

# CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 18 – Miscellaneous**

#### **Mutual assistance**

##### *Section 183 – Mutual assistance*

267. This section places an obligation on CHS, the National Convener, SCRA and the Principal Reporter to co-operate with each other in relation to the performance of their duties under the Act. Each of them must comply with a request by the other for assistance in carrying out functions conferred by the Act. Subsection (3) provides that a local authority may make a request to not only another local authority, but also a health board, for assistance in the performance of the local authority's functions under the Act, and those persons are under a duty to comply. This reflects the fact that the compulsory supervision order may require the local authority to provide services under the order which the authority does not itself provide, under section 144(3). Furthermore, the power to request assistance and the duty to comply extends to all the local authority's functions under the Act so it would therefore cover for example, investigating whether a child should be referred to the reporter, or responding to requests for information from the National Convener under section 180 or 181, as well as functions relating to implementing any orders under the Act. Subsection (5) provides that any request under section 183 must specify the assistance that is required. The duties in this section do not apply if complying with a request would be incompatible with any function of the person or would unduly prejudice the conduct of that function (subsection (6)).

##### *Section 184 – Enforcement of obligations on health board under section 183*

268. This section provides an additional enforcement mechanism in relation to the request for help by a local authority to a health board in connection with the implementation of a compulsory supervision order. This provision is restricted to requests for assistance by a local authority where the local authority is the specified implementation authority for a compulsory supervision order and is in connection with the implementation of that order. Where the implementation authority has made a request to a health board for assistance in connection with the implementation of the order and the implementation authority considers that the health board has unreasonably failed to comply with the request the implementation authority may refer the matter to the Scottish Ministers. Subsection (3) provides that the Scottish Ministers may then, if they consider that the health board has unreasonably failed to comply with the request, direct the health board to comply with that request. Subsection (4) provides that the health board must comply with that direction.