



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 13 **S**

#### REVIEW OF COMPULSORY SUPERVISION ORDER

##### *Functions of Principal Reporter and children's hearing*

#### **137** Duty to arrange children's hearing **S**

- (1) This section applies where a compulsory supervision order is in force in relation to a child and—
  - (a) a review of the order is required or initiated by virtue of any of—
    - (i) sections 107, 108, 115 and 117 (all as modified by section 118),
    - (ii) sections 116, 125, 129 to 136 and 146, or
  - (b) the child's case is referred to the Principal Reporter under section 96(3) or 106 of the Adoption and Children (Scotland) Act 2007 (asp 4).
- (2) The Principal Reporter must arrange a children's hearing to review the compulsory supervision order.
- (3) If the review is initiated under section 136, the children's hearing must be arranged to take place before the expiry of the period of 3 working days beginning with the day on which the child is transferred.
- (4) The Principal Reporter must require the implementation authority to give the Principal Reporter any reports that the authority has prepared in relation to the child and any other information which the authority may wish to give to assist the children's hearing.
- (5) The Principal Reporter may require the implementation authority to give the Principal Reporter a report on—
  - (a) the child generally,
  - (b) any particular matter relating to the child specified by the Principal Reporter.
- (6) The implementation authority may include in a report given to the Principal Reporter under subsection (4) or (5) information given to the authority by another person.

*Changes to legislation: Children's Hearings (Scotland) Act 2011, Cross Heading: Functions of Principal Reporter and children's hearing is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Modifications etc. (not altering text)**

- C1** S. 137 applied (with modifications) (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Transfer of Children to Scotland - Effect of Orders made in England and Wales or Northern Ireland\) Regulations 2013 \(S.S.I. 2013/99\)](#), regs. 1, [7\(4\)](#)

**Commencement Information**

- I1** S. 137 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**138 Powers of children's hearing on review S**

- (1) This section applies where a children's hearing is carrying out a review of a compulsory supervision order in relation to a child.
- (2) If the children's hearing considers that it is appropriate to do so, the children's hearing may defer making a decision about the compulsory supervision order until a subsequent children's hearing under this section.
- (3) Otherwise, the children's hearing may—
  - (a) terminate the compulsory supervision order,
  - (b) vary the compulsory supervision order,
  - (c) continue the compulsory supervision order for a period not exceeding one year.

[<sup>F1</sup>(3A) In deciding whether to exercise the power conferred by subsection (2), the children's hearing must consider whether to require the Principal Reporter to obtain any report, from any person, which the children's hearing considers relevant to any matter to be determined by the subsequent children's hearing.]

- (4) The children's hearing may vary or continue a compulsory supervision order only if the children's hearing is satisfied that it is necessary to do so for the protection, guidance, treatment or control of the child.

<sup>F2</sup>(5) .....

- (6) If the children's hearing terminates the compulsory supervision order, the children's hearing must—
  - (a) consider whether supervision or guidance is needed by the child, and
  - (b) if so, make a statement to that effect.
- (7) If the children's hearing states that supervision or guidance is needed by the child, it is the duty of the relevant local authority for the child to give such supervision or guidance as the child will accept.
- (8) Subsection (9) applies where—
  - (a) a child or relevant person in relation to the child is excused under section 73(2), 74(2) or 79 from attending the children's hearing, and
  - (b) the hearing defers its decision until a subsequent children's hearing.
- (9) The children's hearing need not excuse the child or relevant person in relation to the child from attending the subsequent children's hearing.

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#### Textual Amendments

- F1** S. 138(3A) inserted (17.12.2021) by Age of Criminal Responsibility (Scotland) Act 2019 (asp 7), ss. 77(4), 84(2); S.S.I. 2021/449, reg. 2
- F2** S. 138(5) repealed (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, Sch. 2

#### Commencement Information

- I2** S. 138 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

### 139 Powers of children's hearing on deferral under section 138 **S**

- (1) This section applies where under subsection (2) of section 138 a children's hearing defers making a decision about the compulsory supervision order in relation to a child until a subsequent children's hearing under that section.
- (2) The children's hearing may continue the compulsory supervision order until the subsequent children's hearing.
- (3) If the children's hearing considers that the nature of the child's circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that the compulsory supervision order be varied, the children's hearing may make an interim variation of the compulsory supervision order.

#### Commencement Information

- I3** S. 139 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

### 140 Interim variation of compulsory supervision order **S**

- (1) In this Act, “interim variation”, in relation to a compulsory supervision order made in relation to a child, means a variation of the order having effect for the relevant period.
- (2) An interim variation may vary the order so that, instead of specifying a place or places at which the child is to reside under section 83(2)(a), the order specifies that the child is to reside at any place of safety away from the place where the child predominantly resides.
- (3) Section 83(5)(a) does not apply to the varied order.
- (4) In subsection (1), the “relevant period” means the period beginning with the variation of the order and ending with whichever of the following first occurs—
  - (a) the next children's hearing arranged in relation to the child,
  - (b) the disposal by the sheriff of [<sup>F3</sup>an application made by virtue of section 93(2)(a) or 94(2)(a)] relating to the child,
  - (c) a day specified in the variation,
  - (d) the expiry of the period of 22 days beginning with the day on which the order is varied.

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#### Textual Amendments

- F3** Words in s. 140(4)(b) substituted (24.6.2013) by [The Children's Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, [Sch. 1 para. 20\(13\)](#)

#### Commencement Information

- I4** S. 140 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

### 141 Preparation of report in circumstances relating to permanence order or adoption **S**

- (1) This section applies where a review of a compulsory supervision order in relation to a child is required under subsection (1) of section 131 in the circumstances mentioned in subsection (2)(c), (d) or (e) of that section.
- (2) On determining the review under section 138(3), the children's hearing must prepare a report providing advice about the circumstances to which the review relates for—
  - (a) the implementation authority, and
  - (b) any court that requires (or may subsequently require) to come to a decision about an application of the type mentioned in section 131(2)(c) or (e).
- (3) The report must be in such form as the Scottish Ministers may determine.
- (4) If an application of the type mentioned in section 131(2)(c) or (e) is (or has been) made, the court must have regard to the report when coming to its decision about the application.

#### Commencement Information

- I5** S. 141 in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**Changes to legislation:**

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[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)