in relation to a child until a subsequent children's hearing under that section.
- (2) The children's hearing may continue the compulsory supervision order until the subsequent children's hearing.
- (3) If the children's hearing considers that the nature of the child's circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that the compulsory supervision order be varied, the children's hearing may make an interim variation of the compulsory supervision order.

140 Interim variation of compulsory supervision order

- (1) In this Act, "interim variation", in relation to a compulsory supervision order made in relation to a child, means a variation of the order having effect for the relevant period.
- (2) An interim variation may vary the order so that, instead of specifying a place or places at which the child is to reside under section 83(2)(a), the order specifies that the child is to reside at any place of safety away from the place where the child predominantly resides.
- (3) Section 83(5)(a) does not apply to the varied order.
- (4) In subsection (1), the "relevant period" means the period beginning with the variation of the order and ending with whichever of the following first occurs—
 - (a) the next children's hearing arranged in relation to the child,
 - (b) the disposal by the sheriff of an application under Part 10 relating to the child,
 - (c) a day specified in the variation,
 - (d) the expiry of the period of 22 days beginning with the day on which the order is varied.

141 Preparation of report in circumstances relating to permanence order or adoption

- (1) This section applies where a review of a compulsory supervision order in relation to a child is required under subsection (1) of section 131 in the circumstances mentioned in subsection (2)(c), (d) or (e) of that section.

Status: This is the original version (as it was originally enacted).

- (2) On determining the review under section 138(3), the children's hearing must prepare a report providing advice about the circumstances to which the review relates for—
 - (a) the implementation authority, and
 - (b) any court that requires (or may subsequently require) to come to a decision about an application of the type mentioned in section 131(2)(c) or (e).
- (3) The report must be in such form as the Scottish Ministers may determine.
- (4) If an application of the type mentioned in section 131(2)(c) or (e) is (or has been) made, the court must have regard to the report when coming to its decision about the application.

Review of relevant person determination

142 Review of determination that person be deemed a relevant person

- (1) This section applies where, in relation to a child—
 - (a) a children's hearing determines a review of a compulsory supervision order by varying or continuing the order,
 - (b) an individual is deemed to be a relevant person by virtue of section 81, and
 - (c) it appears to the children's hearing that the individual may no longer have (nor recently have had) a significant involvement in the upbringing of the child.
- (2) The children's hearing must review whether the individual should continue to be deemed to be a relevant person in relation to the child.
- (3) If the children's hearing considers that it is appropriate to do so, the children's hearing may defer determining the review under subsection (2) until a subsequent children's hearing under this section.
- (4) Otherwise, if the children's hearing determines that the individual does not have (and has not recently had) a significant involvement in the upbringing of the child then—
 - (a) the children's hearing must direct that the individual is no longer to be deemed to be a relevant person, and
 - (b) section 81(4) ceases to apply in relation to the individual (except in relation to any appeal arising from the determination mentioned in subsection (1)(a)).