

Children and Young People (Scotland) Bill

[AS INTRODUCED]

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Children and Young People (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the rights of children and young people; to make provision about investigations by the Commissioner for Children and Young People in Scotland; to make provision for and about the provision of services and support for or in relation to children and young people; to make provision for an adoption register; to make provision about children's hearings, detention in secure accommodation and consultation on certain proposals in relation to schools; and for connected purposes.

PART 1

RIGHTS OF CHILDREN

1 Duties of Scottish Ministers in relation to the rights of children

(1) The Scottish Ministers must—

(a) keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements, and

(b) if they consider it appropriate to do so, take any of the steps identified by that consideration.

(2) The Scottish Ministers must promote public awareness and understanding (including appropriate awareness and understanding among children) of the rights of children.

(3) As soon as practicable after the end of each 3 year period, the Scottish Ministers must lay before the Scottish Parliament a report of—

(a) what steps they have taken in that period to secure better or further effect in Scotland of the UNCRC requirements, and

(b) what they have done in pursuance of subsection (2).

(4) In subsection (3), “3 year period” means—

(a) the period of 3 years beginning with the day on which this section comes into force, and

(b) each subsequent period of 3 years.

- (5) As soon as practicable after a report has been laid before the Scottish Parliament under subsection (3), the Scottish Ministers must publish it (in such manner as they consider appropriate).

2 Duties of public authorities in relation to the UNCRC

- (1) As soon as practicable after the end of each 3 year period, an authority to which this section applies must publish (in such manner as the authority considers appropriate) a report of what steps it has taken in that period to secure better or further effect within its areas of responsibility of the UNCRC requirements.
- (2) In subsection (1), “3 year period” means—
- (a) the period of 3 years beginning with the day on which this section comes into force, and
 - (b) each subsequent period of 3 years.
- (3) Two or more authorities to which this section applies may satisfy subsection (1) by publishing a report prepared by them jointly.

3 Authorities to which section 2 applies

- (1) The authorities to which section 2 applies are the persons listed, or persons within a description listed, in schedule 1.
- (2) The Scottish Ministers may by order modify schedule 1 by—
- (a) adding a person or description of persons,
 - (b) removing an entry listed in it, or
 - (c) modifying an entry listed in it.
- (3) An order under subsection (2)(a) may—
- (a) add a person only if the person falls within subsection (4),
 - (b) add a description of persons only if each of the persons within the description falls within subsection (4).
- (4) A person falls within this subsection if the person—
- (a) is part of the Scottish Administration,
 - (b) is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
 - (c) is a publicly owned company.
- (5) In subsection (4)(c), “publicly owned company” means a company that is wholly owned by—
- (a) the Scottish Ministers, or
 - (b) a person listed, or a person within a description listed, in schedule 1.
- (6) For the purpose of subsection (5), a company is wholly owned—
- (a) by the Scottish Ministers if it has no members other than—
 - (i) the Scottish Ministers or other companies that are wholly owned by them, or

- (ii) persons acting on behalf of the Scottish Ministers or of such other companies,
- (b) by a person listed, or a person within a description listed, in schedule 1 if it has no members other than—
 - (i) the person or other companies that are wholly owned by the person, or
 - (ii) persons acting on behalf of the person or of such other companies.
- (7) In this section, “company” includes any body corporate.

4 Interpretation of Part 1

- (1) In this Part—

“the rights of children” includes the rights and obligations set out in—

- (a) the UNCRC,
- (b) the first optional protocol to the UNCRC, and
- (c) the second optional protocol to the UNCRC,

“the UNCRC” means the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989,

“the first optional protocol” means the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,

“the second optional protocol” means the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,

“the UNCRC requirements” means the rights and obligations set out in—

- (a) Part 1 of the UNCRC,
- (b) Articles 1 to 6(1), 6(3) and 7 of the first optional protocol, and
- (c) Articles 1 to 10 of the second optional protocol.

- (2) A reference in subsection (1) to a UNCRC document is to be read as a reference to that document subject to—

- (a) any amendments in force in relation to the United Kingdom at the time, and
- (b) any reservations, objections or interpretative declarations by the United Kingdom in force at the time.

- (3) In subsection (2), “UNCRC document”—

- (a) means the UNCRC or any optional protocol to the UNCRC, and
- (b) includes provision of a UNCRC document.

- (4) Where subsection (5) applies, the Scottish Ministers may by order modify subsection (1) as they consider appropriate to take account of—

- (a) an optional protocol to the UNCRC, or
- (b) an amendment of a document referred to in subsection (1) at the time.

- (5) This subsection applies where the protocol or amendment is one which—

- (a) the United Kingdom has ratified, or
- (b) the United Kingdom has signed with a view to ratification.
- (6) No modification may be made by an order under subsection (4) so as to come into force before the protocol or amendment is in force in relation to the United Kingdom.

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PART 2

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE IN SCOTLAND

5 **Investigations by the Commissioner**

- (1) The Commissioner for Children and Young People (Scotland) Act 2003 is amended as follows.

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- (2) In section 7—

- (a) for subsections (1) and (2), substitute—

“(1) The Commissioner may carry out an investigation into—

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- (a) whether, by what means and to what extent a service provider has regard to the rights, interests and views of children and young people in making decisions or taking actions that affect those children and young people (such an investigation being called a “general investigation”),

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- (b) whether, by what means and to what extent a service provider had regard to the rights, interests and views of a child or young person in making a decision or taking an action that affected that child or young person (such an investigation being called an “individual investigation”).

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- (2) The Commissioner may carry out a general investigation only if the Commissioner, having considered the available evidence on, and any information received about, the matter, is satisfied on reasonable grounds that the matter to be investigated raises an issue of particular significance to—

- (a) children and young people generally, or
- (b) particular groups of children and young people.

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- (2A) The Commissioner may carry out an investigation only if the Commissioner, having considered the available evidence on, and any information received about, the matter, is satisfied on reasonable grounds that the investigation would not duplicate work that is properly the function of another person.”,

- (b) in subsection (3), omit paragraph (b),

- (c) after that subsection, add—

“(4) Subsection (5) applies in relation to a matter about which the Commissioner may carry out an individual investigation.

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- (5) Where the Commissioner considers that the matter may be capable of being resolved without an investigation, the Commissioner may with a view to securing that outcome take such steps as the Commissioner considers appropriate.”.

- (3) In section 8—

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- (a) in subsection (1), for paragraph (b) substitute—

“(b) take such steps as appear to the Commissioner to be appropriate with a view to bringing notice of the investigation and terms of reference to the attention of persons likely to be affected by it.”,

(b) in subsection (2), for “An” substitute “A general”,

(c) after that subsection, add—

“(3) An individual investigation is to be conducted in private.”.

(4) In section 11—

(a) in subsection (1), for “lay before the Parliament” substitute “prepare”,

(b) in subsection (3), for “laid before the Parliament” substitute “finalised”,

(c) after that subsection, add—

“(4) The Commissioner must lay before the Parliament the report of a general investigation.

(5) The Commissioner may lay before the Parliament the report of an individual investigation.”.

6 Requirement to respond to Commissioner’s recommendations

(1) The Commissioner for Children and Young People (Scotland) Act 2003 is amended as follows.

(2) In section 11—

(a) after subsection (2), insert—

“(2A) In relation to any such recommendation, the report may include a requirement to respond.

(2B) A requirement to respond is a requirement that the service provider provides, within such period as the Commissioner reasonably requires, a statement in writing to the Commissioner setting out—

(a) what the service provider has done or proposes to do in response to the recommendation; or

(b) if the service provider does not intend to do anything in response to the recommendation, the reasons for that.”,

(b) after subsection (5) (as inserted by section 5 of this Act), add—

“(6) Where a report of an investigation includes a requirement to respond, the Commissioner must give a copy of the report to the service provider.”.

(3) After section 14, insert—

“14AA Publication of responses to recommendations of investigations

(1) The Commissioner must publish any statement provided in response to a requirement to respond to a recommendation arising out of a general investigation.

(2) Subsection (1) does not apply if, or to the extent that, the Commissioner considers publication to be inappropriate.

- (3) The Commissioner may publish any statement provided in response to a requirement to respond to a recommendation arising out of an individual investigation.
- (4) The Commissioner must ensure that, so far as reasonable and practicable having regard to the subject matter, the version of the statement which is published under subsection (1) or (3) does not name or identify any child or young person, or group of children or young people, referred to in it.
- (5) The Commissioner may, in such manner as the Commissioner considers appropriate, publicise a failure to comply with a requirement to respond.”.

PART 3

CHILDREN'S SERVICES PLANNING

7 Introductory

- (1) For the purposes of this Part—

“children's service” means any service provided in the area of a local authority by a person mentioned in subsection (2) which is provided wholly or mainly to, or for the benefit of—

- (a) children generally, or
- (b) children with needs of a particular type (such as looked after children or children with a disability or a need for additional support in learning),

“other service provider” means—

- (a) the chief constable of the Police Service of Scotland,
- (b) the Scottish Fire and Rescue Service,
- (c) the Principal Reporter,
- (d) the National Convener of Children's Hearings Scotland,
- (e) the Scottish Court Service,
- (f) the Scottish Ministers,

“related service” means any service provided in the area of a local authority by a person mentioned in subsection (2) which though not a children's service is capable of having a significant effect on the wellbeing of children,

“relevant health board” means a health board whose area comprises some or all of the area of the local authority.

- (2) The persons referred to in the definitions of “children's service” and “related service” in subsection (1) are—

- (a) the local authority,
- (b) any relevant health board,
- (c) any other service provider.

- (3) The Scottish Ministers may by order specify—

- (a) services which are to be considered to be included within or excluded from the definition of “children's service” or “related service” in subsection (1),

- (b) matters in relation to services falling within either of those definitions which are to be considered to be included within or excluded from those services.

- (4) Before making such an order, the Scottish Ministers must consult—

- (a) each health board,
- (b) each local authority, and
- (c) where the service concerned is provided by one of the other service providers, that person.

- (5) The Scottish Ministers may by order modify the definition of “other service provider” in subsection (1) by—

- (a) adding a person or a description of persons,
- (b) removing an entry listed in it, or
- (c) varying an entry listed in it.

- (6) A function conferred by this Part on a local authority and each relevant health board is to be exercised by those persons jointly.

8 Requirement to prepare children’s services plan

- (1) A local authority and each relevant health board must in respect of each 3 year period prepare a children’s services plan for the area of the local authority.

- (2) In subsection (1)—

“3 year period” means—

- (a) the period of 3 years beginning with such date after the coming into force of this section as the Scottish Ministers specify by order, and
- (b) each subsequent period of 3 years,

“children’s services plan” means a document setting out their plans for the provision over that period of all—

- (a) children’s services, and
- (b) related services.

9 Aims of children’s services plan

- (1) A children’s services plan is to be prepared with a view to securing the achievement of the aims in subsection (2).

- (2) Those aims are—

- (a) that children’s services in the area concerned are provided in the way which—
 - (i) best safeguards, supports and promotes the wellbeing of children in the area concerned,
 - (ii) is most integrated from the point of view of recipients, and
 - (iii) constitutes the most efficient use of available resources,

- (b) that related services in the area concerned are provided in the way which, so far as consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children in the area concerned.

10 Children's services plan: process

- (1) In preparing a children's services plan a local authority and each relevant health board must—
 - (a) give each of the other service providers an effective opportunity (consistent with the extent to which the services they provide are to be the subject of the children's services plan) to participate in or contribute to the preparation of the plan, and
 - (b) consult—
 - (i) such organisations as appear to fall within subsection (2),
 - (ii) such social landlords as appear to provide housing in the area of the local authority, and
 - (iii) such other persons as the Scottish Ministers may by direction specify.
- (2) The organisations falling within this subsection are organisations (whether or not formally constituted) which—
 - (a) represent the interests of persons who use or are likely to use any children's service or related service in the area of the local authority, or
 - (b) provide a service in the area which, if it were provided by the local authority, any relevant health board or any of the other service providers, would be a children's service or a related service.
- (3) In subsection (1)(b)(ii), "social landlords" has the meaning given by section 165 of the Housing (Scotland) Act 2010.
- (4) A direction under subsection (1)(b)(iii) may—
 - (a) specify different persons for different local authority areas,
 - (b) be revised or revoked.
- (5) Each of other service providers is to participate in or contribute to the preparation of the children's services plan in accordance with the opportunity given to them under subsection (1)(a).
- (6) The persons to be consulted under subsection (1)(b) are to meet any reasonable request which the local authority and each relevant health board make of them—
 - (a) to participate in the preparation of the children's services plan for the area,
 - (b) to contribute to the preparation of that plan.
- (7) As soon as reasonably practicable after a children's services plan has been prepared, the local authority and each relevant health board must submit it to each of the other service providers for agreement.
- (8) As soon as reasonably practicable after each of the other service providers has agreed a children's services plan, the local authority and each relevant health board must—
 - (a) submit it to the Scottish Ministers, and
 - (b) publish it (in such manner as the persons who prepared it consider appropriate).

11 Children’s services plan: review

- (1) A local authority and each relevant health board—
- (a) must keep the children’s services plan for the area of the local authority under review, and
 - (b) may in consequence prepare a revised children’s services plan.
- (2) The following provisions apply to a revised children’s services plan as they apply to a children’s services plan—
- section 9,
 - section 10, and
 - subsection (1) of this section.

12 Implementation of children’s services plan

- (1) Subsection (2) applies where a children’s services plan is published under section 10(8).
- (2) The local authority, each relevant health board and each of the other service providers must, so far as reasonably practicable, provide children’s services and related services in the area of the local authority in accordance with the plan.
- (3) Subsection (2) does not apply to the extent that the person providing the service considers that to comply with it would adversely affect the wellbeing of a child.

13 Reporting on children’s services plan

- (1) As soon as practicable after the end of each 1 year period, a local authority and each relevant health board must publish (in such manner as they consider appropriate) a report on the extent to which—
- (a) children’s services and related services have in that period been provided in the area of the local authority in accordance with the children’s services plan, and
 - (b) that provision has achieved—
 - (i) the aims listed in section 9(2),
 - (ii) such outcomes in relation to the wellbeing of children in the area as the Scottish Ministers may by order prescribe.
- (2) In subsection (1), “1 year period” means—
- (a) the period of 1 year beginning with the date specified under section 8(1), and
 - (b) each subsequent period of 1 year.

14 Assistance in relation to children’s services planning

- (1) A person mentioned in subsection (2) must comply with any reasonable request made of them to provide a local authority and each relevant health board with information, advice or assistance for the purposes of exercising their functions under this Part.
- (2) Those persons are—

(a) any of the other service providers (but only in so far as the information, advice or assistance relates to a children's service or a related service which it is a function of the other service provider to provide),

(b) any of the persons mentioned in section 10(1)(b).

5 (3) Subsection (1) does not apply where the person considers that the provision of the information, advice or assistance concerned would—

(a) be incompatible with any duty of the person, or

(b) unduly prejudice the exercise of any function of the person.

15 Guidance in relation to children's services planning

10 (1) The persons mentioned in subsection (2) must have regard to any guidance issued by the Scottish Ministers about the exercise of the functions conferred on them by this Part (other than the function of complying with section 12).

(2) Those persons are—

(a) a local authority and each relevant health board,

15 (b) each of the other service providers.

(3) Guidance may be issued generally or for particular purposes.

(4) Different guidance may be issued for different local government areas or otherwise for different purposes.

20 (5) Before issuing or revising guidance, the Scottish Ministers must consult the persons to whom it relates.

16 Directions in relation to children's services planning

(1) The persons mentioned in subsection (2) must comply with any direction issued by the Scottish Ministers about the exercise of the functions conferred by this Part (other than the function of complying with section 12).

25 (2) Those persons are—

(a) a local authority and each relevant health board,

(b) each of the other service providers.

(3) Directions may be issued generally or for particular purposes.

30 (4) Different directions may be issued to different persons or otherwise for different purposes.

(5) Before issuing, revising or revoking a direction, the Scottish Ministers must consult the person to which it relates.

17 Children's services planning: default powers of Scottish Ministers

35 (1) This section applies where the Scottish Ministers consider that a local authority and each relevant health board—

(a) are not exercising a function conferred on them by this Part, or

(b) are in exercising such a function not complying with section 15(1).

(2) The Scottish Ministers may direct that the function—

- (a) is to be exercised in particular way, or
 - (b) is to be exercised instead by such of the persons mentioned in subsection (3) as the Scottish Ministers consider appropriate.
- (3) Those persons are—
 - (a) one of or some of the persons whose function it is,
 - (b) other local authorities or health boards.
- (4) A direction under subsection (2)(b) may include such provision as the Scottish Ministers consider appropriate as to the making by a person who is not to be exercising the function of payment to a person who is to exercise the function by virtue of the direction.
- (5) Before issuing, revising or revoking a direction under subsection (2) the Scottish Ministers must consult—
 - (a) the local authority and relevant health boards whose failure is to be, or is, the subject of the direction, and
 - (b) such other persons as they consider appropriate.
- (6) Where the Scottish Ministers consider that a direction under subsection (2) has been or would be insufficient to achieve effective exercise of the function concerned they may by order constitute a joint board of the local authority and each relevant health board to exercise the function.
- (7) A order under subsection (6) may include provision as to—
 - (a) the constitution and proceedings of the joint board,
 - (b) the membership of the joint board,
 - (c) the transfer to the joint board of any property, rights or liabilities of the local authority or any of the relevant health boards,
 - (d) the transfer to the joint board of any staff of the local authority or any of the relevant health boards,
 - (e) the supply of services or facilities by the local authority or any of the relevant health boards to the joint board,
 - (f) direction by the Scottish Ministers of the exercise by the joint board of any of its functions, or
 - (g) such other matters relating to the operation of the joint board as the Scottish Ministers consider appropriate.
- (8) A joint board constituted under subsection (6) is to be a body corporate.
- (9) Before making an order under subsection (6) the Scottish Ministers must consult—
 - (a) the local authority and relevant health boards to whom it relates, and
 - (b) such other persons as they consider appropriate.

18 Interpretation of Part 3

In this Part—

“children’s services plan” has the meaning given by section 8(2),

“service” means any service or support—

- (a) which must be provided by the person concerned, or
- (b) which the person concerned has power to provide.

PART 4

PROVISION OF NAMED PERSONS

19 Named person service

- (1) In this Part, “named person service” means the service of making available, in relation to a child or young person, an identified individual who is to exercise the functions in subsection (5).
- (2) An individual may be identified for the purpose of a named person service only if the individual falls within subsection (3).
- (3) An individual falls within this subsection if—
 - (a) the individual—
 - (i) is an employee of the service provider, or
 - (ii) is, or is an employee of, a person who exercises any function on behalf of the service provider, and
 - (b) the individual meets such requirements as to training, qualifications, experience or position as may be specified by the Scottish Ministers by order.
- (4) An individual does not fall within subsection (3) if the individual is a parent of the child or young person.
- (5) The functions referred to in subsection (1) are—
 - (a) doing such of the following where the named person considers it to be appropriate in order to promote, support or safeguard the wellbeing of the child or young person—
 - (i) advising, informing or supporting the child or young person, or a parent of the child or young person,
 - (ii) helping the child or young person, or a parent of the child or young person, to access a service or support, or
 - (iii) discussing, or raising, a matter about the child or young person with a service provider or relevant authority, and
 - (b) such other functions as are specified by this Act or any other enactment as being functions of a named person in relation to a child or young person.
- (6) The named person functions are exercised on behalf of the service provider concerned.
- (7) Responsibility for the exercise of the named person functions lies with the service provider rather than the named person.

20 Named person service in relation to pre-school child

- (1) A health board is to make arrangements for the provision of a named person service in relation to each pre-school child residing in its area.
- (2) A “pre-school child” is a child who—

- (a) has not commenced attendance at a primary school, and
- (b) if the child is of school age, has not commenced attendance at a primary school because the relevant local authority has consented to the child's commencement at primary school being delayed.

(3) For the purposes of this section—

- (a) the reference to school age is to be construed by reference to the school commencement dates fixed by the relevant local authority,
- (b) references to attendance at a primary school do not include attendance at a nursery class in such a school,
- (c) references to the relevant local authority are to the local authority for the area in which the child concerned resides.

21 Named person service in relation to children not falling within section 20

(1) A local authority is to make arrangements for the provision of a named person service in relation to each child residing in its area, other than—

- (a) a pre-school child, or
- (b) a child falling within subsection (2) or (3).

(2) A child falls within this subsection if the child is—

- (a) a pupil at a public school which is managed by a different local authority,
- (b) a pupil at—
 - (i) a grant-aided school, or
 - (ii) an independent school, or
- (c) kept in secure accommodation.

(3) A child falls within this subsection if the child is a member of any of the regular forces.

(4) During any period when a child falls within subsection (2)(a), the local authority which manages the school concerned is to make arrangements for the provision of a named person service in relation to the child.

(5) During any period when a child falls within subsection (2)(b) or (c), the directing authority of the establishment concerned is to make arrangements for the provision of a named person service in relation to the child.

22 Continuation of named person service in relation to certain young people

(1) A person mentioned in subsection (5) is to make arrangements for the provision of a named person service in relation to each young person.

(2) A “young person” is a person who falls within subsection (3) or (4).

(3) A person falls within this subsection if the person—

- (a) attained the age of 18 years while a pupil at a school, and
- (b) has since attaining that age, remained a pupil at that or another school.

(4) A person falls within this subsection if the person—

- (a) attained the age of 18 years while kept in secure accommodation, and

(b) has since attaining that age remained kept in secure accommodation.

(5) The person referred to in subsection (1) is—

(a) where the young person is a pupil at a school managed by a local authority, that authority,

(b) in any other case, the directing authority of the establishment concerned.

23 Communication in relation to movement of children and young people

(1) This section applies where a person ceases to be the service provider in relation to a child or young person.

(2) The person (“the outgoing service provider”) must as soon as is reasonably practicable—

(a) inform any other person which has become or which it considers may be the service provider in relation to the child or young person (“the incoming service provider”) that the outgoing service provider has ceased to be the service provider in relation to the child or young person, and

(b) provide the incoming service provider with—

(i) the name and address of the child or young person and each parent of the child or young person (so far as the outgoing service provider has that information), and

(ii) all information which the outgoing service provider holds which falls within subsection (3).

(3) Information falls within this subsection if the outgoing service provider considers that—

(a) it might be relevant to—

(i) the exercise by the incoming service provider of any functions of a service provider under this Part, or

(ii) the future exercise of the named person functions in relation to the child or young person,

(b) it ought to be provided for that purpose, and

(c) its provision would not prejudice the conduct of a criminal investigation or the prosecution of any offence.

24 Duty to communicate information about role of named persons

(1) Each service provider must publish (in such manner as it considers appropriate) information about—

(a) the named person service in its area or establishment,

(b) how the named person functions are, generally, exercised in its area or establishment,

(c) the arrangements, generally, for contacting named persons in its area or establishment,

(d) how the service provider generally exercises its functions under this Part, and

(e) such other matters relating to this Part as it considers appropriate.

- (2) The service provider in relation to a child or young person must provide the child or young person and the parents of the child or young person with information about the arrangements for contacting the named person for the child or young person—

(a) as soon as reasonably practicable after it becomes the service provider in relation to the child or young person, and

(b) as soon as reasonably practicable after there is any change in those arrangements.

25 Duty to help named person

- (1) Subsection (2) applies where it appears to the service provider in relation to a child or young person that another service provider or a relevant authority could, by doing a certain thing, help in the exercise of any of the named person functions for a child or young person.

- (2) The other service provider or relevant authority must comply with any request for such help which is made of it, unless subsection (3) applies.

- (3) This subsection applies where the other service provider or relevant authority considers that the provision of the help would—

(a) be incompatible with any duty of the other service provider or relevant authority, or

(b) unduly prejudice the exercise of any function of the other service provider or relevant authority.

26 Information sharing

- (1) A service provider or relevant authority must provide to the service provider in relation to a child or young person any information which the person holds which falls within subsection (2).

- (2) Information falls within this subsection if the information holder considers that—

(a) it might be relevant to the exercise of the named person functions in relation to the child or young person,

(b) it ought to be provided for that purpose, and

(c) its provision to the service provider in relation to the child or young person would not prejudice the conduct of any criminal investigation or the prosecution of any offence.

- (3) The service provider in relation to a child or young person must provide to a service provider or relevant authority any information which the person holds which falls within subsection (4).

- (4) Information falls within this subsection if the information holder considers that—

(a) it might be relevant to the exercise of any function of the service provider or relevant authority which affects or may affect the wellbeing of the child or young person,

(b) it ought to be provided for that purpose, and

(c) its provision to the service provider or relevant authority would not prejudice the conduct of any criminal investigation or the prosecution of any offence.

- (5) The service provider in relation to a child or young person may provide to a service provider or relevant authority any information which the person holds which falls within subsection (6).
- (6) Information falls within this subsection if the information holder considers that its provision to the service provider or relevant authority is necessary or expedient for the purposes of the exercise of any of the named person functions.
- (7) References in this section to a service provider or a relevant authority include any person exercising a function on behalf of a service provider or relevant authority.

27 Disclosure of information

- (1) The provision of information under this Part is not to be taken to breach any prohibition or restriction on the disclosure of information.
- (2) Subsection (3) applies—
 - (a) where by virtue of subsection (1), a person provides information in breach of a duty of confidentiality, and
 - (b) in providing the information, the person informs the recipient of the breach of duty.
- (3) The recipient is not to provide the information to any other person, unless the provision of information is permitted or required by virtue of any enactment (including this Part) or rule of law.

28 Guidance in relation to named person service

- (1) Service providers must have regard to any guidance issued by the Scottish Ministers about exercising functions under this Part.
- (2) Guidance may be issued generally or for particular purposes.
- (3) Different guidance may be issued—
 - (a) to different service providers,
 - (b) to different types of service provider, or
 - (c) otherwise for different purposes.
- (4) Before issuing or revising guidance, the Scottish Ministers must consult any person to whom it will relate.

29 Directions in relation to named person service

- (1) A person mentioned in subsection (2) must comply with any direction issued by the Scottish Ministers about the exercise of functions conferred by this Part.
- (2) Those persons are—
 - (a) a local authority,
 - (b) a health board,
 - (c) a directing authority.
- (3) Directions may be issued generally or for particular purposes.

- (4) Different directions may be issued to different persons or otherwise for different purposes.
- (5) Before issuing, revising or revoking a direction, the Scottish Ministers must consult the person to which it relates.

30 Interpretation of Part 4

- (1) In this Part—

“directing authority” means—

- (a) when used generally—

- (i) the managers of each grant-aided school,
- (ii) the proprietor of each independent school, and
- (iii) the local authority or other person who manages each residential establishment which comprises secure accommodation,

- (b) when used in relation to a particular establishment—

- (i) in relation to a grant-aided school, the managers of the school,
- (ii) in relation to an independent school, the proprietor of the school,
- (iii) in relation to secure accommodation, the local authority or other person who manages the residential establishment,

“named person” means the identified individual made available in pursuance of a named person service,

“named person functions” means the functions to be exercised by way of the named person service,

“parent” has the same meaning as in the 1980 Act,

“pre-school child” has the meaning given by section 20(2),

“regular forces” has the meaning given by section 374 of the Armed Forces Act 2006,

“relevant authority” means a person listed, or within a description listed, in schedule 2,

“secure accommodation” means accommodation provided in a residential establishment, approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010, for the purpose of restricting the liberty of children,

“service provider” means—

- (a) when used generally—

- (i) each health board,
- (ii) each local authority, and
- (iii) each directing authority,

- (b) when used in relation to a child or young person, the health board, local authority or directing authority which has the function of providing a named person service in relation to the child or young person.

“young person” has the meaning given by section 22(2).

- (2) The Scottish Ministers may by order modify schedule 2 by—
- (a) adding a person or description of persons,
 - (b) removing an entry listed in it, or
 - (c) varying an entry listed in it.

PART 5

CHILD’S PLAN

31 Child’s plan: requirement

- (1) For the purposes of this Part, a child requires a child’s plan if the responsible authority in relation to a child considers that—
- (a) the child has a wellbeing need, and
 - (b) subsection (3) applies in relation to that need.
- (2) A child has a wellbeing need if the child’s wellbeing is being, or is at risk of being, adversely affected by any matter.
- (3) This subsection applies in relation to a wellbeing need if—
- (a) the need is not capable of being met, or met fully, by the taking of action other than a targeted intervention in relation to the child, and
 - (b) the need, or the remainder of the need, is capable of being met, or met to some extent, by a targeted intervention in relation to the child.
- (4) A “targeted intervention” is the provision of a service by a relevant authority which is directed at meeting the needs of children whose needs are not capable of being met, or met fully, by the services which are provided generally to children by the authority.
- (5) In deciding whether a child requires a child’s plan, the responsible authority is so far as reasonably practicable to ascertain and have regard to the views of—
- (a) the child, and
 - (b) the child’s parents.
- (6) In having regard to the views of the child, the responsible authority is to take account of the child’s age and maturity.
- (7) Subsection (1) does not apply in relation to—
- (a) a child who already has a child’s plan,
 - (b) a child who is a member of any of the regular forces.
- (8) In subsection (7)(b), “regular forces” has the meaning given by section 374 of the Armed Forces Act 2006.

32 Content of a child’s plan

- (1) A child’s plan is to contain a statement of—
- (a) the child’s wellbeing need,
 - (b) the targeted intervention which requires to be provided in relation to the child,

- (c) the relevant authority which is to provide the targeted intervention,
- (d) the manner in which the targeted intervention is to be provided, and
- (e) the outcome in relation to the child’s wellbeing need which the targeted intervention is intended to achieve.

(2) The Scottish Ministers may by order make provision as to—

- (a) other information which is, or is not, to be contained in child’s plans,
- (b) the form of a child’s plans.

33 Preparation of a child’s plan

(1) This section applies where a child requires a child’s plan.

(2) Subject to subsection (3), the responsible authority is to prepare such a plan as soon as is reasonably practicable.

(3) Where the responsible authority and a relevant authority agree that it would be more appropriate for the relevant authority to prepare a child’s plan, the relevant authority is to prepare the plan as soon as is reasonably practicable.

(4) A child’s plan may contain a targeted intervention to be provided by a relevant authority other than the authority preparing the plan only where the authority providing the service agrees.

(5) A relevant authority which declines to give its agreement as mentioned in subsection (3) or (4) must provide a statement of its reasons.

(6) In preparing a child’s plan, an authority is so far as reasonably practicable to ascertain and have regard to the views of—

- (a) the child, and
- (b) the child’s parents.

(7) In having regard to the views of the child, the authority preparing the child’s plan is to take account of the child’s age and maturity.

(8) The Scottish Ministers may by order make further provision as to the preparation of child’s plans.

34 Responsible authority: general

(1) For the purposes of this Part, the responsible authority in relation to a child is—

- (a) where the child is a pre-school child, the health board for the area in which the child resides,
- (b) where the child is not a pre-school child, the local authority for the area in which a child resides.

(2) Subsection (1) is subject to section 35.

(3) A “pre-school child” is a child who—

- (a) has not commenced attendance at a primary school, and
- (b) if the child is of school age, has not commenced attendance at a primary school because the relevant local authority has consented to the child’s commencement at primary school being delayed.

(4) For the purposes of this section—

- (a) the reference to school age is to be construed by reference to the school commencement dates fixed by the relevant local authority,
- (b) the references to attendance at a primary school do not include attendance at a nursery class in such a school, and
- (c) the references to the relevant local authority are to the local authority for the area in which the child concerned resides.

35 Responsible authority: special cases

- (1) Where in pursuance of a decision of a local authority or health board a pre-school child resides in the area of a health board which is different to that in which the child would otherwise reside, the health board for the area in which the child would otherwise reside is the responsible authority in relation to the child.
- (2) Where the child is a pupil at a public school which is managed by a local authority other than the one for the area in which the child resides, that other authority is the responsible authority in relation to the child.
- (3) Where the child is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the child.
- (4) Subsection (3) does not apply where the child is such a pupil by virtue of a placement by the local authority for the area in which the child resides.
- (5) The Scottish Ministers may by order modify this section so as to make further or different provision as to circumstances in which section 34(1) does not apply in relation to a child.

36 Delivery of a child's plan

- (1) A relevant authority which is to provide a targeted intervention under a child's plan is so far as reasonably practicable to provide it in accordance with the plan.
- (2) Subsection (1) does not apply to the extent that the authority considers that to comply with it would adversely affect the wellbeing of the child.

37 Child's plan: management

- (1) The managing authority of a child's plan is to keep under review whether—
 - (a) the wellbeing need of the child stated in the plan is still accurate,
 - (b) the targeted intervention, or the manner of its provision, is still appropriate,
 - (c) the outcome of the plan has been achieved, and
 - (d) the management of the plan should transfer to another relevant authority.
- (2) In reviewing a child's plan, the managing authority—
 - (a) is to consult—
 - (i) each other relevant authority which is providing a targeted intervention contained in the plan, and
 - (ii) where it is neither the managing authority nor consulted under subparagraph (i), the responsible authority in relation to the child, and

(b) is so far as reasonably practicable to ascertain and have regard to the views of—

- (i) the child, and
- (ii) the child's parents.

(3) In having regard to the views of the child, the managing authority is to take account of the child's age and maturity.

(4) The managing authority of a child's plan may in consequence of the review—

(a) amend the plan so as to revise—

- (i) the wellbeing need of the child,
- (ii) the targeted intervention,
- (iii) the manner in which the targeted intervention requires to be provided, or
- (iv) the outcome which the plan is intended to achieve,

(b) transfer the management of the plan to another relevant authority, or

(c) end the plan.

(5) The Scottish Ministers may by order make provision about the management of child's plans, including provision about—

- (a) when and how a child's plan is to be reviewed in accordance with subsection (1),
- (b) who is to be the managing authority of a child's plan,
- (c) when and to whom management of a child's plan is to or may transfer under subsection (4)(b),
- (d) when and how a new targeted intervention may be included in a child's plan,
- (e) the keeping, disclosure and destruction of child's plans.

(6) Subject to provision made under subsection (5)(b), the managing authority of a child's plan is—

(a) the relevant authority which prepared it, or

(b) where management of the child's plan has been transferred under subsection (4)(b), the relevant authority to which the management of the child's plan was so transferred (or where there has been more than one such transfer, last so transferred).

38 Assistance in relation to child's plan

(1) A relevant authority must comply with any reasonable request made of it to provide a person exercising functions under this Part with information, advice or assistance for that purpose.

(2) Subsection (1) does not apply where the authority considers that provision of the information, advice or assistance concerned would—

- (a) be incompatible with any duty of the authority, or
- (b) unduly prejudice the exercise of any function of the authority.

(3) The provision of information in pursuance of subsection (1) is not to be taken to breach any prohibition or restriction on the disclosure of information.

(4) Subsection (5) applies—

- (a) where, by virtue of subsection (3), a person provides information in breach of a duty of confidentiality, and
- (b) in providing the information, the person informs the recipient of the breach of duty.

5 (5) The recipient is not to provide the information to any other person unless the provision of information is permitted or required by virtue of any enactment (including this Part) or rule of law.

39 Guidance on child's plans

- 10 (1) A person exercising a function under this Part (other than the function of complying with section 36) must have regard to any guidance issued by the Scottish Ministers about that matter.
- (2) Guidance may be issued generally or for particular purposes.
- (3) Different guidance may be issued—
- 15 (a) to different persons,
- (b) to different types of person, or
- (c) otherwise for different purposes.
- (4) Before issuing or revising guidance, the Scottish Ministers must consult any person to whom it will relate.

40 Directions in relation to child's plans

- 20 (1) A person mentioned in subsection (2) must comply with any direction issued by the Scottish Ministers about the exercise of functions conferred by this Part (other than the function of complying with section 36).
- (2) Those persons are—
- 25 (a) a local authority,
- (b) a health board,
- (c) a directing authority.
- (3) Directions may be issued generally or for particular purposes.
- (4) Different directions may be issued to different persons or otherwise for different purposes.
- 30 (5) Before issuing, revising or revoking a direction, the Scottish Ministers must consult the person to which it relates.

41 Interpretation of Part 5

In this Part—

“directing authority” means—

- 35 (a) when used generally—
- (i) the managers of each grant-aided school,
 - (ii) the proprietor of each independent school,

- (b) when used in relation to a particular establishment—
 - (i) in relation to a grant-aided school, the managers of the school,
 - (ii) in relation to an independent school, the proprietor of the school,

“parent” has the same meaning as in the 1980 Act,

“relevant authority” means any—

- (a) health board,
- (b) local authority, or
- (c) directing authority,

“service” means any service or support—

- (a) which must be provided by the person concerned, or
- (b) which the person concerned has power to provide,

“targeted intervention” has the meaning given by section 31(4).

PART 6

EARLY LEARNING AND CHILDCARE

42 Early learning and childcare

In this Part, “early learning and childcare” means a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting.

43 Duty to secure provision of early learning and childcare

- (1) An education authority must, in pursuance of its duty under section 1(1) of the 1980 Act, secure that the mandatory amount of early learning and childcare is made available for each eligible pre-school child belonging to its area.
- (2) An “eligible pre-school child” is a child who—
 - (a) is under school age,
 - (b) has not commenced attendance at a primary school (other than at a nursery class in such a school), and
 - (c) either—
 - (i) falls within subsection (3), or
 - (ii) is within such age range, or is of such other description, as the Scottish Ministers may by order specify.
- (3) A child falls within this subsection if the child is aged 2 or over and is or has been at any time since the child’s second birthday—
 - (a) looked after by the authority concerned or by any other local authority, or
 - (b) the subject of a kinship care order.

- (4) An order made under subsection (2)(c)(ii) may provide that a child is to be an eligible pre-school child only if the education authority concerned is satisfied as to any matter relating to the child which is specified in the order.
- (5) In subsection (3)(b), “kinship care order” has the meaning given by section 65(1).

44 Mandatory amount of early learning and childcare

- (1) The “mandatory amount”, for the purposes of section 43(1), means—
 - (a) 600 hours in each year for which a child is an eligible pre-school child, and
 - (b) a pro rata amount for each part of a year for which a child is an eligible pre-school child.
- (2) The Scottish Ministers may by order modify subsection (1) so as to vary the amount of early learning and childcare which is to be made available in pursuance of section 43(1).
- (3) Such an order may, without prejudice to section 77(1)(a), make different provision in relation to different types of eligible pre-school children.

45 Looked after 2 year olds: alternative arrangements to meet wellbeing needs

- (1) Subsection (2) applies where—
 - (a) an authority’s duty under section 43(1) applies in relation to a child only by virtue of the child falling within section 43(3)(a),
 - (b) the authority, after assessing the child’s needs, considers that making alternative arrangements in relation to the child’s education and care would better safeguard or promote the child’s wellbeing.
- (2) Where this subsection applies, the authority—
 - (a) need not comply with its duty under section 43(1) in relation to the child, but
 - (b) must make such alternative arrangements in relation to the child’s education and care as it considers appropriate for the purposes of safeguarding or promoting the child’s wellbeing.
- (3) Subsection (2) does not apply in relation to a child who is not being looked after by the authority if a parent of the child objects to the authority making alternative arrangements.
- (4) The authority may, at any time, review any alternative arrangements it makes in relation to a child in pursuance of subsection (2)(b) (and must do so on becoming aware of any significant change in the child’s circumstances) and may, following such a review, alter those arrangements.
- (5) The authority must seek to ensure that a record of—
 - (a) the outcome of any assessment of a child’s needs that it undertakes in pursuance of subsection (1)(b), and
 - (b) any alternative arrangements that it makes in relation to the child’s education and care in pursuance of subsection (2)(b),

is included in any child’s plan which is prepared for the child under Part 5.

46 Duty to consult and plan on delivery of early learning and childcare

- (1) An education authority must, at least once every 2 years—
- (a) consult such persons as appear to it to be representative of parents of children under school age in its area about how it should make early learning and childcare available in pursuance of this Part, and
 - (b) after having had regard to views expressed, prepare and publish a plan for how it intends to make early learning and childcare available in pursuance of this Part.
- (2) The Scottish Ministers may, by order, modify subsection (1) so as to vary the regularity within which an education authority must consult and plan in pursuance of that subsection.

47 Method of delivery of early learning and childcare

- (1) An education authority must ensure that it makes early learning and childcare available in pursuance of this Part by way of sessions—
- (a) which are provided during at least 38 weeks of every calendar year, and
 - (b) which are each of more than 2.5 hours but less than 8 hours in duration.
- (2) The Scottish Ministers may, by order, modify subsection (1) so as to vary the method of delivering early learning and childcare which it describes.

48 Flexibility in way in which early learning and childcare is made available

In exercising functions under sections 46 and 47, an education authority must have regard to the desirability of ensuring that the method by which it makes early learning and childcare available in pursuance of this Part is flexible enough to allow parents an appropriate degree of choice when deciding how to access the service.

49 Interpretation of Part

In this Part—

- “early learning and childcare” has the meaning given by section 42,
- “eligible pre-school child” has the meaning given by section 43(2),
- “parent” has the same meaning as in the 1980 Act.

PART 7

CORPORATE PARENTING

50 Corporate parents

- (1) The persons listed, or within a description listed, in schedule 3 are “corporate parents” for the purposes of this Part (subject to subsection (3)).
- (2) The Scottish Ministers may by order modify schedule 3 by—
- (a) adding a person or description of persons,
 - (b) removing an entry listed in it, or
 - (c) varying an entry listed in it.

- (3) The Scottish Ministers are not corporate parents for the purposes of sections 55 to 58.
- (4) In this Part, “corporate parenting responsibilities” means the duties conferred on corporate parents by section 52.

51 Application of Part: children and young people

This Part applies to—

- (a) every child who is looked after by a local authority, and
- (b) every young person who—
 - (i) is under the age of 26, and
 - (ii) was (at the time when the person ceased to be of school age or at any subsequent time) but is no longer looked after by a local authority.

52 Corporate parenting responsibilities

It is the duty of every corporate parent, in so far as consistent with the proper exercise of its other functions—

- (a) to be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom this Part applies,
- (b) to assess the needs of those children and young people for services and support it provides,
- (c) to promote the interests of those children and young people,
- (d) to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing,
- (e) to take such action as it considers appropriate to help those children and young people—
 - (i) to access opportunities it provides in pursuance of paragraph (d), and
 - (ii) to make use of services, and access support, which it provides, and
- (f) to take such other action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to those children and young people.

53 Planning by corporate parents

- (1) A corporate parent must—
 - (a) prepare a plan for how it proposes to exercise its corporate parenting responsibilities, and
 - (b) keep its plan under review.
- (2) Before preparing or revising a plan, a corporate parent must consult such other corporate parents, and such other persons, as it considers appropriate.
- (3) A corporate parent must publish its plan, and any revised plan, in such manner as it considers appropriate (and, in particular, plans may be published together with, or as part of, any other plan or document).

54 Collaborative working among corporate parents

- 5 (1) Corporate parents must, in so far as reasonably practicable, collaborate with each other when exercising their corporate parenting responsibilities or any other functions under this Part where they consider that doing so would safeguard or promote the wellbeing of children or young people to whom this Part applies.
- (2) Such collaboration may include—
- 10 (a) sharing information,
- (b) providing advice or assistance,
- (c) co-ordinating activities (and seeking to prevent unnecessary duplication),
- (d) sharing responsibility for action,
- (e) funding activities jointly,
- (f) exercising functions under this Part jointly (for example, by publishing a joint plan or joint report).

55 Reports by corporate parents

- 15 (1) A corporate parent must report on how it has exercised—
- (a) its corporate parenting responsibilities,
- (b) its planning and collaborating functions in pursuance of sections 53 and 54, and
- (c) its other functions under this Part.
- (2) Reports may, in particular, include information about—
- 20 (a) standards of performance,
- (b) the outcomes achieved in pursuance of this Part.
- (3) Reports are to be published in such manner as the corporate parent considers appropriate (and, in particular, reports may be published together with, or as part of, any other report or document).

56 Duty to provide information to Scottish Ministers

- 25 (1) A corporate parent must provide the Scottish Ministers with such information as they may reasonably require about how it is—
- (a) exercising its corporate parenting responsibilities,
- (b) planning, collaborating or reporting in pursuance of sections 53, 54 or 55, or
- 30 (c) otherwise exercising functions under this Part.
- (2) Information which is required may, in particular, include information about—
- (a) standards of performance,
- (b) the outcomes achieved in pursuance of this Part.

57 Guidance on corporate parenting

- 35 (1) A corporate parent must have regard to any guidance about corporate parenting issued by the Scottish Ministers.

- (2) Guidance may, in particular, include advice or information about—
- (a) how corporate parents should—
 - (i) exercise their corporate parenting responsibilities,
 - (ii) promote awareness of their corporate parenting responsibilities,
 - 5 (iii) plan, collaborate or report in pursuance of sections 53, 54 or 55, or
 - (iv) otherwise exercise functions under this Part,
 - (b) outcomes which corporate parents should seek to achieve in exercising functions under this Part.
- (3) Guidance may be issued generally or for particular purposes.
- 10 (4) Different guidance may be issued for different corporate parents or otherwise for different purposes.
- (5) Before issuing or revising guidance, the Scottish Ministers must consult—
- (a) any corporate parent to which they relate, and
 - (b) such other persons as they consider appropriate.

15 **58 Directions to corporate parents**

- (1) A corporate parent must comply with any direction issued by the Scottish Ministers about—
- (a) its corporate parenting responsibilities,
 - (b) its planning, collaborating or reporting functions under sections 53, 54 or 55, or
 - 20 (c) its other functions under this Part.
- (2) Directions may be issued generally or for particular purposes.
- (3) Different directions may be issued to different corporate parents or otherwise for different purposes.
- (4) Before issuing, revising or revoking a direction, the Scottish Ministers must consult—
- 25 (a) any corporate parent to which it relates, and
- (b) such other persons as they consider appropriate.

59 Reports by Scottish Ministers

- (1) The Scottish Ministers must, as soon as practicable after the end of each 3 year period, lay before the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period.
- 30 (2) In subsection (1), “3 year period” means—
- (a) the period of 3 years beginning with the day on which this section comes into force, and
 - (b) each subsequent period of 3 years.

PART 8

AFTERCARE

60 Provision of aftercare to young people

(1) The 1995 Act is amended as follows.

(2) In section 29—

(a) in subsection (2)—

(i) for “twenty-one” substitute “twenty-six”,

(ii) the words from third “and” to the end of the subsection are repealed,

(b) in subsection (3), for “or (2) above” substitute “above or (5A) or (5B) below”,

(c) after subsection (5) insert—

“(5A) After carrying out an assessment under subsection (5) above in pursuance of an application made by a person under subsection (2) above, the local authority—

(a) must, if satisfied that the person has any eligible needs which cannot be met other than by taking action under this subsection, provide the person with such advice, guidance and assistance as it considers necessary for the purposes of meeting those needs, and

(b) may otherwise provide such advice, guidance and assistance as it considers appropriate having regard to the person’s welfare,

(5B) A local authority may (but is not required to) continue to provide advice, guidance and assistance to a person in pursuance of subsection (5A) after the person reaches the age of twenty-six.”,

(d) in subsection (6), for “(5)” substitute “(5B)”,

(e) after subsection (7) insert—

“(8) For the purposes of subsection (5A)(a) above, a person has “eligible needs” if the person needs care, attention or support of such type as the Scottish Ministers may by order specify.

(9) An order made under subsection (8) is subject to the affirmative procedure.”.

(3) In section 30—

(a) in subsection (2)(a), for “twenty-one” substitute “twenty-six”,

(b) omit subsections (3) and (4).

PART 9

COUNSELLING SERVICES

61 Provision of counselling services to parents and others

(1) A local authority must make arrangements to secure that counselling services of such description as the Scottish Ministers may by order specify are made available for persons residing in its area who fall within subsection (2).

(2) A person falls within this subsection if the person is—

(a) a parent of an eligible child,

- (b) an individual with parental rights or parental responsibilities in relation to an eligible child.
- (3) For the purposes of subsection (2), an “eligible child” is a child who is of such description as the Scottish Ministers may by order specify.
- 5 (4) An order under subsection (3)—
 - (a) may include provision which describes a child by reference to a matter about which the local authority must be satisfied in relation to the child,
 - (b) may, without prejudice to section 77(1)(a), make different provision in relation to—
 - 10 (i) different descriptions of counselling services specified under subsection (1), or
 - (ii) each of the paragraphs of subsection (2).
- (5) The reference in subsection (2)(b) to an individual with parental rights or parental responsibilities includes an individual with any of those rights or as the case may be responsibilities.
- 15

62 Counselling services: further provision

- (1) The Scottish Ministers may by order make provision about—
 - (a) when or how counselling services specified in an order under section 61(1) are to be provided,
 - 20 (b) when or how a local authority is to consider whether a child is an eligible child for the purpose of section 61(2),
 - (c) when or how a local authority is to review whether a child continues to be an eligible child for the purpose of section 61(2),
 - (d) such other matters about the provision of counselling services specified in an order under section 61(1) as the Scottish Ministers consider appropriate.
 - 25
- (2) An order under subsection (1)(d) may include provision about—
 - (a) circumstances in which counselling services specified in an order under section 61(1) may be provided subject to conditions (including conditions as to payment), and
 - 30 (b) consequences of such conditions not being met.

63 Interpretation of Part 9

The following expressions have the same meaning in this Part as they have in Part 1 of the 1995 Act—

parent

parental responsibilities

parental rights.

PART 10

SUPPORT FOR KINSHIP CARE

64 Assistance in relation to kinship care orders

- 5 (1) A local authority must make arrangements to secure that kinship care assistance is made available for a person residing in its area who falls within subsection (3).
- (2) “Kinship care assistance” is assistance of such description as the Scottish Ministers may by order specify.
- (3) A person falls within this subsection if the person is—
- 10 (a) a person who is applying for, or considering applying for, a kinship care order in relation to an eligible child,
- (b) an eligible child who is the subject of a kinship care order,
- (c) a person in whose favour a kinship care order in relation to an eligible child subsists,
- (d) a child who has attained the age of 16 years, where—
- 15 (i) immediately before doing so, the child fell within paragraph (b), and
- (ii) the child is an eligible child.
- (4) For the purposes of subsection (3), an “eligible child” is a child who is of such description as the Scottish Ministers may by order specify.
- (5) An order under subsection (4)—
- 20 (a) may include provision which describes a child by reference to a matter about which the local authority must be satisfied in relation to the child,
- (b) may, without prejudice to section 77(1)(a), make different provision in relation to—
- (i) different descriptions of assistance specified under subsection (1), or
- 25 (ii) different paragraphs of subsection (3).

65 Orders which are kinship care orders

- (1) In section 64, “kinship care order” means—
- 30 (a) an order under section 11(1) of the 1995 Act which gives to a qualifying person the right mentioned in section 2(1)(a) of that Act in relation to a child, or
- (b) a residence order which has the effect that a child is to live with, or live predominantly with, a qualifying person.
- (2) For the purposes of subsection (1), a “qualifying person” is a person who, at the time the order is made—
- 35 (a) is related to the child,
- (b) is a friend or acquaintance of a person related to the child, or
- (c) has such other relationship to, or connection with, the child as the Scottish Ministers may by order specify.
- (3) But a parent or guardian of a child is not a “qualifying person” for the purposes of subsection (1).

- (4) The references in subsection (2) to a person who is related to a child include a person who is—
- (a) married to a person who is related to the child,
 - (b) related to the child by the half blood.

66 Kinship care assistance: further provision

- (1) The assistance which may be specified as kinship care assistance includes—
- (a) the provision of counselling, advice or information about any matter,
 - (b) the provision of financial support (or support in kind) of any description,
 - (c) the provision of any service provided by a local authority on a subsidised basis.
- (2) An order under section 64(1) may specify assistance by reference to assistance which a person was entitled to from, or being provided with by, a local authority immediately before becoming entitled to assistance under that section.
- (3) The Scottish Ministers may by order make provision about—
- (a) when or how kinship care assistance is to be provided,
 - (b) when or how a local authority is to consider whether a child is an eligible child for the purpose of section 64(3),
 - (c) when or how a local authority is to review whether a child continues to be an eligible child for the purpose of section 64(3),
 - (d) such other matters about the provision of kinship care assistance as the Scottish Ministers consider appropriate.
- (4) An order under subsection (3)(d) may include provision about—
- (a) circumstances in which a local authority may provide kinship care assistance subject to conditions (including conditions as to payment for the assistance or the repayment of financial support), and
 - (b) consequences of such conditions not being met (including the recovery of any financial support provided).

67 Interpretation of Part 10

In this Part, “kinship care assistance” has the meaning given by section 64(2).

PART 11

ADOPTION REGISTER

68 Scotland’s Adoption Register

After section 13 of the Adoption and Children (Scotland) Act 2007, insert—

“CHAPTER 1A

SCOTLAND’S ADOPTION REGISTER

13A Scotland’s Adoption Register

- (1) The Scottish Ministers must make arrangements for the establishment and maintenance of a register to be known as Scotland’s Adoption Register (referred to in this Chapter as “the Register”).
- (2) The Scottish Ministers may by regulations—
 - (a) prescribe information which is, or types of information which are, to be included in the Register, which may include information relating to—
 - (i) children who adoption agencies consider ought to be placed for adoption,
 - (ii) persons considered by adoption agencies as suitable to have a child placed with them for adoption,
 - (iii) matters relating to such children or persons which arise after information about them is included in the Register,
 - (iv) children outwith Scotland who may be suitable for adoption,
 - (v) prospective adopters outwith Scotland,
 - (b) provide for how information is to be retained in the Register,
 - (c) make such further provision in relation to the Register as they consider appropriate.
- (3) The Register is not to be open to public inspection or search.
- (4) Information is to be kept in the Register in any form the Scottish Ministers consider appropriate.

13B Registration organisation

- (1) Arrangements made by the Scottish Ministers under section 13A(1) may in particular—
 - (a) authorise an organisation to perform the Scottish Ministers’ functions in respect of the Register (other than functions of making subordinate legislation),
 - (b) provide for payments to be made to an organisation so authorised.
- (2) An organisation authorised in pursuance of subsection (1) (a “registration organisation”) must perform functions delegated to it in accordance with any directions (general or specific) given by the Scottish Ministers.

13C Supply of information for the Register

- (1) An adoption agency must provide the Scottish Ministers with such information as may be prescribed in regulations made under section 13A(2) about—
 - (a) children who it considers ought to be placed for adoption or persons who were included in the Register as such children,
 - (b) persons who it considers as suitable to have a child placed with them for adoption or persons who were included in the Register as such persons.
- (2) But an adoption agency is not to disclose—
 - (a) any information about a child of the type referred to in subsection (1)(a), without the consent of—

- (i) the child's parent or any person who has parental responsibilities or parental rights in relation to the child, and
 - (ii) such other person as may be prescribed in regulations made under section 13A(2),
- 5 (b) any information about a person (other than a child) of the type referred to in subsection (1)(a), without the consent of that person, or
- (c) any information about a person of the type referred to in subsection (1)(b), without the consent of that person.
- (3) Regulations made under section 13A(2) may—
- 10 (a) provide that information is to be provided to a registration organisation in pursuance of subsection (1) instead of to the Scottish Ministers,
- (b) provide for how and by when information is to be provided in pursuance of subsection (1),
- 15 (c) prescribe a fee which is to be paid by an adoption agency when providing that information,
- (d) prescribe the form in which consent is to be given for the purposes of subsection (2).

13D Disclosure of information

- 20 (1) It is an offence to disclose any information derived from the Register other than in accordance with regulations made under section 13A(2) in pursuance of this section.
- (2) Regulations made under section 13A(2) may authorise the Scottish Ministers or a registration organisation to disclose information derived from the Register—
- 25 (a) to an adoption agency for the purposes of helping it—
 - (i) to find persons with whom it would be appropriate to place a child for whom the agency is acting, or
 - (ii) to find a child who is appropriate for adoption by persons for whom the agency is acting,
- 30 (b) to any person (whether or not established or operating in Scotland) specified in the regulations—
 - (i) for any purpose connected with the performance of functions by the Scottish Ministers or a registration organisation in pursuance of this Chapter,
 - 35 (ii) for the purpose of enabling the information to be entered in a register which is maintained in respect of England, Wales or Northern Ireland and which contains information about children who are suitable for adoption,
 - 40 (iii) for the purpose of enabling or assisting that person to perform any functions which relate to adoption,
 - (iv) for use for statistical or research purposes, or
 - (v) for any other purpose relating to adoption.

(3) Regulations made under section 13A(2) may—

- (a) set out terms and conditions on which information may be disclosed in pursuance of this section,
- (b) specify steps to be taken by an adoption agency in respect of information received in pursuance of subsection (2),
- (c) authorise an adoption agency to disclose information derived from the Register for purposes relating to adoption,
- (d) prescribe a fee which is to be paid to the Scottish Ministers or a registration organisation in respect of a disclosure of information made in pursuance of subsection (2) or (4) or paragraph (c) of this subsection.

(4) Subsection (1) does not apply to a disclosure of information by or with the authority of the Scottish Ministers.

(5) A person who is guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale, or both.

13E Use of an organisation as agency for payments

- (1) The Scottish Ministers may by regulations authorise a registration organisation or any other person to act as agent for the payment or receipt of sums payable by adoption agencies to other adoption agencies and may require adoption agencies to pay or receive such sums through the organisation.
- (2) A registration organisation or other person authorised under subsection (1) is to perform the functions exercisable by virtue of that subsection in accordance with any directions (general or specific) given by the Scottish Ministers.

13F Supplementary

Nothing authorised or required to be done by virtue of this Chapter constitutes an offence under section 72(2) or 75(1).”.

PART 12

OTHER REFORMS

Children’s hearings

69 Area support teams: establishment

(1) The Children’s Hearings (Scotland) Act 2011 is amended as follows.

(2) In schedule 1—

(a) in paragraph 12—

- (i) in sub-paragraph (1), omit “and maintain”,
- (ii) for sub-paragraph (3), substitute—

“(3) The National Convener—

- (a) must keep the designation of areas under sub-paragraph (1) under review, and

(b) may at any time revoke a designation or make a new one.

(3A) In exercising the powers to make and revoke designations, the National Convener must ensure that at all times each local authority area falls within an area designated under sub-paragraph (1).

(3B) Revocation of a designation under sub-paragraph (1) has the effect of dissolving the area support team established in consequence of the designation.

(3C) Before deciding to make or revoke a designation under sub-paragraph (1), the National Convener must consult each affected local authority.

(3D) In sub-paragraph (3C), “affected local authority” means—

(a) in the case of making a designation, each local authority whose area falls within the area proposed to be designated,

(b) in the case of revoking a designation, each constituent authority for the area support team established in consequence of the designation.

(3E) On making or revoking a designation under sub-paragraph (1), the National Convener must notify each local authority which was consulted under sub-paragraph (3C) in relation to the decision to make or revoke the designation.”,

(b) in paragraph 13—

(i) in sub-paragraph (1), the words “the National Convener establishes an area support team under paragraph 12(1)” become sub-sub-paragraph (a),

(ii) after that sub-sub-paragraph insert “, and

(b) the area of the area support team consists of or includes a new area.”,

(iii) in sub-paragraph (4)(a), for “area of the area support team” substitute “new area concerned”,

(iv) in sub-paragraph (7), after the definition of “Children’s Panel Advisory Committee” insert—

““new area” means an area which has never previously been the area (or part of the area) of an area support team.”.

(3) An area support team established before this section comes into force continues in existence as if it were established under paragraph 12(1) as amended by this section.

70 Area support teams: administrative support by local authorities

(1) The Children’s Hearings (Scotland) Act 2011 is amended as follows.

(2) In schedule 1, in paragraph 14, after sub-paragraph (8) insert—

“(9) A constituent authority must provide an area support team with such administrative support as the National Convener considers appropriate.

(10) In sub-paragraph (9), “administrative support” means staff, property or other services which the National Convener considers are required to facilitate the carrying out by an area support team of its functions.”.

Detention of children in secure accommodation

71 Appeal against detention of child in secure accommodation

After section 44 of the Criminal Procedure (Scotland) Act 1995 insert—

“44A Appeal against detention in secure accommodation

- 5 (1) A child, or a relevant person in relation to the child, may appeal to the sheriff against a decision by a local authority to detain the child in secure accommodation in pursuance of an order made under section 44 of this Act.
- (2) The sheriff may determine an appeal by—
- 10 (a) confirming the decision to detain the child in secure accommodation; or
- (b) quashing that decision and directing the local authority to move the child to be detained in residential accommodation which is not secure accommodation.
- (3) The Scottish Ministers may by regulations make further provision about appeals under subsection (1).
- 15 (4) Regulations under subsection (3) may in particular—
- (a) specify the period within which an appeal may be made;
- (b) make provision about the hearing of evidence during an appeal;
- (c) provide for appeals to the sheriff principal and Court of Session against the determination of an appeal.
- 20 (5) Regulations under subsection (3) are subject to the affirmative procedure.
- (6) In this section—
- “relevant person”, in relation to a child, means—
- 25 (a) any person who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to the child; and
- (b) where the child is subject to a compulsory supervision order which does not have effect by virtue of section 44(4) of this Act, any person who is deemed to be a relevant person in relation to the child by virtue of section 81(3), 160(4)(b) or 164(6) of the Children’s Hearings (Scotland) Act 2011; and
- 30 “secure accommodation” has the same meaning as in section 44 of this Act.”.

Schools consultation

72 Closure proposals: call-in by the Scottish Ministers

- 35 (1) In section 15 of the Schools (Consultation) (Scotland) Act 2010, in each of subsections (3), (4) and (6) for “6” substitute “8”.
- (2) The amendments made by subsection (1) have effect only where the decision of the education authority to implement the closure proposal (as referred to in section 15(1) of the Schools (Consultation) (Scotland) Act 2010) is made on or after the day on which that subsection comes into force.

*Wellbeing under 1995 Act***73 Consideration of wellbeing in exercising certain functions**

After section 23 of the 1995 Act, insert—

“23A Sections 17 and 22: consideration of wellbeing

- 5 (1) This section applies where a local authority is exercising a function under or by virtue of section 17 or 22 of this Act.
- (2) The local authority must have regard to the general principle that functions should be exercised in relation to children in a way which is designed to safeguard, support and promote their wellbeing.
- 10 (3) For the purpose of subsection (2) above, the local authority is to assess the wellbeing of a child by reference to the extent to which the matters listed in section 74(2) of the 2013 Act are or, as the case may be, would be satisfied in relation to the child.
- 15 (4) In assessing the wellbeing of a child as mentioned in subsection (3) above, a local authority is to have regard to the guidance issued under section 74(3) of the 2013 Act.
- (5) In this section, “the 2013 Act” means the Children and Young People (Scotland) Act 2013.”.

PART 13**GENERAL****74 Assessment of wellbeing**

- (1) This section applies where under this Act a person requires to assess whether the wellbeing of a child or young person is being or would be—
 - 25 (a) promoted,
 - (b) safeguarded,
 - (c) supported,
 - (d) affected, or
 - (e) subject to an effect.
- 30 (2) The person is to assess the wellbeing of the child or young person by reference to the extent to which the child or young person is or, as the case may be, would be—
 - Safe,
 - Healthy,
 - Achieving,
 - Nurtured,
 - 35 Active,
 - Respected,
 - Responsible, and
 - Included.

- (3) The Scottish Ministers must issue guidance on how the matters listed in subsection (2) are to be used to assess the wellbeing of a child or young person.
- (4) Before issuing or revising such guidance, the Scottish Ministers must consult—
- 5 (a) each local authority,
- (b) each health board, and
- (c) such other persons as they consider appropriate.
- (5) In measuring the wellbeing of a child or young person as mentioned in subsection (2), a person is to have regard to the guidance issued under subsection (3).
- (6) The Scottish Ministers may by order modify the list in subsection (2).
- 10 (7) Before making an order under subsection (6), the Scottish Ministers must consult—
- (a) each local authority,
- (b) each health board, and
- (c) such other persons as they consider appropriate.

75 Interpretation

- 15 (1) In this Act—
- “the 1980 Act” means the Education (Scotland) Act 1980,
- “the 1995 Act” means the Children (Scotland) Act 1995,
- “child” means a person who has not attained the age of 18 years,
- “health board” means a board constituted under section 2(1)(a) of the National
- 20 Health Service (Scotland) Act 1978.
- (2) References in this Act to a child being “looked after” are to be construed in accordance with section 17(6) of the 1995 Act.
- (3) The following expressions have the same meaning in this Act as they have in the 1980 Act—
- 25 education authority
- grant-aided school
- independent school
- managers
- nursery class
- 30 primary school
- proprietor
- public school
- pupil
- school age.

76 Modification of enactments

Schedule 4 (which makes minor amendments to enactments and otherwise modifies enactments for the purposes of or in consequence of this Act) has effect.

77 Subordinate legislation

(1) Any power of the Scottish Ministers to make an order under this Act includes power to make—

- (a) different provision for different purposes,
- (b) such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider appropriate.

(2) An order made under any of the following sections is subject to the affirmative procedure—

section 3(2)

section 7(5)

section 17(6)

section 30(2)

section 35(5)

section 44(2)

section 47(2)

section 50(2)

section 74(6).

(3) An order made under section 78 containing provisions which add to, replace or omit any part of the text of this or any other Act is subject to the affirmative procedure.

(4) All other orders made under this Act are subject to the negative procedure.

(5) This section does not apply to an order made under section 79(2).

78 Ancillary provision

The Scottish Ministers may by order make—

(a) such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision made by, or by virtue of, this Act, and

(b) such transitional, transitory or saving provision as they consider appropriate for the purposes of, or in connection with, the coming into force of any provision of this Act.

79 Commencement

(1) This Part (apart from sections 74, 75 and 76) comes into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

- (3) An order under this section may include transitional, transitory or saving provision.

80 Short title

The short title of this Act is the Children and Young People (Scotland) Act 2013.

SCHEDULE 1
(introduced by section 3)

AUTHORITIES TO WHICH SECTION 2 APPLIES

- | | | |
|----|----|--|
| | 1 | A local authority |
| 5 | 2 | Children’s Hearings Scotland |
| | 3 | The Scottish Children’s Reporter Administration |
| | 4 | A health board |
| | 5 | A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978 |
| 10 | 6 | Healthcare Improvement Scotland |
| | 7 | The Scottish Qualifications Authority |
| | 8 | Skills Development Scotland Co. Ltd (registered number SC 202659) |
| | 9 | Social Care and Social Work Improvement Scotland |
| | 10 | The Scottish Social Services Council |
| 15 | 11 | The Scottish Sports Council |
| | 12 | The chief constable of the Police Service of Scotland |
| | 13 | The Scottish Police Authority |
| | 14 | The Scottish Fire and Rescue Service |
| | 15 | The Scottish Legal Aid Board |
| 20 | 16 | The Mental Welfare Commission for Scotland |
| | 17 | The Scottish Housing Regulator |
| | 18 | Bòrd na Gàidhlig |
| | 19 | Creative Scotland |

SCHEDULE 2
(introduced by section 30)

RELEVANT AUTHORITIES

- | | | |
|----|---|---|
| | 1 | The Scottish Ministers |
| | 2 | NHS 24 |
| | 3 | NHS National Services Scotland |
| 30 | 4 | Scottish Ambulance Service Board |
| | 5 | State Hospitals Board for Scotland |
| | 6 | Skills Development Scotland Co. Ltd (registered number SC 202659) |
| | 7 | Social Care and Social Work Improvement Scotland |
| | 8 | The Scottish Sports Council |
| 35 | 9 | The chief constable of the Police Service of Scotland |

- 10 The Scottish Police Authority
- 11 The Scottish Fire and Rescue Service
- 12 The Scottish Court Service
- 13 The Commissioner for Children and Young People in Scotland
- 5 14 The Mental Health Tribunal for Scotland
- 15 The Mental Welfare Commission for Scotland
- 16 A body which is a “post-16 education body” or a “regional strategic body” for the purposes of the Further and Higher Education (Scotland) Act 2005

SCHEDULE 3
(introduced by section 50)

CORPORATE PARENTS

- 1 The Scottish Ministers
- 2 A local authority
- 3 The National Convener of Children’s Hearings Scotland
- 15 4 Children’s Hearings Scotland
- 5 The Principal Reporter
- 6 The Scottish Children’s Reporter Administration
- 7 A health board
- 8 A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978
- 20 9 Healthcare Improvement Scotland
- 10 The Scottish Qualifications Authority
- 11 Skills Development Scotland Co. Ltd (registered number SC 202659)
- 12 Social Care and Social Work Improvement Scotland
- 25 13 The Scottish Social Services Council
- 14 The Scottish Sports Council
- 15 The chief constable of the Police Service of Scotland
- 16 The Scottish Police Authority
- 17 The Scottish Fire and Rescue Service
- 30 18 The Scottish Court Service
- 19 The Scottish Legal Aid Board
- 20 The Commissioner for Children and Young People in Scotland
- 21 The Mental Welfare Commission for Scotland
- 22 The Scottish Housing Regulator
- 35 23 Bòrd na Gàidhlig

- 24 Creative Scotland
- 25 The Scottish Further and Higher Education Funding Council
- 26 A body which is a “post-16 education body” or a “regional strategic body” for the purposes of the Further and Higher Education (Scotland) Act 2005

5
 SCHEDULE 4
(introduced by section 76)

MODIFICATION OF ENACTMENTS

Social Work (Scotland) Act 1968

- 1 In section 5 of the Social Work (Scotland) Act 1968—
- 10 (a) in subsection (1)—
 - (i) for “1995 and” substitute “1995,”,
 - (ii) after “2013 (asp 1)” insert “Part 6 (in so far as it applies to looked after children) and Parts 9 and 10 of the Children and Young People (Scotland) Act 2013 (asp 00)”,
- 15 (b) in subsection (1B), after paragraph (r) insert—
 - “(s) Part 6 (in so far as it applies to looked after children) of the Children and Young People (Scotland) Act 2013 (asp 00).”,
- (c) after subsection (1B) insert—
 - “(1C) In subsections (1) and (1B) of this section, the references to looked after children are to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.”.

Education (Scotland) Act 1980

- 2 (1) The 1980 Act is amended as follows.
- (2) In section 1—
 - 25 (a) in subsection (1A), for the words from first “as” to “order” substitute “to the extent required by section 43(1) of the Children and Young People (Scotland) Act 2013”,
 - (b) omit subsections (1B) and (4A),
 - (c) in subsection (5)(a), for sub-paragraph (i) substitute—
 - 30 “(i) early learning and childcare;”.
- (3) In section 135—
 - (a) after the definition of “dental treatment” insert—
 - ““early learning and childcare” has same meaning as in Part 6 of the Children and Young People (Scotland) Act 2013;”,
 - 35 (b) for the definitions of “nursery school” and “nursery class” substitute—
 - ““nursery schools” and “nursery classes” are schools and classes which provide early learning and childcare;”.

Children (Scotland) Act 1995

3 (1) The 1995 Act is amended as follows.

(2) Section 19 is repealed.

(3) In section 20, for subsection (2) substitute—

5 “(2) In subsection (1) above, “relevant services” means services provided by a local authority under or by virtue of—

(a) this Part of this Act;

(b) the Children’s Hearings (Scotland) Act 2011; or

10 (c) any of the enactments mentioned in section 5(1B)(a) to (n), (r) or (s) of the Social Work (Scotland) Act 1968.”.

(4) In section 44—

(a) for subsection (1) substitute—

15 “(1) No person shall publish any matter in respect of proceedings before a sheriff on an application under section 76(1) of this Act which is intended to, or is likely to, identify—

(a) any child concerned in the proceedings; or

(b) any address or school as being that of any such child.”,

(b) in subsection (5)—

(i) omit paragraphs (b) and (c),

20 (ii) in the full-out, omit “, the Court or the Secretary of State as the case may be”.

Criminal Procedure (Scotland) Act 1995

4 In section 57A(16) of the Criminal Procedure (Scotland) Act 1995, in the definition of “relevant services” for “19(2)” substitute “20(2)”.

25 *Standards in Scotland’s Schools Act 2000*

5 In section 34 of the Standards in Scotland’s Schools Act 2000—

(a) in paragraph (a), after “Act” insert “and Part 6 of the Children and Young People (Scotland) Act 2013”,

(b) in paragraph (b), for “that Act” substitute “those Acts”.

30 *Regulation of Care (Scotland) Act 2001*

6 In section 73(2)(a) of the Regulation of Care (Scotland) Act 2001—

(a) after first “provided” insert “under subsection (1) or (5A)(a) of that section”,

(b) for “the subsection in question” substitute “subsection (5A)(b) or (5B) of that section”.

Mental Health (Care and Treatment) (Scotland) Act 2003

- 7 In section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003, in the definition of “relevant services” for “19(2)” substitute “20(2)”.

Education (Additional Support for Learning) (Scotland) Act 2004

- 5 8 (1) The Education (Additional Support for Learning) (Scotland) Act 2004 is amended as follows.
- (2) In section 1(3)—
- (a) in paragraph (a), for “a prescribed” substitute “an eligible”,
- (b) in paragraph (b), for “a prescribed” substitute “an eligible”.
- 10 (3) In section 5(3)(a), in paragraph (a), for “a prescribed” substitute “an eligible”.
- (4) In section 29(1)—
- (a) after the definition of “co-ordinated support plan” insert—
- ““eligible pre-school child” has the same meaning as in Part 6 of the
- Children and Young People (Scotland) Act 2013,”
- 15 (b) omit the definition of “prescribed pre-school child”.

Adoption and Children (Scotland) Act 2007

- 9 (1) The Adoption and Children (Scotland) Act 2007 is amended as follows.
- (2) Section 4 is repealed.
- (3) In section 6(1), omit “or 4”.
- 20 (4) The title of section 6 becomes “**Assistance in carrying out functions under section 1**”.
- (5) In section 117(5)(a), after sub-paragraph (i) insert—
- “(ia) section 13A(2),
- (ib) section 13E(1),”.
- 25 (6) In section 119(1), in paragraph (b) of the definition of “adoption agency”, after “sections” insert “13A, 13D, 13E,”.

Children’s Hearings (Scotland) Act 2011

- 10 In schedule 6 to the Children’s Hearings (Scotland) Act 2011, in the entry for the 1995 Act—
- (a) at the end of the reference to sections 39 to 74 insert “, except section 44”,
- 30 (b) in the reference to section 105, omit “44,”.

Children and Young People (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the rights of children and young people; to make provision about investigations by the Commissioner for Children and Young People in Scotland; to make provision for and about the provision of services and support for or in relation to children and young people; to make provision for an adoption register; to make provision about children's hearings, detention in secure accommodation and consultation on certain proposals in relation to schools; and for connected purposes.

Introduced by: Alex Neil
Supported by: Aileen Campbell
On: 17 April 2013
Bill type: Government Bill

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