

POLICY NOTE

THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (COMPULSORY SUPERVISION ORDERS ETC.: FURTHER PROVISION) REGULATIONS 2013

SSI 2013/149

The above instrument is made in exercise of the powers conferred by section 149(1) of the Children's Hearings (Scotland) Act 2011 and section 17(1) of the Children (Scotland) Act 1995 ("the 1995 Act").

These Regulations make further provision about: the transmission of information relating to a child who is subject to a compulsory supervision order (CSO), interim compulsory supervision order (ICSO), or medical examination order (MEO); the provision of temporary accommodation for the child; and the taking of the child to any specified place, person or place of safety.

The powers at section 149 of the 2011 Act are similar to those under section 74 of the 1995 Act. Similar regulations – The Children's Hearings (Transmission of Information etc.) (Scotland) Regulations 1996 ("the 1996 Regulations") – were made under the 1995 Act. The 1996 Regulations will be revoked and replaced by these new Regulations when section 149 of the 2011 Act is commenced.

Policy objectives

It remains essential that a person taking care of a child is in receipt of information that will assist in the care of the child.

Regulations 3, 4 and 5, cover the transmission of relevant information about a child to the person who is looking after them when that person is not the implementation authority (in the case of Regulation 5, the relevant local authority) or the child's relevant person. Separate provision is made in respect of the 3 different types of order. The regulations apply to the orders of sheriffs as well as of the children's hearing. The Regulations also set specific, short timescales within which the implementation authority in the case of ICSOs, and the relevant local authority in the case of MEOs, must transmit the information.

Regulations 6, 7 and 8 allow local authorities to arrange temporary accommodation for a child for up to 22 days in specific circumstances when they cannot find an immediate place at an establishment specified in a CSO, ICSO or MEO. Separate provision is made in respect of the 3 different types of order. The use of temporary accommodation is permitted whether the order was made by a sheriff or a children's hearing. A key change from the 1996 Regulations is that the new regulations do not allow local authorities that are unable to arrange temporary accommodation to seek a review hearing of the sheriff's or the hearing's decision. Local authorities should be able to comply with their duties under regulations 6, 7 and 8 given the short-term nature of the temporary accommodation to be provided. If they believe that a compulsory supervision order should be varied, or if it is not being complied with, the authority can require a review hearing to be arranged under s131 of the 2011 Act. Interim compulsory supervision orders and medical examination orders will automatically be reviewed within 22 days.

Regulation 9 sets out which local authority (the implementation authority or relevant local authority) has responsibility to arrange for a child to be taken to a place of safety under a CSO, an ICSO or a MEO and, where the child has absconded, which local authority has responsibility to ensure that they are returned to the place of safety or person responsible for the child's care. This is not a substantive change to current policy under the 1996 Regulations.

Commencement Date

These regulations will come into force at the same time as section 149 of the 2011 Act, which is scheduled to be commenced on 24 June 2013.

Consultation

There has been an open public consultation on this instrument which ran for 12 weeks from 31 October to 27 January 2012. A total of 7 responses were received to that consultation and the instrument was re-drafted, as appropriate, to take account of comments made.

Impact assessments

There are no equality impact issues.

Financial effects

There are no likely financial effects on organisations or individuals from these regulations.

**Scottish Government
Children and Families Directorate**

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