



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 12

CHILDREN'S HEARINGS

Supervision requirements

135 Supervision requirements: conditions restricting movement

(1) Section 70 of the Children (Scotland) Act 1995 (c. 36) (supervision requirements) shall be amended in accordance with subsections (2) to (4).

(2) For subsection (9) there shall be substituted—

“(9) A children’s hearing may exercise a power mentioned in subsection (9A) below in relation to a child if they are satisfied—

- (a) that one of the conditions mentioned in subsection (10) below is met; and
- (b) that it is necessary to exercise the power concerned.

(9A) The powers are—

- (a) that the children’s hearing may specify in the supervision requirement that the child shall be liable to be placed and kept in secure accommodation in a residential establishment specified, under subsection (3)(a) above, in the requirement, during such period as the person in charge of that establishment, with the agreement of the chief social work officer of the relevant local authority, considers necessary; and
- (b) that the children’s hearing may impose, under subsection (3)(b) above, a movement restriction condition.”.

(3) For subsection (10) there shall be substituted—

“(10) The conditions are—

- (a) that the child, having previously absconded, is likely to abscond and, if he absconds, it is likely that his physical, mental or moral welfare will be at risk; and
- (b) that the child is likely to injure himself or some other person.”.

(4) After subsection (10) there shall be added—

“(11) In this section, “movement restriction condition” means a condition—

- (a) restricting the child’s movements in such way as may be specified in the supervision requirement; and
- (b) requiring the child to comply with such arrangements for monitoring compliance with the restriction mentioned in paragraph (a) above as may be so specified.

(12) Where a children’s hearing impose a condition such as is mentioned in subsection (9A)(b) above, they shall also impose under subsection (3)(b) above such of the conditions prescribed by the Scottish Ministers for the purposes of this section as they consider necessary in the child’s case.

(13) The Scottish Ministers may by regulations make provision as to the arrangements mentioned in subsection (11)(b) above.

(14) Regulations under subsection (13) above may in particular include provision—

- (a) prescribing what method or methods of monitoring compliance with the restriction mentioned in paragraph (a) of subsection (11) above may be specified in a supervision requirement;
- (b) specifying the devices which may be used for the purpose of that monitoring;
- (c) prescribing the person who may be designated by a children’s hearing to carry out that monitoring or the class or description of person from which that person may be drawn;
- (d) requiring a children’s hearing who have designated a person in pursuance of paragraph (c) above who is no longer within the provision made under that paragraph to vary the designation accordingly and notify the child of the variation.

(15) The Scottish Ministers may, by contract or otherwise, secure the services of such persons as they think fit to carry out the monitoring mentioned in subsection (11)(b) above and may do so in a way in which those services are provided differently in relation to different areas or different forms of that monitoring.

(16) Nothing in any enactment or rule of law prevents the disclosure to a person providing services in pursuance of subsection (15) above of information relating to a child where the disclosure is made for the purposes only of the full and proper provision of the monitoring mentioned in subsection (11)(b) above.

(17) A children’s hearing may include in a supervision requirement a movement restriction condition only if the hearing is constituted from the children’s panel for a local government area which is prescribed for the purposes of this section by the Scottish Ministers.”.