

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 – Children's Hearing

Key definitions

Section 83 – Meaning of “compulsory supervision order”

117. This section sets out the meaning of a compulsory supervision order. A compulsory supervision order is an order made by a Children's Hearing or sheriff that requires a child to comply with specified conditions and requires the local authority to perform duties in relation to the child's needs. Subsection (2) sets out the measures which may be included in a compulsory supervision order. The local authority which is responsible for giving effect to those measures will be specified in the order and is referred to in this section as the “implementation authority”.
118. A compulsory supervision order may require the child to reside at a place specified in the order. Where such a measure is imposed, the order may include a prohibition on disclosing that place. It may also include a direction granting authority to the person who is in charge of the place which is specified to restrict the child's liberty to the extent that the person considers appropriate taking account of the measures included in the order. Other measures which may be included in the compulsory supervision order are a movement restriction condition, a secure accommodation authorisation, a contact direction (between the child and a specified person or class of person) and a requirement that the child must comply with any other specified condition. In turn, the order may also specify duties which must be carried out by the implementation authority in respect of the child. Subsection (2)(f) provides that the order may contain a requirement that the authority arrange a specified medical examination or treatment of the child.
119. Subsection (3) provides that when a Children's Hearing or sheriff makes a compulsory supervision order, they must consider whether to attach conditions to regulate any contact that the child may have with any other named person. For example, the child may be required to live away from home as part of the compulsory supervision order but it may be desirable to maintain contact with family members. Alternatively, the Children's Hearing or sheriff may regulate contact if the child remains at home and it appears to the Children's Hearing that the child may benefit from contact with e.g. an absent father or a previous foster carer. Contact may also be regulated so the child is prohibited from any contact with a person.
120. Subsections (4) and (6) provide the conditions that must be met before a movement restriction condition (defined in section 84) may be made by a hearing or sheriff. The hearing, or sheriff, must consider that it is necessary to include the movement restriction condition and one or more of the conditions in subsection (6) must be met. The conditions are that the child has previously absconded and is likely to abscond again to the detriment of his welfare, or that the child is likely to self-harm or injure another person.

121. Subsection (5) prescribes the conditions which must be met before a compulsory supervision order may include a secure accommodation authorisation. These conditions are three-fold. First, the compulsory supervision order must contain a residence requirement measure which specifies a residential establishment containing both secure and non-secure provision. Alternatively, the compulsory supervision order must specify two or more residential establishments, one of which contains non-secure accommodation. Secondly, one or more of the conditions in subsection (6) must be met (discussed in the preceding paragraph) and, thirdly, the Children's Hearing or sheriff must be satisfied that a secure accommodation authorisation is necessary having considered other available supervision options including a movement restriction condition. Subsections (1) and (7)(a) provide that where a compulsory supervision order has not been continued, the order will have effect until either the day one year after it was made or the day on which the child reaches the age of 18, whichever is the earlier). Subsections (1) and (7)(b) provide that where a compulsory supervision order has been continued, the order will have effect until either the day one year after the day on which it was last continued or until the child turns 18.