

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 14 – Implementation of Orders

Secure accommodation

Section 151 – Implementation of secure accommodation authorisation

217. This section sets out the way in which secure accommodation authorisations are implemented. It applies where a hearing makes a compulsory supervision order, an interim compulsory supervision order, a medical examination order or a warrant to secure attendance which includes a secure accommodation authorisation. Subsection (3) provides that the chief social work officer of the relevant local authority for the child may implement the authorisation only with the consent of the person in charge of the residential establishment containing the secure accommodation in which the child will be placed. Subsection (4) provides that the chief social work officer must remove the child from secure accommodation where he considers it unnecessary for the child to be kept there or he is required to remove the child by virtue of regulations. Subsection (5) provides that the secure accommodation authorisation ceases to have effect once the child is removed from the secure accommodation under subsection (4).
218. Subsection (6) enables the Scottish Ministers to make regulations with regard to the decisions of the chief social work officer to implement the secure accommodation authorisation or remove the child from secure accommodation and with regard to the decisions of the head of unit to consent to the implementation of the secure accommodation authorisation under subsection (3). Subsection (7) sets out the areas that may, in particular, be covered by regulations. These areas include: the timescales for the decision; the procedures to be followed, the criteria to be applied; who must be consulted; and who must consent to a decision. Regulations may also make provision about the notification of decisions, the giving of reasons for decisions, the reviewing of decisions and the review of an order or warrant containing a secure accommodation authorisation where the head of unit does not consent. Subsection (8) provides that such regulations will be subject to affirmative procedure.
219. The term “chief social work officer” is defined in section 202. The definition refers to both implementation authorities and relevant authorities. This is necessary because under compulsory supervision orders and interim compulsory supervision orders an “implementation authority” will be specified but this will not be the case for medical examination orders or warrants to secure attendance where the duties will fall on the relevant local authority.

Section 152 – Secure accommodation: placement in other circumstances

220. This section enables the Scottish Ministers to make provision in regulations specifying circumstances in which children may be placed in secure accommodation if a relevant order or warrant is in force in relation to the child and that order does not include

a secure accommodation authorisation. A relevant order or warrant is a compulsory supervision order, an interim compulsory supervision order, a medical examination order, or a warrant to secure attendance. Subsection (2) provides that the regulations may in particular include provision about: the procedure to be followed in deciding whether to place a child in secure accommodation; the notification of decisions; the giving of reasons for decisions; the review of decisions; and the review of placements by Children's Hearings. Such regulations will be subject to the affirmative procedure.

Section 153 – Secure accommodation: regulations

221. This section enables the Scottish Ministers to make provision by regulations about children placed in secure accommodation under the Act. Such regulations may in particular include provision imposing requirements on the Principal Reporter, the relevant local authority or implementation authority and in relation to protecting the welfare of children placed in secure accommodation under the Act. Requirements may be placed on both the implementation authority in relation to compulsory supervision orders and interim compulsory supervision orders and the relevant local authority in relation to the medical examination orders and warrant to secure attendance. Such regulations will be subject to the affirmative procedure.