



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 14

#### IMPLEMENTATION OF ORDERS

##### *Implementation of compulsory supervision order*

#### **144 Implementation of compulsory supervision order: general duties of implementation authority**

- (1) The implementation authority must give effect to a compulsory supervision order.
- (2) The implementation authority must in particular comply with any requirements imposed on it in relation to the child by the compulsory supervision order.
- (3) The duties which an implementation authority may be required to carry out under a compulsory supervision order include securing or facilitating the provision for the child of services of a kind which the implementation authority does not provide.

#### **145 Duty where order requires child to reside in certain place**

- (1) Subsection (2) applies where, under a compulsory supervision order, a child is required to reside—
  - (a) in accommodation provided by the parents or relatives of the child, or by any person associated with them or the child, or
  - (b) in any other accommodation not provided by a local authority.
- (2) The implementation authority must from time to time—
  - (a) investigate whether, while the child is resident in that accommodation, any conditions imposed under the compulsory supervision order are being complied with, and
  - (b) if the authority considers that conditions are not being complied with, take such steps as the authority considers reasonable.

#### **146 Breach of duties imposed by sections 144 and 145**

- (1) This section applies where, on determining the review of a compulsory supervision order under section 138(3), it appears to the children's hearing that the implementation authority is in breach of a duty in relation to the child imposed on the authority under section 144 or 145.
- (2) The children's hearing may direct the National Convener to give the authority notice in accordance with subsection (3) of an intended application by the National Convener to enforce the authority's duty.
- (3) The notice must—
  - (a) set out the respects in which the authority is in breach of its duty in relation to the child, and
  - (b) state that if the authority does not perform that duty before the expiry of the period of 21 days beginning with the day on which the notice is given, the National Convener, on the direction of the children's hearing, is to make an application to enforce the authority's duty.
- (4) The National Convener must, at the same time as giving the notice, send a copy of the notice to—
  - (a) the child,
  - (b) each relevant person in relation to the child.
- (5) If a children's hearing gives a direction under subsection (2), the children's hearing must require that a further review of the compulsory supervision order take place on or as soon as is reasonably practicable after the expiry of the period of 28 days beginning on the day on which the notice is given.
- (6) If, on that further review, it appears to the children's hearing carrying out the further review that the authority continues to be in breach of its duty, the children's hearing may direct the National Convener to make an application under section 147.
- (7) In determining whether to direct the National Convener to make an application under section 147 to enforce the authority's duty, the children's hearing must not take into account any factor relating to the adequacy of the means available to the authority to enable it to comply with the duty.

#### **147 Application for order**

- (1) The National Convener must, if directed to do so under section 146(6), apply to the relevant sheriff principal for an order to enforce an implementation authority's duty in relation to a child.
- (2) The relevant sheriff principal is the sheriff principal of the sheriffdom in which the principal office of the implementation authority is situated.
- (3) The National Convener may not make such an application, despite the direction given under section 146(6), unless—
  - (a) the National Convener has given the authority notice in relation to the duty in compliance with a direction given under section 146(2), and
  - (b) the authority has failed to carry out the duty within the period specified in the notice.
- (4) The application is to be made by summary application.

#### **148      Order for enforcement**

- (1) The sheriff principal may, on an application by the National Convener under section 147, make an order requiring the implementation authority that is in breach of a duty imposed by virtue of a compulsory supervision order to carry out that duty.
- (2) Such an order is final.