



# Children's Hearings (Scotland) Act 2011

## 2011 asp 1

### PART 13

#### REVIEW OF COMPULSORY SUPERVISION ORDER

##### *Requirement for review*

#### **[<sup>F1</sup>132A Right of person not afforded opportunity to participate to require review**

- (1) The Principal Reporter must initiate a review of a compulsory supervision order in relation to a child if requested to do so by an individual who claims to be an individual to whom subsection (2) applies.
- (2) This subsection applies to an individual if—
  - (a) the individual did not attend the children's hearing that most recently made a decision in respect of the order (whether that was a decision to make, vary or continue it), and
  - (b) either—
    - (i) the conditions in subsection (3) are met, or
    - (ii) the conditions in subsection (4) are met.
- (3) The conditions referred to in subsection (2)(b)(i) are—
  - (a) neither a pre-hearing panel nor a children's hearing made a determination about whether the individual met the criteria to be afforded an opportunity to participate in relation to the children's hearing referred to in subsection (2)(a),
  - (b) it is more likely than not that had a pre-hearing panel or children's hearing made a determination about that matter at the relevant time, it would have determined that the individual met those criteria in relation to the children's hearing, and
  - (c) the individual was not afforded the rights mentioned in section 79(5ZA) in relation to the children's hearing as the Principal Reporter either did not consider whether, or was not satisfied that, the individual met those criteria in relation to the children's hearing.
- (4) The conditions referred to in subsection (2)(b)(ii) are—

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*Changes to legislation: Children's Hearings (Scotland) Act 2011, Section 132A is up to date with all changes known to be in force on or before 05 July 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*

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- (a) the Principal Reporter was satisfied at the relevant time, or a pre-hearing panel or children's hearing determined, that the individual met the criteria to be afforded an opportunity to participate in relation to the children's hearing referred to in subsection (2)(a), and
  - (b) the individual was not able to participate properly in the children's hearing's decision making as a result of—
    - (i) a material failure to treat the individual, or any representative of the individual, in accordance with the rules, or
    - (ii) exceptional circumstances.
- (5) For the purposes of this section—
- (a) “the criteria to be afforded an opportunity to participate” means the criteria specified in the rules to be afforded the rights mentioned in section 79(5ZA) in relation to a children's hearing,
  - (b) “the relevant time” means—
    - (i) the time when the children's hearing referred to in subsection (2)(a) began, or
    - (ii) if more than one children's hearing is to be regarded as a single children's hearing by virtue of paragraph (d), the time when any one of them began,
  - (c) “the rules” means rules under section 177,
  - (d) if the children's hearing referred to in subsection (2)(a) was a subsequent children's hearing arranged as a result of an earlier children's hearing deferring making a decision, they are to be regarded as a single children's hearing.]

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**Textual Amendments**

**F1** S. 132A inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), ss. **25(5)**, 34(2); S.S.I. 2020/412, reg. 2(2)(c)

**Changes to legislation:**

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**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\(5\)\(b\)](#)