



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.

Commencement Information

- II** S. 129 in force at 24.6.2013 by [S.S.I. 2013/195](#), arts. 2, 3

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.

Status: Point in time view as at 26/07/2021.

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- (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.

Commencement Information

I2 S. 130 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

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.

Modifications etc. (not altering text)

C1 S. 131(2) applied (with modifications) (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Transfer of Children to Scotland - Effect of Orders made in England and Wales or Northern Ireland\) Regulations 2013 \(S.S.I. 2013/99\)](#), [regs. 1, 7\(3\)](#)

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Commencement Information

I3 S. 131 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

132 **[^{F1}Right to require review: child, relevant person and person afforded opportunity to participate]**

- (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.

[^{F2}(3A) An individual who is entitled to do so by subsection (6) 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.

[^{F3}(6) An individual is entitled to require a review under subsection (3A) if—

- (a) the Principal Reporter was satisfied at the relevant time, or
- (b) a pre-hearing panel or children's hearing determined,

that the individual met the criteria to be afforded an opportunity to participate in relation to the children's hearing that most recently made a decision in respect of the order (whether that was a decision to make, vary or continue it).

- (7) Where a children's hearing is arranged as a result (solely or partly) of an individual requiring a review under subsection (3A), the individual is to be treated as an individual whom a pre-hearing panel has determined meets the criteria to be afforded an opportunity to participate in relation to the children's hearing.
- (8) For the purposes of subsections (6) and (7)—
 - (a) “the criteria to be afforded an opportunity to participate” means the criteria specified in rules under section 177 to be afforded the rights mentioned in section 79(5ZA) in relation to a children's hearing,
 - (b) “the relevant time” means—
 - (i) the time when the children's hearing referred to in subsection (6) began, or
 - (ii) if more than one children's hearing is to be regarded as a single children's hearing by virtue of paragraph (c), the time when any one of them began,
 - (c) if the children's hearing that most recently made a decision in respect of the order was a subsequent children's hearing arranged as a result of an earlier

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children's hearing deferring making a decision, they are to be regarded as a single children's hearing.]

Textual Amendments

- F1** S. 132 heading substituted (26.7.2021) by virtue of [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 25(4)(c)**, 34(2); [S.S.I. 2020/412](#), [reg. 2\(2\)\(c\)](#)
- F2** S. 132(3A) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 25(4)(a)**, 34(2); [S.S.I. 2020/412](#), [reg. 2\(2\)\(c\)](#)
- F3** S. 132(6)-(8) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 25(4)(b)**, 34(2); [S.S.I. 2020/412](#), [reg. 2\(2\)\(c\)](#)

Commencement Information

- I4** S. 132 in force at 24.6.2013 by [S.S.I. 2013/195](#), **arts. 2, 3**

[^{F4}132A **Right of person not afforded opportunity to participate to require review**

- (1) The Principal Reporter must initiate a review of a compulsory supervision order in relation to a child if requested to do so by an individual who claims to be an individual to whom subsection (2) applies.
- (2) This subsection applies to an individual if—
 - (a) the individual did not attend the children's hearing that most recently made a decision in respect of the order (whether that was a decision to make, vary or continue it), and
 - (b) either—
 - (i) the conditions in subsection (3) are met, or
 - (ii) the conditions in subsection (4) are met.
- (3) The conditions referred to in subsection (2)(b)(i) are—
 - (a) neither a pre-hearing panel nor a children's hearing made a determination about whether the individual met the criteria to be afforded an opportunity to participate in relation to the children's hearing referred to in subsection (2)(a),
 - (b) it is more likely than not that had a pre-hearing panel or children's hearing made a determination about that matter at the relevant time, it would have determined that the individual met those criteria in relation to the children's hearing, and
 - (c) the individual was not afforded the rights mentioned in section 79(5ZA) in relation to the children's hearing as the Principal Reporter either did not consider whether, or was not satisfied that, the individual met those criteria in relation to the children's hearing.
- (4) The conditions referred to in subsection (2)(b)(ii) are—
 - (a) the Principal Reporter was satisfied at the relevant time, or a pre-hearing panel or children's hearing determined, that the individual met the criteria to be afforded an opportunity to participate in relation to the children's hearing referred to in subsection (2)(a), and
 - (b) the individual was not able to participate properly in the children's hearing's decision making as a result of—
 - (i) a material failure to treat the individual, or any representative of the individual, in accordance with the rules, or

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(ii) exceptional circumstances.

(5) For the purposes of this section—

- (a) “the criteria to be afforded an opportunity to participate” means the criteria specified in the rules to be afforded the rights mentioned in section 79(5ZA) in relation to a children's hearing,
- (b) “the relevant time” means—
 - (i) the time when the children's hearing referred to in subsection (2)(a) began, or
 - (ii) if more than one children's hearing is to be regarded as a single children's hearing by virtue of paragraph (d), the time when any one of them began,
- (c) “the rules” means rules under section 177,
- (d) if the children's hearing referred to in subsection (2)(a) was a subsequent children's hearing arranged as a result of an earlier children's hearing deferring making a decision, they are to be regarded as a single children's hearing.]

Textual Amendments

- F4** S. 132A inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 25(5), 34(2)**; S.S.I. 2020/412, reg. 2(2)(c)

133 Principal Reporter's duty to initiate review

[^{F5}(1)] The Principal Reporter must initiate a review of a compulsory supervision order in relation to a child if—

- (a) [^{F6}the order will expire within][^{F6}the original expiry date of the order falls within the next] 3 months, and
- (b) the order would not otherwise be reviewed before [^{F7}it expires][^{F7}the original expiry date].

[^{F8}(2) Where a compulsory supervision order would, but for section 83(7A), cease to have effect on the original expiry date, the Principal Reporter must initiate a review of the order as soon as practicable after the original expiry date (unless the order will otherwise be reviewed before the order ceases to have effect under section 83(7)(c)).

(3) In this section, the “original expiry date” is the date on which the compulsory supervision order would, but for section 83(7A), cease to have effect.]

Textual Amendments

- F5** S. 133 renumbered as s. 133(1) (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 3 para. 3(3)(a)** (with ss. 11-13, sch. 3 para. 3(4)(5)) (which affecting provision expires (30.9.2021 at the end of the day) by virtue of [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021 \(asp 19\)](#), ss. 2(1)(3), 11(2) (with sch. para. 1))
- F6** Words in s. 133(1)(a) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 3 para. 3(3)(b)(i)** (with ss. 11-13, sch. 3 para. 3(4)(5)) (which affecting provision expires (30.9.2021 at the end of the day) by virtue of [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021 \(asp 19\)](#), ss. 2(1)(3), 11(2) (with sch. para. 1))
- F7** Words in s. 133(1)(b) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 3 para. 3(3)(b)(ii)** (with ss. 11-13, sch. 3 para. 3(4)(5)) (which affecting provision

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expires (30.9.2021 at the end of the day) by virtue of [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021 \(asp 19\)](#), ss. 2(1)(3), 11(2) (with sch. para. 1))

- F8** S. 133(2)(3) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 3 para. 3\(3\)\(c\)](#) (with ss. 11-13, sch. 3 para. 3(4)(5)) (which affecting provision expires (30.9.2021 at the end of the day) by virtue of [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021 \(asp 19\)](#), ss. 2(1)(3), 11(2) (with sch. para. 1))

Commencement Information

- I5** S. 133 in force at 24.6.2013 by [S.S.I. 2013/195](#), arts. 2, 3

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.

Commencement Information

- I6** S. 134 in force at 24.6.2013 by [S.S.I. 2013/195](#), arts. 2, 3

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.

Commencement Information

- I7** S. 135 in force at 24.6.2013 by [S.S.I. 2013/195](#), arts. 2, 3

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).

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18 S. 136 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

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Changes to legislation:

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