

Children (Care, Care Experience and Services Planning) (Scotland) Act 2026

2026 asp 16

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Children (Care, Care Experience and Services Planning) (Scotland) Act 2026

2026 asp 16

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 19th March 2026 and received Royal Assent on 15th May 2026

An Act of the Scottish Parliament to make provision for and about the provision of services and support for or in relation to children and other persons with care experience; to make provision for a register of foster carers; to make provision about children's hearings; to make provision in relation to the planning of children's services; and for connected purposes.

PART 1

CHILDREN'S CARE SYSTEM

CHAPTER 1

SUPPORT ETC. FOR PERSONS IN OR WITH EXPERIENCE OF CHILDREN'S CARE SYSTEM

Aftercare

1 Aftercare

(1) The responsible local authority in relation to a person must, unless satisfied that the person's welfare does not require it, provide advice, guidance and assistance to the person if—

(a) the person falls within subsection (2), or

(b) the person—

(i) falls within subsection (3), and

(ii) has made an application to the authority requesting that the authority provide the person with advice, guidance and assistance under this subsection.

(2) The person falls within this subsection if the person—

(a) is aged 16, 17 or 18,

(b) ceased to be looked after by the responsible local authority on or after the person's 16th birthday, and

(c) has not, since ceasing to be looked after by the responsible local authority, been looked after elsewhere in the UK.

(3) The person falls within this subsection if—

(a) the person's 16th birthday is on or after the date on which this section comes into force, and

(b) the person—

(i) is aged 16, 17 or 18,

(ii) was, at any time before the person's 16th birthday, looked after by the responsible local authority, and

(iii) has not, since ceasing to be looked after by the responsible local authority, been looked after elsewhere in the UK.

(4) Subsection (5) applies in relation to a person who—

(a) falls within subsection (6), and

(b) has made an application to the responsible authority in relation to the person requesting that the authority provide the person with advice, guidance and assistance under subsection (5).

(5) The responsible local authority in relation to the person—

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

(b) otherwise, may provide under this subsection such advice, guidance and assistance as the authority considers appropriate having regard to the person's welfare.

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

(a) is aged 19 to 25, and

(b) fell within subsection (2) or (3) on the day before the person's 19th birthday.

(7) For the purposes of subsection (5)(a), a person has "eligible needs" if the person needs care, attention or support of such type as the Scottish Ministers may by regulations specify.

(8) A local authority may (but is not required to) continue to provide advice, guidance and assistance to a person in pursuance of subsection (5) after the person reaches the age of 26.

(9) A person is not to be provided with advice, guidance and assistance under subsection (1) or (5) (including by virtue of subsection (8)) in respect of any time when the person is being provided with continuing care under section 26A of the Children (Scotland) Act 1995.

(10) The Scottish Ministers may by regulations amend this section to provide that specified descriptions of person who, for the time being, fall within any of subsections (2), (3) or (5) are instead to fall within another of those subsections.

(11) The Scottish Ministers may by regulations modify subsection (3)(a) to substitute, for the date for the time being specified there (however expressed), an earlier date.

(12) In subsection (10), "specified" means specified in the regulations made under that subsection.

2 Assessment of needs

(1) A responsible local authority in relation to a person must assess the advice, guidance and assistance needs of—

(a) each person who falls within section 1(2),

(b) each person who—

(i) falls within section 1(3) or (6), and

(ii) has made an application to the authority under section 1(1)(b)(ii) or (4)(b).

(2) The Scottish Ministers may by regulations make provision as to assessments for the purposes of subsection (1).

(3) Regulations under subsection (2) may in particular make provision about—

(a) who is to be consulted in relation to an assessment,

(b) the way in which an assessment is to be carried out, by whom and when,

(c) the recording of the results of an assessment,

(d) the considerations to which the responsible local authority are to have regard in carrying out the assessment.

3 Types of assistance

(1) Subject to any contrary provision in regulations made under subsection (2), aftercare assistance may include assistance in kind or in cash.

(2) The Scottish Ministers may by regulations specify, either generally or in relation to a category or description of persons falling within section 1(2), (3) or (6), the manner in which aftercare assistance is to be provided.

(3) In this section, "aftercare assistance" means assistance provided under section 1(1), (5)(a) or (b) or (8).

4 Other duties

(1) Each local authority must establish a procedure for considering representations (including complaints) made to them by any person falling within section 1(2), (3) or (6) about the discharge of the local authority's functions under sections 1 to 3.

(2) The Scottish Ministers may by regulations make provision as to procedures established under subsection (1).

(3) Subsection (4) applies where a local authority becomes aware that a person to whom the local authority is providing advice, guidance or assistance under section 1 has died.

(4) The local authority must, as soon as reasonably practicable, notify—

(a) the Scottish Ministers, and

(b) Social Care and Social Work Improvement Scotland.

5 Financial assistance towards expenses of education or training etc.

(1) Without prejudice to section 12 of the Social Work (Scotland) Act 1968 (general social welfare services of local authorities), the responsible local authority in relation to a person may, if the person falls within subsection (2), make—

(a) grants to the person to enable the person to meet expenses connected with the person's education or training, and

(b) contributions to the accommodation and maintenance of any such person in any place near where the person may be—

(i) employed, or seeking employment, or

(ii) receiving education and training.

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

(a) is aged 16 to 25,

(b) is not (but has, at any time in the person's life, been) looked after by a local authority, and

(c) has not, since ceasing to be looked after by the responsible local authority, been looked after elsewhere in the UK.

(3) The responsible local authority in relation to a person may, after the person reaches the age of 26, continue to make grants or contributions of the types mentioned in subsection (1) if the authority is satisfied that it is appropriate to do so for the purposes of education, training, employment or employment-seeking in relation to which such grants or contributions were being made before the person's 26th birthday.

6 Co-operation between authorities

(1) Where it appears to a local authority that another public body (including in particular another local authority) could, by taking any specified action, help in the exercise of any of the local authority's functions under sections 1 to 5 the local authority may request the help of that body, specifying the action in question.

(2) A public body whose help is so requested must comply with the request if it is consistent with the exercise of its functions.

7 Consequential modifications of enactments

(1) The Social Work (Scotland) Act 1968 is amended by subsection (2).

(2) In section 4 (provisions relating to performance of functions by local authorities), after "2016" insert "or sections 1, 2, 3, 4 and 5 of the Children (Care, Care Experience and Services Planning) (Scotland) Act 2026".

(3) The Children (Scotland) Act 1995 is amended by subsections (4) and (5).

(4) In section 17A(2) (detained children to be treated as looked after children), the words ", 29, 30" are repealed.

(5) Sections 29 (after-care) and 30 (financial assistance towards expenses of education and training) are repealed.

(6) The Regulation of Care (Scotland) Act 2001 is amended by subsections (7) and (8).

(7) Section 73 (amendment of Children (Scotland) Act 1995: after-care) is repealed.

(8) In section 78 (orders and regulations), in subsection (2), for ", 56(1)(a) or 73(2)(b)" substitute "or 56(1)(a)".

(9) The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 (S.S.I. 2003/608) are, to the extent that they were made in exercise of powers conferred by section 73(2)(a), (c) and (d) and (3) of the Regulation of Care (Scotland) Act 2001, to be treated as if they were made in exercise of the powers conferred by sections 2(2), 3(2) and 4(2).

Advocacy services for care-experienced persons

8 Advocacy services for care-experienced persons

(1) The Scottish Ministers must by regulations confer rights of access to independent care experience advocacy services.

(2) "Care experience advocacy services" are services of support and representation provided for the purpose of assisting a care-experienced person—

(a) to access services through which the person may be provided with care or assistance,

(b) to make the person's views in relation to matters connected with the provision of care or assistance to the person known to persons making decisions in relation to such matters.

(3) It is the duty of the Scottish Ministers to ensure that care experience advocacy services are available to the extent necessary for a right conferred by virtue of subsection (1) to be exercised by each person who has the right.

(4) Regulations under subsection (1) must include provision as to how care-experienced persons are to be made aware of the existence of their rights of access to care experience advocacy services.

(5) The Scottish Ministers must, in complying with subsections (3) and (4), have regard to the desirability of a person who has a right of access to care experience advocacy services in or in relation to a particular circumstance being able to be exercise the right at the earliest appropriate opportunity in relation to that circumstance.

(6) Regulations under subsection (1) must make provision to ensure that the rights of access to care experience advocacy services are conferred on an opt-in basis.

(7) Regulations under subsection (1) may—

(a) specify—

(i) circumstances in or in relation to which,

(ii) particular descriptions of care-experienced persons by whom,

a right conferred by virtue of subsection (1) is (or is not) to be exercisable,

(b) modify subsection (2) by adding, varying or removing purposes for which services of support and representation may be provided,

(c) make further provision in relation to care experience advocacy services.

(8) Provision made by virtue of subsection (7)(c) may, in particular, include provision—

(a) specifying—

(i) standards that care experience advocacy services are to meet,

(ii) qualifications to be held by, and training of, persons providing care experience advocacy services,

(b) as to the establishment and maintenance, for purposes specified in the regulations, of a register of persons who provide care experience advocacy services.

(9) For the avoidance of doubt, the existence of a right of access to care experience advocacy services in or relation to a particular circumstance does not by itself prevent a care-experienced person who has the right being, in or in relation to the circumstance, assisted for the purpose mentioned in subsection (2) by a person other than a provider of care experience advocacy services.

(10) The following persons are care-experienced for the purposes of this section or section 9—

(a) a child who is or has at any time been—

(i) looked after,

(ii) subject to a kinship care order,

(iii) cared for or otherwise supported in such circumstances as may be specified,

(b) a person who was at any time when the person was a child—

(i) looked after,

(ii) subject to a kinship care order,

(iii) cared for or otherwise supported in such circumstances as may be specified.

(11) Before making regulations under this section or section 9, the Scottish Ministers must consult—

(a) care-experienced persons,

(b) persons who may become care-experienced persons by virtue of the regulations to which the consultation relates,

(c) such—

(i) persons who represent the interests of care-experienced persons or persons mentioned in paragraph (b), and

(ii) other persons,

as the Scottish Ministers consider appropriate.

(12) In subsection (10), "specified" means specified in regulations made by the Scottish Ministers.

9 Independence of care experience advocacy services

(1) Care experience advocacy services are not independent for the purposes of section 8(1) if they are provided—

(a) by a person mentioned in subsection (2), or

(b) by an individual who provides or otherwise makes decisions in relation to the care or assistance to which a care-experienced person's use of care experience advocacy services relates.

(2) The persons are—

(a) a local authority,

(b) a health board,

(c) where the care or assistance to which a care-experienced person's use of care experience advocacy services relates is provided by—

(i) a local authority, a member of the local authority,

(ii) a health board, a member of the health board,

by which the care or assistance is or may be provided,

(d) where the person to whom the care experience advocacy services are made available is, or was, placed in residential or secure care, a person who provides care services under a contract or other arrangement with a local authority in the local authority area where the care-experienced person is or was placed.

(3) For the purposes of this section, care experience advocacy services provided by a person under a contract or other arrangement with a local authority or health board are not to be regarded as provided by the local authority or, as the case may be, health board.

(4) The Scottish Ministers may by regulations specify—

(a) additional criteria that must be met, in relation to particular circumstances in or in relation to which care experience advocacy services are to be provided, in order for the services to be regarded as independent for the purpose of section 8(1),

(b) circumstances in or in relation to which, and criteria in accordance with which (if met), care experience advocacy services provided by a person mentioned in subsection (2) may, despite subsection (1), be regarded as independent for the purposes of section 8(1).

Duties in relation to care experience

10 Duties of public authorities etc. in relation to care experience

(1) The Scottish Ministers must by regulations make provision for the purpose of promoting understanding, by public authorities and other persons exercising functions of a public nature, of—

(a) care-experienced persons, and

(b) the experiences that such persons may have had before and since becoming care-experienced.

(2) Regulations under subsection (1) may in particular provide for requirements in relation to—

(a) identifying and communicating with persons who are or may be care-experienced, including in particular best practice in using language in a way that avoids stigmatising care experience,

(b) ensuring that the experiences and needs of persons who are or may be care-experienced are identified and taken account of in the planning and provision of public services,

(c) facilitating access by persons who are or may be care-experienced to public services,

(d) appropriately respecting the rights of persons who are or may be care-experienced, and

(e) interacting with persons who are or may be care-experienced in a way that—

(i) takes account of the effects of trauma which the person may have experienced, and

(ii) seeks to avoid, or minimise the risk of, exposing the person to further trauma or any recurrence of past trauma.

(3) A public authority must—

(a) comply with regulations made under subsection (1) when exercising the public authority's functions in relation to persons who are or may be care-experienced,

(b) where it exercises functions by entering into arrangements (contractual or otherwise) under which functions of a public nature will be exercised by a person other than a public authority, ensure that the arrangements require the person to comply with regulations made under subsection (1) when exercising those functions in relation to persons who are or may be care-experienced.

(4) A public authority must take such steps as it considers appropriate to make persons in relation to whom the authority exercises functions aware of regulations made under subsection (1).

(5) But a public authority exercising functions which relate to a particular description of care-experienced person specified in an enactment need comply with subsections (3) and (4) only to the extent that the public authority considers doing so is consistent with the proper exercise of those functions.

(6) The following persons are care-experienced for the purposes of this section—

(a) a child who is or has at any time been—

(i) looked after,

(ii) subject to a kinship care order,

(iii) cared for or otherwise supported in such circumstances as are specified in the regulations,

(b) a person who was at any time when the person was a child—

(i) looked after,

(ii) subject to a kinship care order,

(iii) cared for or otherwise supported in such circumstances as are specified in the regulations.

(7) In this section—

"function" means, in relation a public authority, a function that it is within the legislative competence of the Scottish Parliament to confer on the authority,

"public authority" means a person who is—

(a) a part of the Scottish Administration, or

(b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).

11 Regulations under section 10: further provision

(1) Before making regulations under section 10(1), the Scottish Ministers must consult—

(a) persons who are care-experienced persons for the purposes of section 10,

(b) persons who may become such persons by virtue of the regulations to which the consultation relates,

(c) such—

(i) persons who represent the interests of persons mentioned in paragraphs (a) and (b), and

(ii) other persons,

as the Scottish Ministers consider appropriate.

(2) The Scottish Ministers must take such steps as they consider appropriate to publicise the regulations.

(3) Regulations made under section 10(1) may make different provision in relation to different persons or for different purposes.

Review of permanence

12 Review of permanence

(1) The Scottish Ministers must, no later than 2 years after this section comes into force, undertake a review of the impact of delays to decisions relating to the permanent home of children, including the impact on young children and infants.

(2) The review must include—

(a) consideration of existing research on permanence from Scotland and the rest of the United Kingdom, and

(b) consultation with relevant experts on permanence.

(3) The Scottish Ministers must prepare and publish a report on the review as soon as reasonably practicable after completing the review.

Interpretation

13 Interpretation

(1) In this Chapter—

"kinship care order" has the meaning given by section 72 of the Children and Young People (Scotland) Act 2014,

"looked after" is to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995,

"looked after elsewhere in the UK" means—

(a) looked after, by a local authority in England, within the meaning of section 22 of the Children Act 1989,

(b) looked after, by a local authority in Wales, within the meaning of section 74 of the Social Services and Well-being (Wales) Act 2014,

(c) looked after, by an authority in Northern Ireland, within the meaning of article 25 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755),

"responsible local authority", in relation to a person, means the local authority (in Scotland) which last looked after the person.

(2) Subsection (3) applies in relation to a person who was, while a child, detained in secure accommodation by virtue of section 51(1)(a), 205(2), 208(1) or, as the case may be, 216(7) of the Criminal Procedure (Scotland) Act 1995.

(3) The person is to be regarded for the purposes of this Chapter as having been looked after, during the person's detention, by the relevant local authority in relation to the child.

(4) In subsection (3), the "relevant local authority" in relation to the child has the same meaning as in section 201 of the Children's Hearings (Scotland) Act 2011.

CHAPTER 2

SUPPORT ETC. FOR PERSONS IN OR WITH EXPERIENCE OF CHILDREN'S CARE SYSTEM: MODIFICATION OF ENACTMENTS

Family group decision-making

14 Right to request family group decision-making services

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) After section 69, insert—

"69A Right to request family group decision-making services

(1) Where family group decision-making services are available by virtue of section 68(1), the following persons may ask a relevant local authority to provide such a service—

(a) a child who considers themselves likely to fall within the definition of an eligible child,

(b) a person who considers themselves likely to fall within the definition of a qualifying person in relation to an eligible child,

(c) a pregnant woman who considers herself likely to fall within the definition of an eligible pregnant woman,

(d) a person who considers themselves likely to fall within the definition of a qualifying person in relation to an eligible pregnant woman.

(2) A local authority which receives a request under subsection (1) ("the request")—

(a) may ask the requester to provide such further information as it considers necessary in order to consider the request, and

(b) must, unless it considers that there are good reasons not to respond (or not to respond further) to the requester, take the steps set out in subsection (3).

(3) The steps are—

(a) as soon as reasonably practicable after receiving the request, providing the requester with confirmation of receipt of it, and

(b) subject to receiving such further information, if any, as the authority requires (which was sought under subsection (2)(a))—

(i) considering whether a family group decision-making service should be provided in response to the request, and

(ii) providing the requester with a response to the request which includes the authority's decision and its reasons for reaching that decision.

(4) In this section—

"eligible child" and "eligible pregnant woman" have the same meanings as in section 68,

"family group decision-making service" means a service which is designed to facilitate decision-making, in relation to the services and support required for a child, by—

(a) the child's family, and

(b) where appropriate having regard to the child's age and maturity, the child,

"qualifying person", in relation to an eligible child or an eligible pregnant woman, has the same meaning as it has in relation to that child or woman in section 68,

"relevant local authority" is to be construed in accordance with section 201 of the Children's Hearings (Scotland) Act 2011.

(5) The Scottish Ministers may by regulations modify the definition of "family group decision-making service" in subsection (4).".

(3) In section 99 (subordinate legislation), after "section 68(3)(b)" insert—

"section 69A(5)".

15 Promotion of family group decision-making services

(1) The Children and Young People (Scotland) Act 2014 is amended by subsections (2) and (3).

(2) After section 69A, insert—

"69B Duty to promote family group decision-making services

A local authority must—

(a) publish information about the provision of family group decision-making services in its area,

(b) where such services are provided to persons in its area by virtue of section 68(1), take reasonable steps to promote awareness of those services among persons to whom they are likely to be provided,

(c) publish information about how a request under section 69A may be made and take reasonable steps to promote awareness of the ability to make such a request among those likely to have a right to do so.".

(3) In section 70 (interpretation of Part 12), for "The following expressions have the same meaning in this Part as they have in Part 1 of the 1995 Act—" substitute "In this Part—

(a) "family group decision-making service" has the meaning given in section 69A(4) and "family group decision-making" is to be construed accordingly,

(b) the following expressions have the same meaning as they have in Part 1 of the 1995 Act—".

(4) The Children and Young People (Scotland) Act 2014 (Relevant Services in relation to Children at Risk of Becoming Looked After etc.) Order 2016 (S.S.I. 2016/44) is amended by subsections (5) and (6).

(5) In article 2, in paragraph (2)(a), for the words from "means" to "the child" substitute "has the same meaning as in Part 12 of the Act;".

(6) In article 4—

(a) the existing text becomes paragraph (1),

(b) after paragraph (1), insert—

"(2) Paragraph (1) does not apply in relation to family group decision-making services (as to which see section 69B of the Act).".

16 Guidance on family group decision-making services

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) After section 69B, insert—

"69C Guidance on family group decision-making services

(1) The Scottish Ministers must issue guidance on family group decision-making services in Scotland.

(2) A local authority must, when securing the provision of family group decision-making services in its area, have regard to any guidance published under this section.

(3) Guidance under this section must—

(a) set out—

(i) the purpose of family group decision-making,

(ii) the principles that underpin it,

(iii) the expectations for how it is to be applied in practice,

(b) include information on—

(i) the factors that a local authority should, whether or not a request for family group decision-making services has been made, consider in determining whether to offer family group decision-making services (such as, where appropriate, the views of the child),

(ii) how family group decision-making services may interact and be used in conjunction with other services provided in respect of children and families, as part of taking a holistic approach to the provision of support,

(iii) how family group decision-making services support early intervention, family participation in decision-making, and the fulfilment of children's rights,

(iv) any measures that the Scottish Ministers consider should be taken to support the availability and quality of family group decision-making services.

(4) Before issuing or revising guidance, the Scottish Ministers must consult—

(a) each local authority,

(b) other providers of family group decision-making services,

(c) the Principal Reporter,

(d) the National Convener of Children's Hearings Scotland, and

(e) such other persons as they consider appropriate.".

Kinship care assistance

17 Kinship care needs assessment

(1) The Children and Young People (Scotland) Act 2014 is amended by subsections (2) and (3).

(2) After section 71, insert—

"71A Kinship care assistance: comprehensive needs assessment

(1) A local authority must, in relation to a person falling within section 71(3) in the authority's area, offer to assess that person's kinship care assistance needs under this Part.

(2) A person falling within section 71(3) in a local authority's area, may apply to the authority to request—

(a) an assessment of their kinship care assistance needs,

(b) a review of an existing assessment.

(3) Where a person has made an application under subsection (2), the assessment or review must be carried out no later than three months after the application was received.".

(3) In section 73(3), after paragraph (c) insert—

"(ca) when or how a local authority is to assess a person's kinship care assistance needs,

(cb) when or how a local authority is to review an assessment of a person's kinship care assistance needs,".

(4) The Social Work (Scotland) Act 1968 is amended by subsection (5).

(5) In section 4 (provisions relating to performance of functions by local authorities), after "Children's Hearings (Scotland) Act 2011 (asp 1)" insert "or section 71A of the Children and Young Persons (Scotland) Act 2014".

18 Guidance in relation to kinship care assistance functions

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) After section 73, insert—

"73A Duty to have regard to guidance about the provision of kinship care assistance

(1) A local authority must have regard to any guidance issued by the Scottish Ministers about—

(a) the discharge of functions conferred on it by this Part,

(b) matters arising in connection with the discharge of those functions.

(2) Before issuing or revising any such guidance, the Scottish Ministers must consult—

(a) any person to which it relates, and

(b) such other persons as they consider appropriate.

(3) As soon as practicable after issuing any guidance under this section (including a revised version), the Scottish Ministers must lay a copy before the Scottish Parliament.".

19 Kinship care assistance: power to require information-sharing by local authority

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) After section 73A, insert—

"73B Kinship care assistance functions: information-sharing by local authority

(1) The Scottish Ministers may by regulations require a local authority to provide them with information relating to functions conferred by this Part.

(2) The information which a local authority may be required to provide under this section—

(a) includes, in particular, anonymised or aggregated information about—

(i) the number of kinship care assistance arrangements supported by the authority,

(ii) the types of assistance provided by the authority,

(iii) the effect of the assistance provided in terms of outcomes for children and their kinship carers,

(b) does not include information about individuals.

(3) Regulations under this section may make provision about the manner and form in which the information is to be provided by a local authority.".

Provision of accommodation

20 Duty to provide accommodation for children in need

(1) The Children (Scotland) Act 1995 is amended as follows.

(2) In section 25 (provision of accommodation for children, etc.), in subsection (1), after paragraph (c) insert—

"(d) he is at least sixteen years of age and—

(i) is homeless, in accordance with section 24 of the Housing (Scotland) Act 1987, or

(ii) the accommodation in which he is residing is not suitable for his welfare needs.".

21 Provision of accommodation for care-experienced persons

(1) The Children (Scotland) Act 1995 is amended as follows.

(2) In section 25 (provision of accommodation for children, etc.)—

(a) in subsection (3)—

(i) for "may" substitute "shall",

(ii) for "consider" substitute "determine",

(b) after subsection (3) insert—

"(3A) There is a presumption that, in relation to the determination in subsection (3), the provision of accommodation would safeguard or promote the welfare of a person in relation to whom the duty to provide continuing care under section 26A—

(a) does not apply as a result of the application of section 26A(5), or

(b) has ceased as a result of section 26A(7)(b).".

Continuing care

22 Continuing care: persons eligible and accommodation to be provided

(1) The Children (Scotland) Act 1995 is amended as follows.

(2) In section 26A (provision of continuing care: looked after children)—

(a) in subsection (1), after "authority" insert "or provided with accommodation under section 25(3)",

(b) in subsection (4)—

(i) after "means" insert "either—",

(ii) the words from "the same" to the end becomes paragraph (a),

(iii) in paragraph (a), after "after" insert "or provided with accommodation under section 25(3)",

(iv) after paragraph (a) insert "or

(b) such alternative accommodation and assistance as has been assessed by the authority to be the most appropriate to meet the welfare needs of the person.".

23 Power to continue provision of continuing care up to person's 26th birthday

(1) The Children (Scotland) Act 1995 is amended as follows.

(2) In section 26A (provision of continuing care: looked after children), after subsection (3) insert—

"(3A) A local authority may (but is not required to) continue to provide continuing care to a person who ceases to be an eligible person until they attain the age of 26, if it is satisfied that doing so will promote or safeguard the person's welfare.".

24 Return to continuing care

(1) The Children (Scotland) Act 1995 is amended as follows.

(2) In section 26A (provision of continuing care: looked after children), after subsection (7) insert—

"(7A) For the purposes of subsection (7)(a) above, the duty to provide continuing care only ceases until such time (if any) as the person requests to return to the accommodation.".

Corporate parenting

25 Corporate parenting: application to persons looked after before age 16 and planning

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) In section 57 (children and young people in relation to whom corporate parenting responsibilities apply)—

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

"(b) every child and young person under the age of 26 who—

(i) is not looked after by a local authority, but

(ii) has, at any point in the child or young person's life, been so looked after.",

(b) subsection (2) is repealed.

(3) In section 59 (planning by corporate parents), after subsection (1), insert—

"(1A) A plan or revised plan must include information on how the corporate parent proposes to exercise its corporate parenting responsibilities in a way that delivers the recommendations set out in the report published on 5 February 2020 on behalf of the Independent Care Review established by the Scottish Ministers in October 2016 ("the Promise").".

(4) In section 99(2) (powers subject to affirmative procedure), the words "section 57(2)(b)" are repealed.

26 Guidance on corporate parenting

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) In section 57 (children and young people to whom Part 9 applies), in subsection (1), for "Part" substitute "section".

(3) In section 58 (corporate parenting responsibilities), in subsection (1)(a), for "this Part" substitute "section 57".

(4) In section 60 (collaborative working among corporate parents), in subsection (1), for "this Part" substitute "section 57".

(5) In section 63 (guidance on corporate parenting)—

(a) before subsection (1), insert—

"(A1) The Scottish Ministers must issue guidance about corporate parenting.",

(b) in subsection (1), for "any guidance about corporate parenting issued by the Scottish Ministers" substitute "guidance issued under subsection (A1)",

(c) in subsection (2)—

(i) in the opening words, for "may" substitute "must",

(ii) in paragraph (a)(i), after "responsibilities" insert "(including in relation to unaccompanied asylum-seeking children)",

(iii) after paragraph (b), insert—

"(c) training (including renewal of training) in relation to corporate parenting responsibilities.",

(d) after subsection (2), insert—

"(2A) Guidance must also refer corporate parents to the guidance issued under section 13(1) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.

(2B) Guidance may include advice and information about when and how it might be desirable for corporate parents (in so far as consistent with the proper exercise of their other functions and in so far as they have power to do so) to continue doing the things mentioned in paragraphs (a) to (f) of section 58(1) in relation to young people aged 26 or over who were at any point in their lives looked after.".

CHAPTER 3

PROVISION OF CHILDREN'S CARE SERVICES

Requirements on certain care providers

27 Children's residential care services: profit limitation

(1) The Public Services Reform (Scotland) Act 2010 is amended as follows.

(2) After section 78G, insert—

"Regulations under section 78: profit limitation in children's residential care services

78H Children's residential care services

(1) The Scottish Ministers—

(a) must exercise the power under section 78(2) to impose on types of person falling within subsection (3), in relation to such time period as is specified in the regulations, an initial information requirement, and

(b) may (subject to section 78I) exercise that power to impose on such types of person—

(i) a profit limitation requirement, and

(ii) a continuing information requirement.

(2) Despite subsection (1)(a), the power under section 78(2) is not to be exercised so as to impose an initial information requirement on a type of person falling within subsection (3) in relation to a period during which a profit limitation requirement applies in relation to that type of person.

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

(a) provides—

(i) a care home service which is provided wholly or mainly to children,

(ii) a school care accommodation service, or

(iii) a secure accommodation service, and

(b) is not a local authority.

(4) Regulations under section 78(2) which impose an initial information requirement or a continuing information requirement on types of person falling within subsection (3) may also impose such a requirement on a parent undertaking or a subsidiary undertaking (within the meaning of section 1162 of the Companies Act 2006) of such types of person.

(5) An initial information requirement is a requirement to provide to the Scottish Ministers such financial and other information as is—

(a) required for the purpose mentioned in subsection (6), and

(b) of a type specified in the regulations.

(6) The purpose is assessing the level of profit made by the types of person falling within subsection (3) from provision of the services mentioned in that subsection in order to inform consideration of—

(a) whether a profit limitation requirement should be imposed, and

(b) if such a requirement is to be imposed, how the requirement should be expressed.

(7) A profit limitation requirement—

(a) is a requirement that any profit made by a type of person falling within subsection (3) from provision of a service mentioned in that subsection must not exceed an amount specified in, or determined in accordance with, the regulations, but

(b) does not apply to a person falling within subsection (3) if the person is a charity.

(8) A continuing information requirement is a requirement to provide to the Scottish Ministers on an annual basis such financial and other information as is—

(a) required for the purposes mentioned in subsection (9), and

(b) of a type specified in the regulations.

(9) The purposes are assessing—

(a) compliance with a profit limitation requirement,

(b) the level of profit made by types of person falling within subsection (3) from provision of the services mentioned in that subsection in order to inform consideration of—

(i) whether a profit limitation requirement should be modified, and

(ii) if such a requirement is to be modified, how the modified requirement should be expressed.

(10) The initial information requirement and the continuing information requirement include power for the Scottish Ministers to require types of person falling within subsection (3), or a parent or subsidiary undertaking mentioned in subsection (4) to whom the requirement applies, to provide to them such additional information in connection with information provided in compliance

with those requirements as they consider necessary for the purposes mentioned in subsection (6) or, as the case may be, (9).

(11) Without prejudice to the generality of section 78(2), regulations under that section imposing the requirements mentioned in subsection (1) may specify—

(a) how the level of profit made by types of person falling within subsection (3) from the provision of services mentioned in that subsection is to be determined,

(b) the form in which, and time period within which, information is to be provided to the Scottish Ministers for the purposes of the initial information requirement and the continuing information requirement.

(12) Before imposing (or modifying) a requirement mentioned in subsection (1), the Scottish Ministers must consult—

(a) local authorities,

(b) persons who appear to the Scottish Ministers to represent the interests of persons falling within subsection (3) to whom the requirement would apply,

(c) persons who appear to the Scottish Ministers to represent the interests of any parent or subsidiary undertakings mentioned in subsection (4) to whom the requirement would apply,

(d) such other persons as the Scottish Ministers consider appropriate.

(13) The Scottish Ministers may by regulations modify subsection (3) to add a person, or description of person, as being a person who falls within that subsection.

(14) Before making regulations under subsection (13), the Scottish Ministers must consult such persons as they consider appropriate.

78I Conditions for imposing or modifying profit limitation requirement

(1) The Scottish Ministers may impose (or modify) a profit limitation requirement only—

(a) if satisfied that it is necessary to do so, having regard to the public interest in securing that persons falling within section 78H(3) are providing care on terms which represent value for money, and

(b) after having regard—

(i) where a profit limitation requirement is being imposed for the first time, to the information provided by persons falling within section 78H(3) or parent or subsidiary undertakings mentioned in section 78H(4) in compliance with an initial information requirement,

(ii) otherwise, to the information provided by persons falling within section 78H(3) or parent or subsidiary undertakings mentioned in section 78H(4) in compliance with a continuing information requirement in the period since the profit limitation requirement was first imposed or, as the case may be, last modified.

(2) When considering whether to impose (or modify) a profit limitation requirement, the Scottish Ministers must—

(a) treat the need to safeguard and promote the wellbeing of children being looked after by local authorities as their primary concern,

(b) subject to that, also have regard to—

(i) the interests of local authorities, and

(ii) the interests of persons falling within section 78H(3) (including the opportunity to make a profit).

(3) For the purpose of subsections (1)(a) and (2)(b)(ii), a reference to persons falling within section 78H(3) does not include a reference to persons who are charities.

(4) In this section, "looked after" is to be construed in accordance with section 17 of the Children (Scotland) Act 1995.

78J Enforcement of information and profit limitation requirements

Regulations under section 78(2) may—

(a) require a person to pay a monetary penalty if the person has failed to comply with a requirement mentioned in section 78H(1) to which the person was subject,

(b) make further provision in relation to the monetary penalties mentioned in paragraph (a), including provision as to—

(i) procedures to be followed before such penalties are imposed,

(ii) the level of such penalties,

(iii) the person to whom such penalties are to be paid,

(iv) appeals against the imposition of a requirement to pay such a penalty,

(c) include provision as to the Scottish Ministers informing SCSWIS when a person falling within section 78H(3) has failed to comply with a requirement mentioned in section 78H(1).".

(3) In section 104 (orders and regulations: procedure), in subsection (2), after "78," insert "78H(13),".

(4) In section 105(1) (interpretation of Part 5), in paragraph (c) of the definition of "child", for "and 78(2A) and (2B)" substitute ", 78(2A) and (2B), 78H(3) and 78I(2)".

28 Fostering services to be charities

(1) The Public Services Reform (Scotland) Act 2010 is amended as follows.

(2) In section 59 (registration of care services), for subsection (3) substitute—

"(3) A person who provides—

(a) an adoption service must be a voluntary organisation,

(b) a fostering service must be a charity.".

(3) In section 105 (interpretation of Part 5)—

(a) in subsection (1)—

(i) at the appropriate place in alphabetical order insert—

""charity" means a non-natural person—

(a) registered in the Scottish Charity Register,

(b) which—

(i) is registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011, or

(ii) by virtue of subsection (2) of that section, is not required to register as a charity under that section, or

(c) which—

(i) is registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008, or

(ii) by virtue of subsection (2A) of that section, is not required to register as a charity under that section,",

(ii) in the definition of "voluntary organisation"—

(A) the words from "means" to the end become paragraph (a),

(B) after that paragraph, insert—

"(b) includes, in particular, a charity,",

(b) after subsection (3) insert—

"(4) The Scottish Ministers may by regulations modify the definition of "charity" in subsection (1) so as to specify further descriptions of person who are a charity for the purposes of this Part.".

(4) In section 104 (orders and regulations: procedure), in subsection (2), after "82B(1)" insert ", 105(4)".

29 Services taking cross-border placements

(1) The Public Services Reform (Scotland) Act 2010 is amended as follows.

(2) In section 105(1) (interpretation of Part 5), in the definition of "cross-border placement", for "a residential establishment" substitute "residential accommodation".

Register of foster carers

30 Register of foster carers

(1) The Scottish Ministers may make arrangements for the establishment and maintenance of a register of foster carers for the purposes of facilitating—

(a) either or both—

(i) the approval (or otherwise) of persons as foster carers by fostering services,

(ii) the placing of children with foster carers by fostering services,

(b) foster care generally (including improvements in foster care).

(2) The register is to include, in relation to each person who has been approved as a foster carer by a fostering service—

(a) the person's name and address,

(b) whether—

(i) the person is approved as a foster carer, or

(ii) the person's approval as a foster carer has been terminated,

(c) where the person is approved as a foster carer, what foster care the person is providing,

(d) where the person's approval as a foster carer has been terminated, the reasons for that termination,

(e) such other information in relation to the person's current or previous approval as a foster carer as may be specified (for example, whether the person's approval relates to any child or to a particular category of children and the number of children the person is permitted to have in the person's care at any one time),

(f) such other information about—

(i) the person, and

(ii) other members of the person's household,

as may be specified.

(3) The register may also include such information as is specified about persons who have been considered by a fostering service for approval as a foster carer but not so approved.

(4) The information mentioned in subsections (2) and (3) is to be provided to the relevant person by the fostering service which approved or, as the case may be, did not approve the person to whom the information relates as a foster carer.

(5) In this section, "specified" means specified in regulations made by the Scottish Ministers.

31 Register of foster carers: further provision

(1) The Scottish Ministers may by regulations make further provision in relation to—

(a) the arrangements to be made under section 30(1),

(b) the register of foster carers.

(2) Provision made under subsection (1) may, in particular, include provision—

(a) as to circumstances in which information in relation to a person who has been approved (or not approved) as a foster carer by a fostering service is not to be included in the register (and in relation to which section 30(4) accordingly does not apply),

(b) as to when and how information mentioned in section 30(2) and (3) is be provided by a fostering service to the relevant person,

(c) as to when information in relation to a person is to be removed from the register,

(d) as to the form in which information included in the register is to be kept,

(e) creating offences in relation to—

(i) failures by fostering services to provide information as required by section 30(4),

(ii) the provision of late or incorrect information,

(f) modifying Part 5 of the Public Services Reform (Scotland) Act 2010 so as to—

(i) provide for offences created by virtue of paragraph (e) to be relevant offences, or

(ii) otherwise make provision as to how the matters mentioned in paragraph (e)(i) and (ii) are to be treated,

for the purposes of that Part,

(g) as to the payment of fees in connection with—

(i) the inclusion of information in the register,

(ii) the disclosure of information from the register,

(iii) other matters relating to the register.

32 Disclosure of information

(1) The register of foster carers is not to be open to public inspection or search.

(2) The Scottish Ministers, by regulations—

(a) must authorise the disclosure of information derived from the register by the relevant person to a fostering service for a purpose mentioned in section 30(1)(a),

(b) may authorise the disclosure of information derived from the register by the relevant person to other persons for the purpose mentioned in section 30(1)(b), for example, for use—

(i) for statistical or research purposes,

(ii) in identifying training, development and other support needs of foster carers,

(c) may authorise the disclosure of information derived from the register by a fostering service to other persons for purposes specified in the regulations.

(3) Authority to disclose information by virtue of regulations made under subsection (2) is subject to any further provision made in the regulations as to such disclosure, including provision—

(a) setting out conditions on which information may be disclosed (for example, a condition that information for use as mentioned in subsection (2)(b)(i) or (ii) must be anonymised),

(b) specifying steps to be taken by a fostering service in relation to information disclosed to it.

(4) It is an offence to disclose any information derived from the register other than in accordance with regulations made under subsection (2).

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

(6) A person who is guilty of an offence under this section is liable on summary conviction to—

(a) imprisonment for a term not exceeding 3 months,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

33 Establishment and maintenance of register by person other than Scottish Ministers

(1) Arrangements made by the Scottish Ministers under section 30(1) may in particular—

(a) authorise an organisation to perform the Scottish Ministers' functions in relation to the register (other than functions of making subordinate legislation),

(b) provide for the Scottish Ministers to make payments to an organisation authorised under paragraph (a).

(2) The Scottish Ministers must publish arrangements under section 30(1) in so far as they authorise an organisation as mentioned in subsection (1)(a).

(3) An organisation authorised in pursuance of subsection (1) must perform functions delegated to it in accordance with any directions (general or specific) given to it by the Scottish Ministers.

34 Pilot scheme

(1) The Scottish Ministers may, by regulations, provide for the carrying out of a pilot scheme in relation to the register of foster carers.

(2) Regulations under subsection (1) must provide that arrangements made under section 30(1) are, for a period specified in the regulations, to apply—

(a) only—

(i) in relation to such fostering services as are specified in the regulations (for example, fostering services operating in a particular area), or

(ii) in relation to such matters as are specified in the regulations (for example, the identification of persons who are able to provide respite foster care), or

(b) in relation to such fostering services as are specified in the regulations, in relation to such matters as are specified in the regulations.

(3) As soon as reasonably practicable after making regulations under subsection (1), the Scottish Ministers must lay before the Scottish Parliament a statement describing—

(a) the pilot scheme, and

(b) how they intend to evaluate the pilot scheme.

(4) As soon as reasonably practicable after the expiry of the period mentioned in subsection (2), the Scottish Ministers must lay before the Scottish Parliament—

(a) an evaluation of the pilot scheme, and

(b) a statement describing what action they intend to take in connection with section 30(1) as a result of the pilot scheme.

35 Register of foster carers: interpretation

In sections 30 to 34—

"foster carer" means a person approved as suitable to be a foster carer in accordance with the Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210) (and references to a person being approved or not approved as a foster carer, or to a person's approval being terminated, are to be construed accordingly),

"fostering service" means a service which is provided by—

(a) a local authority under paragraph (a) of section 26(1) of the Children (Scotland) Act 1995 (fostering of children looked after by a local authority), or

(b) a person other than a local authority and which consists of, or includes, the making of arrangements for or in connection with the performance of functions assigned to a local authority—

(i) under that paragraph, or

(ii) by virtue of section 5(2) to (4) of the Social Work (Scotland) Act 1968 (regulations relating to performance of functions assigned to a local authority under that Act),

"register of foster carers" means the register established and maintained under section 30(1),

"relevant person" means—

(a) where the Scottish Ministers have authorised an organisation to perform the Scottish Ministers' functions in relation to the register under section 33, that person,

(b) otherwise, the Scottish Ministers.

Allowances and other payments

36 Allowances and other payments

(1) The Adoption and Children (Scotland) Act 2007 is amended as follows.

(2) In section 110 (allowances for care of certain children: regulations)—

(a) in subsection (1)—

(i) the words from "payments" to the end of the subsection become paragraph (a),

(ii) after that paragraph insert—

"(b) other payments by a local authority to foster carers.",

(b) in subsection (3), after paragraph (e) insert—

"(f) requiring local authorities to publish the rates paid by them, broken down into allowances, fees and any other payments, in such manner and at such times as may be specified.",

(c) after subsection (6) insert—

"(7) In this section, "foster carer" means a person approved as suitable to be a foster carer in accordance with the Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210).".

(3) The section title of section 110 becomes "Allowances and other payments for care of certain children: regulations".

(4) The italic heading immediately before section 110 becomes "Care allowances and other payments: regulations".

37 Uprating of allowances

(1) The Adoption and Children (Scotland) Act 2007 is amended by subsections (2) and (3).

(2) In section 110 (allowances for care of certain children: regulations), after subsection (3) insert—

"(3A) Sections 86A and 86B of the Social Security (Scotland) Act 2018 apply as if a rate of payment specified in regulations made under subsection (1)(a) was a relevant figure for the purposes of those sections.".

(3) In section 117 (orders and regulations), in subsection (5), paragraph (a), after sub-paragraph (iii) insert—

"(iv) section 110(1)(a) which make provision of a kind mentioned in subsection (3)(c) of that section,"

(4) The Children and Young People (Scotland) Act 2014 is as amended by subsections (5) and (6).

(5) In section 73 (kinship care assistance: further provision)—

(a) after subsection (2) insert—

"(2A) Sections 86A and 86B of the Social Security (Scotland) Act 2018 apply as if a rate of payment specified in regulations mentioned in subsection (2B) was a relevant figure for the purposes of those sections.

(2B) The regulations are regulations made under section 71(2) that specify a rate of payment to be made to kinship carers.",

(b) after subsection (4) insert—

"(5) In this section, "kinship carer" means a person approved as suitable to be a kinship carer in accordance with the Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210).".

(6) In section 99 (subordinate legislation), in subsection (2), after "section 68(3)(b)" insert—

"section 71(2), where provision of a kind mentioned in section 73(2B) is made".

Guidance on use of restraint and seclusion in relevant care services

38 Guidance on use of restraint and seclusion in relevant care services

(1) The Scottish Ministers must issue guidance to managers of relevant care services about the use of restraint and seclusion in relevant care services.

(2) Guidance under subsection (1) must in particular include guidance about—

(a) the meanings of restraint and seclusion for the purposes of this section,

(b) appropriate and inappropriate forms of restraint and seclusion,

(c) alternatives to restraint and seclusion,

(d) action that might be taken to prevent or minimise the use of restraint and seclusion,

(e) matters to be taken into consideration with a view to safeguarding persons being provided with a relevant care service who are subject to restraint or seclusion,

(f) legal requirements, and any other legal considerations, that might apply or be relevant to the use of restraint or seclusion,

(g) action to be taken following an incident resulting in the use of restraint or seclusion,

(h) the recording, reporting and monitoring of incidents involving the use of restraint or seclusion,

(i) inspection of the practice of restraint and seclusion,

(j) the training of staff in the use of restraint and seclusion,

(k) processes for the making of complaints about the use of restraint and seclusion and the provision of information about the making of such complaints,

(l) action to be taken to resolve or remedy complaints.

(3) The Scottish Ministers must keep the guidance under review and may issue revised guidance from to time to time.

(4) Guidance under this section may make different provision for different purposes, including different provision for different relevant care services.

(5) Before issuing guidance or revised guidance under this section, the Scottish Ministers must consult—

(a) managers of relevant care services,

(b) Social Care and Social Work Improvement Scotland,

(c) the Commissioner for Children and Young People in Scotland,

(d) persons who are being provided with, or who have at any time been provided with, a relevant care service,

(e) such other persons as the Scottish Ministers consider appropriate.

(6) For the purposes of subsection (5), it is immaterial that anything done by way of consultation in relation to the first guidance issued under this section was done before this section comes into force.

(7) A manager of a relevant care service must have regard to guidance and revised guidance issued under this section.

(8) Guidance and revised guidance issued under this section must be published in such manner as the Scottish Ministers consider appropriate.

(9) In this section—

"relevant care service" means—

(a) a care home service which is provided wholly or mainly to children,

(b) a school care accommodation service which is provided within the same facility as a secure accommodation service,

(c) a secure accommodation service,

"care home service" has the meaning given by paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010,

"school care accommodation service" has the meaning given by paragraph 3 of that schedule,

"secure accommodation service" has the meaning given by paragraph 6 of that schedule.

Report on deaths of care-experienced persons

39 Report on deaths of care-experienced persons

(1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period—

(a) prepare a report on any deaths mentioned in subsection (2) which are notified to them during the reporting period,

(b) make the report publicly available, and

(c) lay a copy of the report before the Scottish Parliament.

(2) The deaths referred to in subsection (1)(a) are those—

(a) of children who were being looked after by a local authority at the time of their death and which are notified to the Scottish Ministers by a local authority,

(b) which are notified to the Scottish Ministers by a local authority under—

(i) section 26A(10) of the Children (Scotland) Act 1995,

(ii) section 4(4) of this Act.

(3) A report under subsection (1) may include, for example, information about—

(a) the number of deaths,

(b) the age ranges within which those individuals fell at the time of their deaths,

(c) where known, the causes of death,

(d) the types of review (if any) which have been undertaken or are underway in respect of the deaths.

(4) A person mentioned in subsection (5) must comply with any written direction issued by the Scottish Ministers requiring the person to provide such information as is specified by Ministers in the direction (being information which they consider that they require in connection with the production of a report under subsection (1)).

(5) The persons referred to in subsection (4) are—

(a) Social Care and Social Work Improvement Scotland,

(b) a local authority,

(c) any other person.

(6) In this section, "reporting period" means—

(a) the period of 1 year beginning with the day of Royal Assent,

(b) each subsequent period of 1 year.

CHAPTER 4

SUPPORT FOR ADOPTION

40 Peer support services

(1) The Adoption and Children (Scotland) Act 2007 is amended as follows.

(2) After section 12, insert—

"Other support for adoptions

12A Duty to promote peer support services

(1) Where peer support services are available in a local authority's area for persons mentioned in section 1(3), the local authority must take reasonable steps to promote awareness of, and encourage the uptake of, such services by such persons throughout the adoption process and after any adoption has taken place.

(2) In subsection (1), "peer support" means support in relation to adoption that is provided by persons with lived experience of the adoption process.".

CHAPTER 5

CHILDREN'S HEARINGS

Composition etc. of Children's Panel, children's hearings and pre-hearing panels

41 Single member children's hearings and pre-hearing panels

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

(2) In section 4 (the Children's Panel)—

(a) after subsection (1) insert—

"(1A) Persons appointed under subsection (1)—

(a) must include—

(i) ordinary members, and

(ii) chairing members, and

(b) may include specialist members of such types as the National Convener considers appropriate.",

(b) in subsection (2)—

(i) for paragraph (a) substitute—

"(a) such number of—

(i) ordinary members,

(ii) chairing members, and

(iii) where the National Convener has decided to appoint specialist members of a particular type, that type of member,

as the National Convener considers appropriate is appointed, and",

(ii) in paragraph (b), for "persons" substitute "both ordinary members and chairing members".

(3) In section 5 (children's hearing)—

(a) the words from "three members" to "enactment" become paragraph (a),

(b) after that paragraph insert ", or

(b) one member of the Children's Panel selected in accordance with section 6A for the purpose of carrying out functions which are—

(i) conferred on a children's hearing by virtue of this Act or any other enactment, and

(ii) permitted by this Act or any other enactment to be carried out by one member of the Children's Panel.".

(4) After section 5, insert—

"5A Pre-hearing panel

A pre-hearing panel consists of—

(a) three members of the Children's Panel selected in accordance with section 6 for the purpose of carrying out functions conferred on a pre-hearing panel by virtue of this Act, rules made under section 177 or any other enactment,

(b) one member of the Children's Panel selected in accordance with section 6A for the purpose of carrying out functions which are—

(i) conferred on a pre-hearing panel by virtue of this Act, rules made under section 177 or any other enactment, and

(ii) permitted by rules made under section 177 or any other enactment to be carried out by one member of the Children's Panel.".

(5) In section 6 (selection of members of children's hearing)—

(a) in subsection (1)—

(i) the words from "a children's hearing" to "enactment" become paragraph (a),

(ii) after that paragraph insert ", and

(b) either—

(i) the functions to be carried out by the children's hearing consist of or include functions which are not permitted to be carried out by one member of the Children's Panel, or

(ii) the National Convener is required to select three members of the Children's Panel as members of the children's hearing by virtue of section 6B(4)(b)(ii) or 6C(5)(b).",

(b) in subsection (3), before paragraph (a), insert—

"(za) includes at least one chairing member,",

(c) for subsection (4) substitute—

"(4) A children's hearing is to be chaired by—

(a) the chairing member selected by the National Convener as a member of the children's hearing, or

(b) where the children's hearing includes more than one chairing member, the chairing member selected by the National Convener to chair the children's hearing.

(4A) The National Convener must, in selecting the members of the children's hearing (including, where subsection (4)(b) applies, the chairing member who is to chair the hearing)—

(a) subject to paragraph (b), have regard to the desirability of the same chairing member chairing all children's hearings and pre-hearing panels held in relation to a child,

(b) so far as practicable, not select as the chairing member of a children's hearing to be held in relation to a child a chairing member who has, following a previous children's hearing held in relation to the child, notified the National Convener under subsection (2) of section 6D that subsection (3) of that section applies.",

(d) for subsection (5) substitute—

"(5) In this section—

"children's hearing" includes (except in subsection (4B)) a pre-hearing panel,

"permitted", in relation to a function to be carried out by a children's hearing or a pre-hearing panel, means permitted by this Act, rules made under section 177 or, as the case may be, any other enactment.".

(6) The section title of section 6 becomes "Selection of members of children's hearing: three member hearing".

(7) After section 6, insert—

"6A Selection of members of children's hearing: one member hearing

(1) This section applies where—

(a) a children's hearing requires to be arranged by virtue of, or for the purposes of, this Act or any other enactment,

(b) the functions to be carried out by the hearing consist solely of functions which are permitted to be carried out by one member of the Children's Panel, and

(c) the National Convener is not required to select three members of the Children's Panel as members of the children's hearing by virtue of section 6B(4)(b)(ii) or 6C(5)(b).

(2) The National Convener must select one member of the Children's Panel for the children's hearing.

(3) The member of the Children's Panel selected under subsection (2) must be a chairing member.

(4) The National Convener must, in selecting the member of the Children's Panel for the children's hearing—

(a) subject to paragraph (b), have regard to the desirability of the same chairing member chairing all children's hearings and pre-hearing panels held in relation to a child,

(b) so far as practicable, not select as the member of a children's hearing to be held in relation to a child a chairing member who has, following a previous children's hearing held in relation to the child, notified the National Convener under subsection (2) of section 6D that subsection (3) of that section applies.

(5) The National Convener must ensure that, so far as practicable, the member of the children's hearing lives or works in the area of the local authority which is the relevant local authority for the child to whom the hearing relates.

(6) In this section—

"children's hearing" includes a pre-hearing panel,

"permitted" has the same meaning as in section 6.

6B Selection of additional members of children's hearing

(1) This section applies where—

(a) a children's hearing is to be held in relation to a child by virtue of, or for the purposes of, this Act or any other enactment, and

(b) the children's hearing consists of one member of the Children's Panel selected by the National Convener in accordance with section 6A ("the selected chairing member").

(2) The selected chairing member must, before the children's hearing is held, determine whether subsection (3) applies.

(3) This subsection applies where the selected chairing member considers that, in the circumstances of the case, it is appropriate for the functions which are to be carried out by the children's hearing to be carried out by a children's hearing consisting of three members of the Children's Panel.

(4) Where subsection (3) applies—

(a) the selected chairing member must notify the National Convener of that fact, and

(b) the National Convener must—

(i) select, in accordance with subsection (5), an additional two members of the Children's Panel as members of the children's hearing, or

(ii) where it is no longer practicable for the selected chairing member to chair the children's hearing, select in accordance with section 6 three members of the Children's Panel as members of the children's hearing.

(5) The National Convener must ensure that the children's hearing, so far as practicable—

(a) includes both male and female members of the Children's Panel, and

(b) consists only of members of the Children's Panel who live or work in the area of the local authority which is the relevant local authority for the child to whom the hearing relates.

(6) Where, following the selection of an additional two members of the Children's Panel as members of the children's hearing under subsection (4)(b)(i), the children's hearing includes more than one chairing member, the children's hearing is to be chaired by the selected chairing member unless the National Convener selects another chairing member to chair the hearing.

(7) The National Convener must, in selecting the additional members of the children's hearing (including selecting which chairing member is to chair the children's hearing)—

(a) subject to paragraph (b), have regard to the desirability of the same chairing member chairing all children's hearings and pre-hearing panels held in relation to a child,

(b) so far as practicable, not select as the chairing member of a children's hearing to be held in relation to a child a chairing member who has, following a previous children's hearing held in relation to the child, notified the National Convener under subsection (2) of section 6D that subsection (3) of that section applies.

(8) In this section, "children's hearing" includes a pre-hearing panel.

6C Selection of members of children's hearing: determination by previous children's hearing

(1) This section applies where a children's hearing is held in relation to a child.

(2) Where there is no subsisting determination that subsection (3) applies, the chairing member of the children's hearing may, at the conclusion of the children's hearing, make a determination as to whether subsection (3) applies.

(3) This subsection applies where the chairing member considers that, in the circumstances of the case, it is appropriate for the functions of any subsequent children's hearing falling with subsection (4) which requires to be arranged in relation to the child to be carried out by a children's hearing consisting of three members of the Children's Panel.

(4) A children's hearing falls within this subsection if the functions to be carried out by the children's hearing consist solely of functions which are permitted to be carried out by one member of the Children's Panel.

(5) Where the chairing member of the children's hearing determines under subsection (2) that subsection (3) applies—

(a) the chairing member must, as soon as reasonably practicable after making the determination, notify the National Convener of that fact, and

(b) the National Convener must, in relation to any subsequent children's hearing falling within subsection (4) which requires to be arranged in relation to the child, select in accordance with section 6 three members of the Children's Panel as members of the children's hearing.

(6) Where there is a subsisting determination that subsection (3) applies, the chairing member of any subsequent children's hearing held in relation to the child may make a determination as to whether subsection (3) continues to apply.

(7) Where the chairing member of a subsequent children's hearing determines under subsection (6) that subsection (3) no longer applies—

(a) the chairing member must, as soon as reasonably practicable after making the determination, notify the National Convener of that fact, and

(b) subsection (5)(b) ceases to apply.

(8) In this section—

"children's hearing" includes a pre-hearing panel, and

"permitted" has the same meaning as in section 6.

6D Selection of members of children's hearing: continuity of membership

(1) This section applies where—

(a) a children's hearing (whether consisting of one member or three members of the Children's Panel) is held in relation to a child, and

(b) the outcome of the children's hearing is such that at least one subsequent children's hearing will require to be held in relation to the child.

(2) The chairing member must, where subsection (3) applies, notify the National Convener of that fact as soon as reasonably practicable after the children's hearing.

(3) This subsection applies where the chairing member considers that it would not be in the best interests of the child for the chairing member to be selected as the chairing member of any subsequent children's hearings to be held in relation to the child.

(4) The chairing member must, in considering whether subsection (3) applies, have regard to any views expressed by the child.

(5) In this section, "children's hearing" includes a pre-hearing panel.".

(8) In section 79 (pre-hearing panels)—

(a) in subsection (2)(a), for the words from "three members" to "(a "pre-hearing panel")" substitute "a pre-hearing panel",

(b) subsection (6) is repealed.

(9) Before section 90, insert—

"89A Membership of grounds hearings

(1) A children's hearing—

(a) arranged under section 69B, 69C or 69F for the purpose of deciding whether a compulsory supervision order should be made in respect of the child must consist of three members of the Children's Panel,

(b) arranged under section 69C for the purpose of considering the statement of grounds may consist of—

(i) three members of the Children's Panel, or

(ii) one member of the Children's Panel,

(c) arranged under section 89B(5), 89C(8)(a) or 95(2) may consist of—

(i) three members of the Children's Panel, or

(ii) one member of the Children's Panel.

(2) In this Act, "grounds hearing" means a children's hearing arranged by virtue of a provision mentioned in subsection (1).".

(10) In section 91 (grounds accepted: powers of grounds hearing)—

(a) in subsection (1)(b), for "to make a decision on whether to make a compulsory supervision order" substitute "for a decision on whether to make a compulsory supervision order to be made",

(b) after subsection (1) insert—

"(1A) Subsection (1B) applies where the grounds hearing consists of one member of the Children's Panel.

(1B) The grounds hearing must require the Principal Reporter to arrange a children's hearing for the purpose of deciding whether a compulsory supervision order should be made in respect of the child.

(1C) Subsections (2) and (3) apply where the grounds hearing consists of three members of the Children's Panel.".

(11) In section 92 (powers of grounds hearing on deferral), in subsection (1)—

(a) after "where" insert "—

"(a) under section 91(1B), the grounds hearing requires the Principal Reporter to arrange a children's hearing for the purpose of deciding whether a compulsory supervision order should be made in respect of the child, or",

(b) the words from "under section 91(2)" to the end become paragraph (b).

(12) In section 93 (grounds not accepted: application to sheriff or discharge), in subsection (1)(a), for "to make a decision on whether to make a compulsory supervision order" substitute "for a decision on whether to make a compulsory supervision order to be made".

(13) In section 96 (children's hearing to consider need for further interim compulsory supervision order), after subsection (2) insert—

"(2A) The children's hearing may consist of—

(a) three members of the Children's Panel, or

(b) one member of the Children's Panel.".

(14) In section 119 (children's hearing following deferral or proceedings under Part 10), in subsection (1), for "section 91(2)," substitute "section 91(1B) or (2),".

(15) In section 177 (children's hearings: procedural rules)—

(a) in subsection (2), after paragraph (a) insert—

"(aa) specifying whether a matter that may be determined by a pre-hearing panel (whether by virtue of paragraph (a) or otherwise) may be determined by a pre-hearing panel consisting of one member of the Children's Panel,",

(b) in subsection (4), after "subsection (2)(a)" insert ", (aa)".

(16) In section 202 (interpretation)—

(a) in subsection (1)—

(i) in the definition of "grounds hearing" for "section 90" substitute "section 89A(2)",

(ii) in the definition of "pre-hearing panel" for "section 79(2)(a)" substitute "section 5A",

(b) in subsection (2), after "are" insert ", where the children's hearing consists of three members of the Children's Panel,",

(c) in subsection (2A), after "are" insert ", where the pre-hearing panel consists of three members of the Children's Panel,".

(17) In schedule 2 (the Children's Panel), in paragraph 1—

(a) in sub-paragraph (1)—

(i) for "members" substitute "ordinary members, chairing members and (where the National Convener considers it appropriate) particular types of specialist members",

(ii) for "as a member" substitute "as any type of member",

(b) for sub-paragraph (2) substitute—

"(2) It is for the National Convener—

(a) to determine any qualifications and experience that a person must have in order to be appointed as—

(i) an ordinary member,

(ii) a chairing member, or

(iii) a specialist member of a particular type, and

(b) to appoint persons as ordinary members, chairing members and (where the National Convener considers it appropriate) particular types of specialist members from those recruited under sub-paragraph (1).",

(c) in sub-paragraph (5), for "a panel member" substitute "an ordinary member, a chairing member or, as the case may be, a specialist member".

42 Remuneration of Children's Panel members

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

(2) In schedule 2 (the Children's Panel), in paragraph 4—

(a) in sub-paragraph (1), for the words from "the allowances" to the end substitute "—

(a) the allowances to be paid to—

(i) panel members,

(ii) potential panel members,

(b) remuneration to be paid to panel members.",

(b) in sub-paragraph (3)—

(i) the words from "to panel members" to "sub-paragraph (1)" become sub-sub-paragraph (a),

(ii) in that sub-sub-paragraph, for "sub-paragraph (1)" substitute "sub-paragraph (1)(a)",

(iii) after that sub-sub-paragraph insert ", and

(b) to panel members remuneration determined under sub-paragraph (1)(b).".

Child's attendance at children's hearings and hearings before sheriff

43 Child's attendance at children's hearings and hearings before sheriff

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

(2) In section 73 (child's duty to attend hearing)—

(a) for subsection (2) substitute—

"(2) The child must attend all or part of the children's hearing if required to do so by—

(a) that children's hearing, or

(b) a previous children's hearing or pre-hearing panel held in relation to the child.",

(b) for subsection (3) substitute—

"(3) A children's hearing may require a child to attend all or part of the children's hearing only if satisfied that the child's attendance at the hearing, or that part of the hearing, is necessary—

(a) for a fair hearing, or

(b) to assist the children's hearing in making any decision relating to the child.

(3A) In deciding whether to require a child to attend all or part of a children's hearing, the children's hearing must have regard, in particular, to whether—

(a) the child's attendance at the hearing, or that part of the hearing, would place the child's health, safety or development at risk, and

(b) taking account of the child's age and maturity, the child would be capable of understanding what happens at the hearing or that part of the hearing.",

(c) subsection (4) is repealed.

(3) The section title of section 73 becomes "Child's duty to attend children's hearing where required".

(4) In section 78 (rights of certain persons to attend children's hearing), in subsection (1)(a), for "excused from attending" substitute "required to attend".

(5) In section 79 (referral of certain matters for pre-hearing determination)—

(a) in subsection (3)(a), for "excused from attending" substitute "required to attend all or part of",

(b) in subsection (4), for the words from "excuse the child" to the end substitute "require the child to attend all or part of a children's hearing only if satisfied (having regard to the matters mentioned in section 73(3A)) as mentioned in section 73(3).".

(6) In section 93 (grounds not accepted: application to sheriff or discharge) in subsection (4), for paragraphs (a) and (b) substitute—

"(a) explain the purpose of the application—

(i) where the child is in attendance at the hearing, to the child, and

(ii) (subject to sections 74 and 75) each relevant person in relation to the child,

(b) where the child is in attendance at the hearing, inform the child that the child—

(i) has a right to attend the hearing before the sheriff, and

(ii) may be required to do so.".

(7) In section 95 (child fails to attend grounds hearing) for subsection (1) substitute—

"(1) Subsection (2) applies where—

(a) a child is required to attend all or part of a grounds hearing, and

(b) the child does not attend as required.".

(8) The section title of section 95 becomes "Child's attendance at grounds hearing".

(9) In section 103 (child's duty to attend hearing unless excused)—

(a) in subsection (2), for the words from "the hearing" to the end substitute "all or part of the hearing of the application if required to do so by the sheriff",

(b) for subsection (3) substitute—

"(3) The sheriff may require the child to attend all or part of the hearing of the application only if satisfied that the child's attendance at the hearing, or part of the hearing, is necessary—

(a) for a fair hearing, or

(b) to assist the sheriff in making any decision relating to the child.

(3A) In deciding whether to require a child to attend all or part of a hearing, the sheriff must have regard, in particular, to whether—

(a) the child's attendance at the hearing, or that part of the hearing, would place the child's health, safety or development at risk, and

(b) taking account of the child's age and maturity, the child would be capable of understanding what happens at the hearing or that part of the hearing.",

(c) in subsection (4), for "excused from doing so under subsection (3)" substitute "not required to do so under subsection (2)",

(d) in subsection (5), for "not excused" to "does not attend" substitute "required to attend all or part of the hearing under subsection (2) and does not do so",

(e) in subsection (6)(b)—

(i) after "the sheriff" insert—

"(i) requires the child to attend all or part of the hearing on that day under subsection (2), and",

(ii) the words from "is satisfied" to the end become sub-paragraph (ii).

(10) The section title of section 103 becomes "Child's duty to attend hearing where required".

(11) In section 112 (child's duty to attend review hearing unless excused)—

(a) in subsection (2), for the words from "the hearing" to the end substitute "all or part of the hearing if required to do so by the sheriff.",

(b) after subsection (2) insert—

"(2A) Subsections (3) and (3A) of section 103 apply for the purposes of subsection (2) as they apply for the purposes of subsection (2) of that section.",

(c) in subsection (3), for "the child is excused" substitute "the child is not required to do so",

(d) for subsection (4) substitute—

"(4) The sheriff may grant a warrant to secure attendance where the sheriff—

(a) requires the child to attend all or part of the hearing under subsection (2), and

(b) is satisfied that there is reason to believe that the child would not otherwise attend the hearing.".

(12) The section title of section 112 becomes "Child's duty to attend review hearing where required".

(13) In section 119 (children's hearing following deferral or proceedings under Part 10), in subsection (4), paragraph (a) is repealed.

(14) In section 121 (confirmation that child given opportunity to express views before hearing), in subsection (1)—

(a) the words from "a children's hearing" to the end become paragraph (a),

(b) after that paragraph insert ", and

(b) the child is in attendance at the children's hearing.".

(15) In section 122 (children's advocacy services), in subsection (1)—

(a) the words from "a children's hearing" to the end become paragraph (a),

(b) after that paragraph insert ", and

(b) the child is in attendance at the children's hearing.".

(16) In section 124 (requirement to establish child's age), in subsection (2), for "ask the person in respect of whom the hearing has been arranged" substitute ", if the person in

respect of whom the hearing has been arranged is in attendance at the hearing, ask the person".

(17) In section 138 (powers of children's hearing on review)—

(a) in subsection (8)(a)—

(i) the words "child or" are repealed,

(ii) the word "73(2)," is repealed,

(b) in subsection (9), the words "child or" are repealed.

Grounds hearings

44 Role of Principal Reporter and grounds hearing

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

(2) Immediately before section 68 insert the italic heading "Action following determination under section 66".

(3) In section 69 (determination under section 66: referral to children's hearing)—

(a) in subsection (1)—

(i) the words from "having made" to the end become paragraph (a),

(ii) after that paragraph insert ", and

(b) section 69F does not apply.",

(b) after subsection (1) insert—

"(1A) The Principal Reporter must prepare the statement of grounds.",

(c) subsection (2) is repealed (but see sections 69A to 69E of the 2011 Act, as inserted by subsection (5)),

(d) subsection (3) is repealed (but see section 69F of the 2011 Act, as inserted by subsection (5)),

(e) after subsection (5) insert—

"(6) In this Act—

(a) "statement of grounds", in relation to a child, means a statement setting out—

(i) which of the section 67 grounds the Principal Reporter believes applies in relation to the child, and

(ii) the facts on which that belief is based,

(b) "supporting facts", in relation to a section 67 ground, means facts set out in relation to the ground by virtue of paragraph (a)(ii).".

(4) The section title of section 69 becomes "Determination under section 66: statement of grounds".

(5) After section 69, insert—

"69A Referral to children's hearing or application to sheriff

(1) This section applies where the Principal Reporter prepares a statement of grounds in relation to a child under section 69(1A).

(2) The Principal Reporter must—

(a) arrange a children's hearing under section 69B or 69C, or

(b) make an application to the sheriff under section 69D or 69E.

(3) Before doing so, the Principal Reporter must—

(a) offer the child and each relevant person in relation to the child an opportunity to discuss with the Principal Reporter—

(i) the statement of grounds,

(ii) the child's participation in the children's hearing arranged under section 69B or 69C or, as the case may be, the hearing of the application under section 69D or 69E before the sheriff (including the matters mentioned in subsection (6)), and

(iii) such other matters in relation to the children's hearing or, as the case may be, the hearing before the sheriff as the Principal Reporter considers appropriate, and

(b) endeavour to ensure that the discussions mentioned in paragraph (a) take place.

(4) Discussion of the statement of grounds, as mentioned in subsection (3)(a)(i), is (if such a discussion takes place) to include—

(a) the Principal Reporter explaining—

(i) each section 67 ground specified in the statement of grounds, and

(ii) the supporting facts in relation to the ground, and

(b) the Principal Reporter asking whether each person with whom the Principal Reporter is having the discussion accepts—

(i) that the ground applies in relation to the child, and

(ii) in relation to each ground that the person accepts applies in relation to the child, whether the person accepts each of the supporting facts.

(5) The explanations and questions mentioned in subsection (4) may be put to the child and each relevant person in relation to the child in such terms as the Principal Reporter considers appropriate.

(6) The matters mentioned in subsection (3)(a)(ii) are—

(a) whether the child will attend the children's hearing or, as the case may be, the hearing of the application,

(b) the most appropriate means for the child's views to be communicated to the children's hearing or sheriff,

(c) whether the child intends to use children's advocacy services.

(7) The Principal Reporter need not comply with subsections (3) and (4) to the extent that the Principal Reporter considers that—

(a) it would be inappropriate or ineffectual to do so (taking account, for example, of the child's age and maturity or, in the case of subsection (3)(b), any response received in relation to the offer made under subsection (3)(a)), or

(b) the Principal Reporter already has sufficient information, based on previous engagement (or attempts to engage) with the child and relevant persons in relation to the child, to—

(i) decide which of sections 69B to 69E applies, and

(ii) prepare a report under section 69G.

69B Arrangement of children's hearing: all grounds likely to be accepted

(1) This section applies where the Principal Reporter—

(a) has prepared a statement of grounds in relation to a child under section 69(1A), and

(b) considers that—

(i) each relevant person in relation to the child would be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(5), and

(ii) it is likely that, at a children's hearing arranged under this section, the persons mentioned in subsection (3) would accept the matters mentioned in subsection (4).

(2) The Principal Reporter must arrange a children's hearing for the purpose of deciding whether a compulsory supervision order should be made in respect of the child.

(3) The persons are—

(a) where the Principal Reporter considers that the child would not be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(4), each relevant person in relation to the child,

(b) otherwise—

(i) the child, and

(ii) each relevant person in relation to the child.

(4) The matters are—

(a) each section 67 ground specified in the statement of grounds, and

(b) the supporting facts in relation to each ground.

69C Arrangement of children's hearing: possibility of some or all grounds being accepted

(1) This section applies where—

(a) the Principal Reporter has prepared a statement of grounds in relation to a child under section 69(1A), and

(b) either subsection (2) or (3) applies.

(2) This subsection applies where the Principal Reporter—

(a) considers that each relevant person in relation to the child would be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(5), and

(b) either—

(i) considers that it is possible that, at a children's hearing arranged under this section, the persons mentioned in subsection (5) would accept the matters mentioned in subsection (6), or

(ii) is unable to form a view as to the likelihood of the persons mentioned in subsection (5) accepting, at a children's hearing arranged under this section, the matters mentioned in subsection (6).

(3) This subsection applies where the Principal Reporter is unable to form a view as to whether a relevant person in relation to the child would or would not be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(5).

(4) The Principal Reporter must arrange a children's hearing for one of the following purposes—

(a) deciding whether a compulsory supervision order should be made in respect of the child,

(b) considering the statement of grounds.

(5) The persons are—

(a) where the Principal Reporter considers that the child would not be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(4), each relevant person in relation to the child,

(b) otherwise—

(i) the child, and

(ii) each relevant person in relation to the child.

(6) The matters are—

(a) one or more of the section 67 grounds specified in the statement of grounds, and

(b) one or more of the supporting facts in relation to each ground which may be accepted.

69D Application to sheriff: grounds unlikely to be accepted

(1) This section applies where the Principal Reporter—

(a) has prepared a statement of grounds in relation to a child under section 69(1A), and

(b) considers that—

(i) each relevant person in relation to the child would be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(5), and

(ii) it is unlikely that, at a children's hearing arranged under section 69B or 69C, the persons mentioned in subsection (3) would accept one or more of the section 67 grounds specified in the statement of grounds.

(2) The Principal Reporter must make an application to the sheriff for a determination as to whether any of the section 67 grounds specified in the statement of grounds are established.

(3) The persons are—

(a) where the Principal Reporter considers that the child would not be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(4), each relevant person in relation to the child,

(b) otherwise—

(i) the child, and

(ii) each relevant person in relation to the child.

69E Application to sheriff: relevant person unable to understand grounds

(1) This section applies where the Principal Reporter—

(a) has prepared a statement of grounds in relation to a child under section 69(1A), and

(b) considers that a relevant person in relation to the child would not be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in compliance with section 90(5).

(2) The Principal Reporter must make an application to the sheriff for a determination as to whether any of the section 67 grounds specified in the statement of grounds are established.

69F Determination under section 66: referral to children's hearing where child in place of safety

(1) This section applies where—

(a) having made a determination under section 66(2) in relation to a child, the Principal Reporter considers that it is necessary for a compulsory supervision order to be made in respect of the child,

(b) the determination is made following the Principal Reporter receiving information under section 53 of the Criminal Justice (Scotland) Act 2016, and

(c) at the time the determination is made, the child is being kept in a place of safety under section 65(2)(b).

(2) The Principal Reporter must—

(a) prepare the statement of grounds, and

(b) arrange a children's hearing for the purpose of deciding whether a compulsory supervision order should be made in respect of the child.

(3) A children's hearing arranged under subsection (2) must be arranged to take place no later than the third day after the Principal Reporter receives the information mentioned in subsection (1)(b).

(4) The Principal Reporter may direct—

(a) that the child be released from the place of safety, or

(b) that the child continue to be kept in a place of safety until the children's hearing.

(5) Subsections (4) and (5) of section 69 apply for the purposes of this section as they apply for the purposes of that section.

Report by Principal Reporter

69G Report by Principal Reporter

(1) This section applies where the Principal Reporter is required—

(a) under section 69B, 69C or 69F to arrange a children's hearing in relation to a child, or

(b) under section 69D or 69E to make an application to the sheriff in relation to a child.

(2) The Principal Reporter must prepare a report setting out—

(a) except where a children's hearing is arranged under section 69F—

(i) any discussions that the Principal Reporter has had with the child or relevant persons in relation to the child before or in the course of deciding which of sections 69B to 69E applies, and

(ii) the Principal Reporter's reasons for considering that the section under which the Principal Reporter is proceeding applies,

(b) whether, so far as the Principal Reporter is aware, the child intends to attend the children's hearing or, as the case may be, the hearing before the sheriff,

(c) whether—

(i) the Principal Reporter has explained each section 67 ground specified in the statement of grounds and the supporting facts in relation to each ground to the child,

(ii) in the Principal Reporter's opinion, the child understood any such explanations, and

(iii) in the Principal Reporter's opinion, the child accepts each ground and the supporting facts in relation to the ground,

(d) any views or preferences of the child of which the Principal Reporter is aware in relation to—

(i) the child's participation in the children's hearing or, as the case may be, the hearing before the sheriff,

(ii) any other matter relating to the children's hearing or, as the case may be, the hearing before the sheriff, and

(e) such other information as the Principal Reporter considers appropriate.".

(6) Immediately before section 70 insert the italic heading "Referral to children's hearing other than following determination under section 66".

(7) After section 71, insert—

"Application to sheriff: referral to children's hearing for making of interim order

71A Application to sheriff: referral to children's hearing for making of interim compulsory supervision order

(1) This section applies where—

(a) the Principal Reporter has made an application in relation to a child to the sheriff under section 69D(2) or 69E(2),

(b) the application has not yet been heard, and

(c) the Principal Reporter considers that the nature of the child's circumstances is such that for the protection, support, guidance, treatment or control of the child it may be necessary as a matter of urgency that an interim compulsory supervision order be made in relation to the child.

(2) The Principal Reporter must arrange a children's hearing for the purpose of deciding whether to make an interim compulsory supervision order in relation to the child.

Application of Part where compulsory supervision order in force

71B Application of Part where compulsory supervision order in force

(1) This Part has effect in relation to a child mentioned in subsection (2) with the modifications set out in subsections (3) and (4).

(2) The child is a child in relation to whom a compulsory supervision order is in force.

(3) References (however expressed) to a compulsory supervision order being made (or not made) are to be read as references to the compulsory supervision order which is in force being reviewed (or not reviewed).

(4) References to an interim compulsory supervision order are to be read as references to an interim variation of the compulsory supervision order.".

(8) Section 72 (child in place of safety: Principal Reporter's powers) is repealed (but see section 69F as inserted by subsection (5)).

(9) In section 79 (referral of certain matters for pre-hearing determination)—

(a) in subsection (1), for "section 69(2)" substitute "section 69B, 69C, 69F or 71A",

(b) after subsection (1A) insert—

"(1B) Subsections (2)(a) and (b) and (5A) apply where an application to the sheriff is made by virtue of section 69D or 69E.".

(10) In section 80 (determination of matter referred under section 79)—

(a) in subsection (2)—

(i) the words "the date fixed for the children's hearing" become paragraph (a),

(ii) after that paragraph insert ", or

(b) where an application to the sheriff has been made under section 69D(2) or 69E(2), the date fixed for the hearing before the sheriff.",

(b) in subsection (3), for "subsection (2)" substitute "subsection (2)(a)".

(11) In section 86 (meaning of "interim compulsory supervision order"), in subsection (3)(b), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(12) Section 89 (statement of grounds) (and the italic heading immediately before it) are repealed (but see section 69 as amended by subsection (3)).

(13) For section 90 (grounds to be put to child and relevant person) substitute—

"89B Child's understanding of grounds

(1) This section applies where a grounds hearing is held in relation to a child.

(2) The grounds hearing must consider—

(a) whether, taking account of the child's age and maturity, the child would be capable of understanding an explanation of each section 67 ground specified in the statement of grounds given in accordance with section 90(4), and

(b) where a child who the children's hearing is satisfied would be so capable is not in attendance at the hearing, whether the child understands each section 67 ground specified in the statement of grounds.

(3) This subsection applies where the grounds hearing is satisfied, in relation to a ground—

(a) (whether or not the child is in attendance at the hearing) that the child would not be capable of understanding an explanation of the ground given in accordance with section 90(4), or

(b) where the child is not in attendance at the hearing, that the child does not understand the ground.

(4) Where subsection (3) applies, the grounds hearing may, if it considers it appropriate, proceed on the basis that the question of whether the ground is accepted (or not accepted) is to be determined with reference only to the views of (subject to sections 74 and 75) each relevant person in relation to the child.

(5) Where subsection (3) does not apply by virtue of the grounds hearing not being satisfied as to the matter mentioned in paragraph (b) of that subsection, the grounds hearing may require the Principal Reporter to arrange another grounds hearing.

(6) Subsection (7) applies—

(a) where—

(i) subsection (3) does not apply by virtue of the grounds hearing not being satisfied as to the matter mentioned in paragraph (b) of that subsection, and

(ii) the grounds hearing does not require the Principal Reporter to arrange another grounds hearing under subsection (5),

(b) where subsection (3) does not apply for any reason other than that mentioned in paragraph (a)(i).

(7) The grounds hearing must, in relation to the ground, proceed in relation to the child in accordance with—

(a) where the child is not in attendance at the hearing, section 89C,

(b) where the child is in attendance at the hearing, section 90.

89C Child's acceptance (or otherwise) of grounds where not in attendance

(1) The grounds hearing must, in relation to each ground in relation to which it is required by section 89B(7)(a) to proceed in accordance with this section, consider whether the ground is accepted by the child.

(2) This subsection applies where, in relation to a ground, the grounds hearing is satisfied that the child accepts that the ground applies in relation to the child.

(3) Where the child does not accept all of the supporting facts in relation to a ground, the grounds hearing is to be satisfied as mentioned in subsection (2) only if satisfied that the child accepts sufficient of the supporting facts to support the conclusion that the ground applies in relation to the child.

(4) Where subsection (2)—

(a) applies by virtue of subsection (3), the ground is to be taken for the purposes of this Act to be provisionally accepted by the child,

(b) otherwise applies, the ground is to be taken for the purposes of this Act to be accepted by the child.

(5) This subsection applies where, in relation to a ground, the grounds hearing is satisfied that the child does not accept—

(a) that the ground applies in relation to the child, or

(b) sufficient of the supporting facts to support the conclusion that the ground applies in relation to the child.

(6) Where subsection (5) applies, the ground is to be taken for the purposes of this Act to be not accepted by the child.

(7) This subsection applies where the grounds hearing is, for any reason, not satisfied as mentioned in either subsection (2) or subsection (5).

(8) Where subsection (7) applies, the grounds hearing must, unless the child is immediately available to attend the grounds hearing—

(a) require the Principal Reporter to arrange another grounds hearing, and

(b) subject to section 73(3), require the child to attend that hearing.

90 Grounds to be put to child where in attendance and relevant person

(1) This section applies—

(a) in relation to a child, in the circumstances mentioned in subsection (2),

(b) in relation to each relevant person in relation to the child, in the case of every grounds hearing.

(2) The circumstances are—

(a) where the grounds hearing is, in relation to a ground, required by section 89B(7)(b) to proceed in accordance with this section,

(b) where the grounds hearing would have required the Principal Reporter to arrange, in relation to a ground, another grounds hearing under section 89C(8)(a) but for the child being immediately available to attend the grounds hearing,

(c) where—

(i) the grounds hearing is arranged by virtue of section 89B(5) or 89C(8)(a), and

(ii) the child is in attendance at the hearing.

(3) The grounds hearing may, before complying with subsections (4) and (5), discuss with the child and each relevant person in relation to the child—

(a) the statement of grounds, and

(b) the Principal Reporter's report under section 69G.

(4) The chairing member must, in such manner as the chairing member considers appropriate in relation to the child—

(a) explain to the child—

(i) each relevant ground, and

(ii) the supporting facts in relation to each relevant ground, and

(b) ask the child—

(i) whether the child accepts that each relevant ground applies in relation to the child, and

(ii) in relation to each relevant ground that the child accepts applies in relation to the child, whether the child accepts each of the supporting facts.

(5) The chairing member must, in such manner as the chairing member considers appropriate in relation to each relevant person in relation to the child—

(a) explain to each such person—

(i) each section 67 ground specified in the statement of grounds, and

(ii) the supporting facts in relation to each ground, and

(b) ask the person—

(i) whether the person accepts that each ground applies in relation to the child, and

(ii) in relation to each ground that the person accepts applies in relation to the child, whether the person accepts each of the supporting facts.

(6) Subsection (5) is subject to sections 74 and 75.

(7) The grounds hearing need not, in relation to a ground, comply with subsection (5) in relation to a relevant person where the grounds hearing is satisfied that the person would not be capable of understanding an explanation of the ground given in compliance with that subsection.

(8) This subsection applies where, after complying with subsection (4), the grounds hearing is satisfied that the child has not understood an explanation of a relevant ground given in compliance with that subsection.

(9) Where subsection (8) applies, the grounds hearing may, if it considers it appropriate, proceed on the basis that the question of whether the ground is accepted (or not accepted) is to be determined with reference only to the views of (subject to sections 74 and 75) each relevant person in relation to the child.

(10) In this section, "relevant ground" means a section 67 ground specified in the statement of grounds other than a ground—

(a) in relation to which the grounds hearing is satisfied as mentioned in section 89B(3), or

(b) which is to be taken for the purposes of this Act, by virtue of—

(i) section 89C(4)(a), to be provisionally accepted by the child,

(ii) section 89C(4)(b), to be accepted by the child,

(iii) section 89C(6), to be not accepted by the child.

90A Acceptance of grounds: supporting facts

(1) This subsection applies where—

(a) a ground is to be taken for the purposes of this Act to be provisionally accepted by a child under section 89C(4)(a), and

(b) following the giving of an explanation in compliance with section 90(5), each relevant person in relation to the child accepts all of the supporting facts in relation to the ground.

(2) Where subsection (1) applies, the ground is to be taken for the purposes of this Act to have been accepted only if the grounds hearing considers it appropriate to proceed in relation to the ground on the basis of only those supporting facts that are accepted by the child.

(3) This subsection applies where—

(a) a ground is to be taken to be provisionally accepted by a child under section 89C(4)(a), and

(b) following the giving of an explanation in compliance with section 90(5), a relevant person in relation to the child does not accept all of the supporting facts in relation to the ground.

(4) Where subsection (3) applies, the ground is to be taken for the purposes of this Act to have been accepted only if—

(a) the grounds hearing is satisfied that the supporting facts accepted by the relevant person are sufficient to support the conclusion that the ground applies in relation to the child, and

(b) the grounds hearing considers that it is appropriate to proceed in relation to the ground on the basis of only those supporting facts that are accepted by the child and each relevant person in relation to the child.

(5) This subsection applies where, following the giving of explanations of a ground in compliance with section 90(4) and (5)—

(a) in a case where section 90(8) does not apply, a person does not accept all of the supporting facts in relation to the ground,

(b) in a case where section 90(8) applies, a relevant person in relation to the child does not accept all of the supporting facts in relation to the ground.

(6) Where subsection (5) applies, the ground is to be taken for the purposes of this Act to have been accepted only if—

(a) in the case mentioned in subsection (5)(a), the grounds hearing—

(i) is satisfied that the supporting facts accepted by the person are sufficient to support the conclusion that the ground applies in relation to the child, and

(ii) considers that it is appropriate to proceed in relation to the ground on the basis of only those supporting facts that are accepted by the child and each relevant person in relation to the child,

(b) in the case mentioned in subsection (5)(b), the grounds hearing—

(i) is satisfied that the supporting facts accepted by the relevant person in relation to the child are sufficient to support the conclusion that the ground applies in relation to the child, and

(ii) considers that it is appropriate to proceed in relation to the ground on the basis of only those supporting facts that are accepted by each relevant person in relation to the child.

(7) The grounds hearing must amend the statement of grounds to delete any supporting facts which are not accepted, where the ground is to be taken to be accepted for the purposes of this Act by virtue of—

(a) subsection (2), by the child,

(b) subsection (4), by the child and each relevant person in relation to the child,

(c) subsection (6)—

(i) in the case mentioned in paragraph (a) of that subsection, by the child and each relevant person in relation to the child,

(ii) in the case mentioned in paragraph (b) of that subsection, by each relevant person in relation to the child.

(8) This section is subject to sections 74 and 75.".

(14) In section 91 (grounds accepted: powers of grounds hearing), for subsection (4) substitute—

"(4) In subsection (1), "accepted" means—

(a) taken to be accepted (subject to sections 74 and 75) for the purposes of this Act by virtue of section 90A,

(b) where the grounds hearing is proceeding as permitted by section 89B(4) or 90(9), accepted (subject to sections 74 and 75) by each relevant person in relation to the child, or

(c) otherwise, accepted (or taken to be accepted for the purposes of this Act by virtue of section 89C(4)(a)) by the child and (subject to sections 74 and 75) each relevant person in relation to the child.".

(15) In section 93 (grounds not accepted: application to sheriff or discharge)—

(a) in subsection (2), the words from "by the child" to "to the child" are repealed,

(b) for subsection (7) substitute—

"(7) In this section, "accepted" means—

(a) taken to be accepted (subject to sections 74 and 75) for the purposes of this Act by virtue of section 90A,

(b) where the grounds hearing is proceeding as permitted by section 89B(4) or 90(9), accepted (subject to sections 74 and 75) by each relevant person in relation to the child, or

(c) otherwise, accepted (or taken to be accepted for the purposes of this Act by virtue of section 89C(4)(a)) by the child and (subject to sections 74 and 75) each relevant person in relation to the child.".

(16) In section 94 (child or relevant person unable to understand grounds)—

(a) for subsection (1) substitute—

"(1) Subsection (2) applies—

(a) where, in relation to a ground, the grounds hearing—

(i) is satisfied as mentioned in section 89B(3) or 90(8), and

(ii) has decided not to proceed as permitted by section 89B(4) or, as the case may be, 90(9),

(b) where the grounds hearing is satisfied (subject to sections 74 and 75) that a relevant person in relation to the child—

(i) would not be capable of understanding an explanation given in compliance with section 90(5) in relation to a ground, or

(ii) has not understood the explanation given in compliance with section 90(5) in relation to a ground.",

(b) subsection (3) is repealed (but see sections 89B and 90(7) as inserted by subsection (13)).

(17) After section 94, insert—

"94A Application to sheriff following decision to proceed on basis of relevant persons' views

(1) This section applies where the grounds hearing decides, in relation to a ground, to proceed as permitted by section 89B(4) or 90(9).

(2) On the request of a person mentioned in subsection (3), the grounds hearing must direct the Principal Reporter to make an application to the sheriff to determine whether the ground is established.

(3) The persons are—

(a) the child,

(b) a relevant person in relation to the child,

(c) if a safeguarder has been appointed, the safeguarder.

(4) A request under subsection (2) may be made only up to the point at which consideration by the grounds hearings of the acceptance (or otherwise) of the section 67 grounds specified in the statement of grounds is concluded.

(5) If the grounds hearing gives a direction under subsection (2), the chairing member must—

(a) in so far as is reasonably practicable comply with the requirement in paragraph (a) of section 93(4), and

(b) comply with the requirement in paragraph (b) of that section.

(6) If the grounds hearing gives a direction under subsection (2), section 93(5) applies.".

(18) In section 95 (child fails to attend grounds hearing), in subsection (3), after "under" insert "section 89B(5) or 89C(8)(a) or".

(19) After section 95, insert—

"Children's hearing to consider need for interim order

95A Children's hearing to consider need for making of interim compulsory supervision order

(1) This section applies where a children's hearing in relation to a child is arranged by virtue of section 71A.

(2) The children's hearing may consist of—

(a) three members of the Children's Panel, or

(b) one member of the Children's Panel.

(3) If the children's hearing considers that the nature of the child's circumstances is such that for the protection, support, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the children's hearing may make an interim compulsory supervision order in relation to the child.

(4) An interim compulsory supervision order made under subsection (3) may not include a measure of the kind mentioned in section 83(2)(f)(i).".

(20) In section 96 (children's hearing to consider need for further interim compulsory supervision order), in subsection (1), for "a grounds hearing" substitute "or section 95A(3) a children's hearing".

(21) In section 100 (sheriff's power to make interim compulsory supervision order), in subsection (1), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(22) In section 101 (hearing of application) for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(23) In section 103 (child's duty to attend hearing unless excused), in subsection (1), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(24) In section 104 (child and relevant person: representation at hearing), in subsection (1), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(25) In section 105 (application by virtue of section 93: ground accepted before determination)—

(a) in subsection (1)(b), for the words from "by the child" to the end substitute "—

(i) where the grounds hearing proceeded, in relation to the ground, as permitted by section 89B(4) or 90(9), by each relevant person in relation to the child who is present at the hearing before the sheriff,

(ii) otherwise, by the child and each relevant person in relation to the child who is present at the hearing before the sheriff.",

(b) in subsection (2), for "section 90(1B)" substitute "section 90A".

(26) In section 106 (application by virtue of section 94: ground accepted by relevant person before determination)—

(a) in subsection (1)(a), for "section 90(1)(a)" substitute "section 90(4)",

(b) in subsection (1A), for "section 90(1B)" substitute "section 90A".

(27) In section 107 (withdrawal of application: termination of orders etc. by Principal Reporter), in subsection (1)(a), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(28) In section 108 (determination: ground established)—

(a) in subsection (1), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)",

(b) for subsection (5) substitute—

"(5) In subsection (4)(b), "accepted" means—

(a) taken to be accepted for the purposes of this Act by virtue of section 90A,

(b) where the grounds hearings proceeded, in relation to a ground, as permitted by section 89B(4) or 90(9), accepted (subject to sections 74 and 75) by each relevant person in relation to the child, or

(c) otherwise, accepted (or taken to be accepted for the purposes of this Act by virtue of section 89C(4)(a)) by the child and each relevant person in relation to the child.".

(29) In section 109 (determination: power to make interim compulsory supervision order etc.)—

(a) in subsection (2), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)",

(b) in subsection (4), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(30) In section 140 (interim variation of compulsory supervision order), in subsection (4)(b), for "section 93(2)(a) or 94(2)(a)" substitute "section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2)".

(31) In section 177 (children's hearings: procedural rules)—

(a) in subsection (2), after paragraph (c) insert—

"(ca) specifying circumstances in which, following a statement of grounds being prepared under section 69(1A)—

(i) the Principal Reporter may arrange a children's hearing for the purpose of deciding whether to make a compulsory supervision order in relation to a child without the procedure set out in sections 69B to 69E being followed, or

(ii) the Principal Reporter is to follow that procedure subject to modifications provided for in the rules,",

(b) in subsection (4), after "(aa)" (as inserted by section 41(15)) insert ", (ca)".

(32) In section 202(1) (interpretation)—

(a) in the definition of "statement of grounds" for "section 89(3)" substitute "section 69(6)(a)",

(b) in the definition of "supporting facts" for "section 90(1D)" substitute "section 69(6)(b)".

Relevant persons

45 Powers to exclude persons from children's hearing

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

(2) In section 76 (power to exclude relevant person from children's hearing)—

(a) for subsection (1) substitute—

"(1) This section applies where by virtue of this Act a children's hearing is, or is to be, arranged in relation to a child.",

(b) in subsection (2)—

(i) for "The" substitute "A",

(ii) at the end insert "if the children's hearing is satisfied that the presence at the hearing of a relevant person in relation to the child—

(a) is preventing, or is likely to prevent, the hearing from obtaining the views of the child, or

(b) is causing, or is likely to cause, significant distress to the child.",

(c) after subsection (3) insert—

"(4) In this section "children's hearing" includes a pre-hearing panel.".

(3) In section 77 (power to exclude relevant person's representative from children's hearing)—

(a) for subsection (1), substitute—

"(1) This section applies where by virtue of this Act a children's hearing is, or is to be, arranged in relation to a child.",

(b) in subsection (2)—

(i) for "The" substitute "A",

(ii) at the end insert "if the children's hearing is satisfied that the presence at the hearing of a representative of a relevant person in relation to the child—

(a) is preventing, or is likely to prevent, the hearing from obtaining the view of the child, or

(b) is causing, or is likely to cause, significant distress to the child.",

(c) after subsection (3), insert—

"(4) In this section "children's hearing" includes a pre-hearing panel.".

(4) In section 79 (referral of certain matters for pre-hearing determination), in subsection (3), after paragraph (b) insert—

"(ba) whether a person should be excluded from all or part of a children's hearing as mentioned in section 76(2)(a) or (b) or 77(2)(a) or (b),".

46 Relevant person's right to require review of compulsory supervision order

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

(2) In section 79 (referral of certain matters for pre-hearing determination), in subsection (2), after paragraph (ba) insert—

"(baa) must refer for determination by a pre-hearing panel the matter of whether a request made by a relevant person in relation to a child for the Principal Reporter to initiate a review of a compulsory supervision order under section 132(3ZA) is frivolous or vexatious,".

(3) After section 81A, insert—

"81AA Determination that review request by relevant person is frivolous or vexatious

(1) Subsection (2) applies where the Principal Reporter has referred to a meeting of a pre-hearing panel the matter of whether a request made by a relevant person in relation to a child for the Principal Reporter to initiate a review of a compulsory supervision order under section 132(3ZA) is frivolous or vexatious.

(2) The pre-hearing panel must discharge the children's hearing that is to be arranged as a result of the request if—

(a) there is no reason for the children's hearing to be arranged besides the request from the relevant person, and

(b) the pre-hearing panel determines that the request is frivolous or vexatious.".

(4) In section 132 (right to require review)—

(a) in subsection (3), at the beginning insert "Except where subsection (3ZB) applies,",

(b) after subsection (3), insert—

"(3ZA) Where subsection (3ZB) applies, the Principal Reporter must initiate a review of the compulsory supervision order if requested to do so by the relevant person mentioned in paragraph (a) of that subsection.

(3ZB) This subsection applies where—

(a) a children's hearing has previously taken place by virtue of a relevant person in relation to the child requiring a review of the order under subsection (3),

(b) the chairing member of the children's hearing made a determination at the conclusion of the hearing that the requiring of the review was frivolous or vexatious, and

(c) that determination has not been revoked.

(3ZC) A determination mentioned in subsection (3ZB)(b) may be revoked by any subsequent children's hearing (including a pre-hearing panel) which takes place in relation to the child.",

(c) in subsection (4), in the opening words, after "reviewed" insert "by virtue of subsection (2), (3), (3ZA) or (3A)".

47 Removal of relevant person status

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

(2) After section 128, insert—

"Application for relevant person to cease to be such a person

128A Application for relevant person to cease being such a person

(1) This section applies—

(a) where—

(i) a child (other than a child in relation to whom a compulsory supervision order has effect) has been referred to a children's hearing or an application has been made to the sheriff in relation to such a child under section 69D or 69E,

(ii) no decision has been made as to whether a compulsory supervision order should be made in relation to the child, and

(iii) the referral has not been discharged, or

(b) where a compulsory supervision order has effect in relation to a child.

(2) The Principal Reporter—

(a) must refer the matter mentioned in subsection (3) for consideration by a children's hearing on the request of a person mentioned in subsection (4),

(b) may refer that matter for consideration by a children's hearing on the Principal Reporter's own initiative.

(3) The matter is whether a relevant person in relation to the child (other than a person who has been deemed to be such a person by virtue of section 81(3), 160(4)(b) or 164(6)) should cease to be such a person.

(4) The persons are—

(a) the child,

(b) a relevant person in relation to the child (other than the relevant person in relation to the child mentioned in subsection (3)),

(c) a safeguarder appointed in relation to the child by virtue of section 30.

(5) Subsection (6) applies where a children's hearing is satisfied (following the consideration required by a referral under subsection (2) or on the children's hearing's own initiative)—

(a) that a relevant person in relation to the child continuing to be such a person is likely to—

(i) cause serious harm to the child, and

(ii) infringe the child's rights under (either or both)—

(A) Article 16 of the United Nations Convention on the Rights of the Child, or

(B) Article 8 of the European Convention on Human Rights, and

(b) that the relevant person in relation to the child ceasing to be such a person is the only way to avoid or sufficiently minimise such harm and infringement.

(6) The children's hearing must direct the Principal Reporter to make an application to the sheriff to determine whether the relevant person in relation to the child should cease to be such a person.

(7) For the purposes of subsection (1), a compulsory supervision order in relation to a child has effect until—

(a) terminated, or

(b) if not terminated, expiry of the relevant period.

(8) In this section and section 128B—

"European Convention on Human Rights" means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950,

"relevant period" has the meaning given by section 83(7),

"United Nation Convention on the Rights of the Child" 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.

128B Hearing and determination of application for relevant person to cease being such a person

(1) This section applies where an application is made to the sheriff by virtue of section 128A.

(2) Sections 103 and 104 apply in relation to the application as they apply in relation to an application to the sheriff under section 69D(2), 69E(2), 93(2)(a), 94(2)(a) or 94A(2).

(3) Subsection (4) applies where the sheriff is satisfied—

(a) that the relevant person in relation to the child to whom the application relates continuing to be such a person is likely to—

(i) cause serious harm to the child, and

(ii) infringe the child's rights under (either or both)—

(A) Article 16 of the United Nations Convention on the Rights of the Child, or

(B) Article 8 of the European Convention on Human Rights, and

(b) that the relevant person in relation to the child ceasing to be such a person is the only way to avoid or sufficiently minimise such harm and infringement.

(4) The sheriff—

(a) must determine the application by making an order that the relevant person in relation to the child to whom the application relates is not, for the purposes mentioned in subsection (7), such a person for the period—

(i) beginning with the making of the order, and

(ii) ending as mentioned in subsection (8), and

(b) may specify steps that are to be taken by any subsequent children's hearing held in relation to the child for the purpose mentioned in subsection (5) (for example, steps in relation to the notification of appropriate information in relation to the hearing or its outcome).

(5) The purpose is minimising the infringement of the rights of the person who has ceased to be a relevant person in relation to the child under Article 8 of the European Convention on Human Rights caused by the person ceasing to be such a person.

(6) In any other case, the sheriff—

(a) must dismiss the application, and

(b) may specify steps that are to be taken by any subsequent children's hearing held in relation to the child to avoid or minimise any harm or infringement of the type mentioned in subsection (3)(a).

(7) The purposes are the purposes of Parts 7 to 14, 15 (other than sections 164A and 164B), 17 and 18 in so far as they relate to—

(a) any children's hearing held in connection with the referral mentioned in section 128A(1)(a),

(b) the compulsory supervision order mentioned in section 128A(1)(b),

(c) any compulsory supervision order, interim compulsory supervision order, medical examination order or warrant to secure attendance made by—

(i) a hearing mentioned in paragraph (a) or (d),

(ii) the sheriff in any court proceedings falling within paragraph (f),

(d) any children's hearing held for the purposes of reviewing a compulsory supervision order falling within paragraph (b) or (c),

(e) any pre-hearing panel held in connection with a children's hearing mentioned in paragraph (a) or (d),

(f) any court proceedings held in connection with a hearing mentioned in paragraph (a) or (d),

(g) any court proceedings held in connection with an order or warrant falling within paragraph (b) or (c),

(h) the implementation of an order or warrant falling within paragraph (b) or (c).

(8) The period mentioned in subsection (4)(a) ends with—

(a) where the application to the sheriff was made by virtue of section 128A(1)(a)—

(i) the referral mentioned in that section being discharged, or

(ii) a compulsory supervision order made as a result of that referral ceasing to have effect by virtue of—

(A) being terminated, or

(B) expiry of the relevant period.

(b) where the application to the sheriff was made by virtue of section 128A(1)(b), the compulsory supervision order mentioned in that section ceasing to have effect by virtue of—

(i) being terminated, or

(ii) expiry of the relevant period.".

(3) After section 164, insert—

"164A Appeal to Sheriff Appeal Court: determination of application for relevant person to cease being such a person

(1) A person mentioned in subsection (2) may appeal to the Sheriff Appeal Court against a determination of the sheriff under section 128B of an application under section 128A to determine whether a relevant person in relation to a child should cease to be such a person.

(2) The persons are—

(a) the person to whom the application under section 128A related,

(b) the child,

(c) a relevant person in relation to the child,

(d) a safeguarder appointed in relation to the child by virtue of section 30,

(e) two or more of the persons mentioned in paragraphs (a) to (c) acting jointly,

(f) the Principal Reporter.

(3) If satisfied that the determination to which the appeal relates is justified, the Sheriff Appeal Court—

(a) must confirm the determination, and

(b) may—

(i) where the application under section 128A was determined as mentioned in section 128B(4)(a), specify steps that are to be taken by any subsequent children's hearing held in relation to the child for the purpose mentioned in section 128B(5),

(ii) where the application was dismissed, specify steps that are to be taken by any subsequent children's hearing held in relation to the child to avoid or minimise any harm or infringement of the type mentioned in section 128B(3)(a).

(4) If not satisfied that the determination to which the appeal relates is justified, the Sheriff Appeal Court—

(a) must quash the determination, and

(b) where—

(i) the determination was to dismiss the application under section 128A—

(A) must make an order that the person to whom the application related is not, for the purposes mentioned in section 128B(7), a relevant person in relation to the child for the period mentioned in subsection (5), and

(B) may specify steps that are to be taken by any subsequent children's hearing held in relation to the child for the purpose mentioned in section 128B(5),

(ii) where the application was determined as mentioned in section 128B(4)(a), may specify steps that are to be taken by any subsequent children's hearing held in relation to the child to avoid or minimise any harm or infringement of the type mentioned in section 128B(3)(a).

(5) The period is the period—

(a) beginning with the making of the order, and

(b) ending as mentioned in section 128B(8)(a) or, as the case may be, (b).

(6) Steps specified under subsection (3)(b) may be in addition to or in place of steps specified by the sheriff under section 128B(4)(b) or, as the case may be, (6)(b).

(7) The Sheriff Appeal Court's decision in an appeal under subsection (1) may not be appealed against under section 113 of the Courts Reform (Scotland) Act 2014.

164B Appeal to Court of Session: appeal against determination of application for relevant person to cease being such a person

(1) A person mentioned in section 164A(2) may appeal to the Court of Session against a Sheriff Appeal Court's decision in an appeal under section 164A(1) only—

(a) with the permission of the Sheriff Appeal Court, or

(b) if that Court has refused permission, with the permission of the Court of Session.

(2) The Sheriff Appeal Court or the Court of Session may grant permission under subsection (1) only if the Court considers that—

(a) the appeal would raise an important point of principle or practice, or

(b) there is some other compelling reason for the Court of Session to hear the appeal.

(3) An appeal under this section must be made before the expiry of the period of 28 days beginning with the day on which the decision appealed against is made.

(4) An appeal under this section may be made—

(a) on a point of law, or

(b) in respect of any procedural irregularity.

(5) A decision in an appeal under subsection (1) by the Court of Session is final.".

Timescales

48 Timescale for determination of application to sheriff

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

(2) In section 101 (hearing of application), for subsection (2) substitute—

"(2) The application must—

(a) begin to be heard not later than 28 days after the day on which the application is made, and

(b) be determined not later than 90 days after the day on which the application is made.

(2A) But the sheriff may, if satisfied after having regard to the best interests of the child that it is reasonable in the circumstances of the case to do so, allow the application—

(a) to begin to be heard later than mentioned in subsection (2)(a), or

(b) to be determined later than mentioned in subsection (2)(b).".

49 Reports on timescales in children's hearing system

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

(2) After section 181, insert—

"181A Annual reports on timescales in children's hearings system

(1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period—

(a) prepare a report containing the information mentioned in subsection (2) in relation to—

(i) Scotland as a whole, and

(ii) to the extent that the information is available at this level, each local authority area,

(b) make the report publicly available, and

(c) lay a copy of the report before the Scottish Parliament.

(2) The information is information about the timescales—

(a) between—

(i) the Principal Reporter receiving a notice, information, a statement, evidence or a reference mentioned in section 66(1)(a) in relation to a child, and

(ii) the Principal Reporter making a determination in relation to the child under section 66(2),

(b) between—

(i) the Principal Reporter making a determination under section 66(2) that it is necessary for a compulsory supervision order to be made in relation to a child, and

(ii) a grounds hearing being arranged in relation to the child or an application to the sheriff being made under section 69D or 69E,

(c) between—

(i) a grounds hearing being held in relation to a child or an application to the sheriff being made under section 69D or 69E, and

(ii) the child's referral to a children's hearing being discharged or a compulsory supervision order being made in relation to a child,

(d) between such other actions relating to the referral (or possible referral) of a child to a children's hearing and the making of decisions in relation to the child as the Scottish Ministers consider appropriate.

(3) A report under subsection (1) may contain such other information as the Scottish Ministers consider appropriate.

(4) Information contained in a report under subsection (1) must not identify (or enable the identification of) a particular child.

(5) In this section, "reporting period" means—

(a) the period of 2 years beginning with the day on which section 49 of the Children (Care, Care Experience and Services Planning) (Scotland) Act 2026 comes into force, and

(b) each subsequent period of 1 year.".

(3) The italic heading immediately before section 181 becomes "Annual reports".

Other changes

50 Tests for referral to Principal Reporter and making of compulsory supervision order or interim compulsory supervision order

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

(2) In section 60 (local authority's duty to provide information to Principal Reporter), in subsection (2)(b), for "might be" substitute "is likely to be".

(3) In section 61 (constable's duty to provide information to Principal Reporter), in subsection (1)(b), for "might be" substitute "is likely to be".

(4) In section 64 (provision of information by other persons), in subsection (1)(b), for "might be" substitute "is likely to be".

(5) In section 66 (investigation and determination by Principal Reporter), in subsection (1)(b), for "that a child might be" substitute "likely that a child is".

(6) In each of the provisions listed in subsection (7), after "protection," insert "support,".

(7) The provisions are—

section 60(2)(a),

section 61(1)(a),

section 64(1)(a),

section 66(1)(b),

section 91(3)(a),

section 92(2),

section 93(5),

section 95(4),

section 96(3),

section 98(4),

section 99(4),

section 100(2),

section 109(3),

section 109(5),

section 115(3),

section 117(3),

section 119(3)(a),

section 120(3),

section 120(5),

section 138(4),

section 139(3).

51 Information about referral, availability of children's advocacy services etc.

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

(2) In section 60 (local authority's duty to provide information to Principal Reporter), after subsection (3) insert—

"(4) Where the local authority informs a child that the local authority has given the Principal Reporter information about the child under subsection (3), the local authority must also provide the child with information about—

(a) what will happen in relation to the referral to the Principal Reporter,

(b) the children's hearing process,

(c) the availability of children's advocacy services, and

(d) the availability of child-centred legal advice and representation.".

(3) In section 61 (constable's duty to provide information to Principal Reporter), after subsection (3) insert—

"(4) Subsection (5) applies where—

(a) a constable—

(i) gives the Principal Reporter information in relation to a child under subsection (2), or

(ii) makes a report to the Principal Reporter under subsection (3), and

(b) the constable informs the child about the giving of the information or, as the case may be, the making of the report.

(5) The constable must also provide the child with information about—

(a) what will happen in relation to the referral to the Principal Reporter,

(b) the children's hearing process, and

(c) the availability of children's advocacy services.".

(4) In section 64 (provision of information by other person), after subsection (2) insert—

"(3) Where a health board informs a child that the health board has given the Principal Reporter information about the child under subsection (2), the health board must also provide the child with information about—

(a) what will happen in relation to the referral to the Principal Reporter,

(b) the children's hearing process, and

(c) the availability of children's advocacy services.".

(5) In section 66 (investigation and determination by Principal Reporter), after subsection (6) insert—

"(7) Where the Principal Reporter informs a child that the Principal Reporter is required by section 66(2) to make a determination in relation to the child, the Principal Reporter must also provide the child with information about—

(a) what will happen in relation to the referral to the Principal Reporter,

(b) the children's hearing process, and

(c) the availability of children's advocacy services.".

(6) In section 122 (children's advocacy services), in subsection (2), for "inform the child of the availability of children's advocacy services" substitute "offer the child an opportunity to be referred to children's advocacy services, if such a referral is not already in place".

(7) In section 202(1) (interpretation), at the appropriate place in alphabetical order, insert—

""children's advocacy services" has the meaning given by section 122(7).".

52 Children's advocacy services: non-instructed advocacy

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

(2) In section 122 (children's advocacy services), in subsection (7)—

(a) the words from "means" to the end become paragraph (a),

(b) after that paragraph insert ", and

(b) includes, where a child is unable due to the child's age or capacity to instruct that such services be provided to the child, services provided other than on the child's own instruction.".

53 Children's advocacy services: notification of hearings

(1) The Children's Hearing (Scotland) Act 2011 is amended as follows.

(2) After section 122, insert—

"122A Children's advocacy services provider to be notified of hearings

(1) This section applies where—

(a) in relation to a child, a children's hearing is to be held by virtue of this Act or a hearing is to take place under Part 10, and

(b) the Principal Reporter is aware that children's advocacy services are being, or will be, provided in relation to the child in connection with the children's hearing or, as the case may be, hearing under Part 10.

(2) The Principal Reporter must notify the person who is providing children's advocacy services in relation to the child of when and where the children's hearing or, as the case may be, hearing under Part 10 is to take place.".

54 Period for which interim compulsory supervision order or interim variation of compulsory supervision order has effect

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

(2) In section 86 (meaning of "interim compulsory supervision order"), in subsection (3)—

(a) in paragraph (d), for "has not been extended under section 98 or 99," substitute "is made under section 92(2), 93(5), 95(4), 95A(3), 100(2), 109(3), 115(3), 117(3) or 120(3),",

(b) after paragraph (d) insert—

"(da) where the order is made under section 96(3), 109(5) or 120(5), the expiry of the period of 44 days beginning of the day on which the order is made,",

(c) in paragraph (e)—

(i) for "the order" substitute "an order made under section 96(3) or 100(2)",

(ii) for "22" substitute "44".

(3) In section 140 (interim variation of compulsory supervision order), in subsection (3)—

(a) in paragraph (d), at the beginning insert "where the order is varied under section 92(2), 93(5), 95(4), 95A(3), 100(2), 109(3), 115(3), 117(3) or 139(3),",

(b) after paragraph (d) insert ",

(e) where the order is varied under section 96(3) or 109(5), the expiry of the period of 44 days beginning with the day on which the order is varied.".

55 Making of further interim compulsory supervision orders

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

(2) In section 96 (children's hearing to consider need for further interim compulsory supervision order)—

(a) in subsection (1)—

(i) for "This section applies" substitute "Subsections (2) and (3) apply",

(ii) in paragraph (a), after "a child" insert "("the original order")",

(b) after subsection (3) insert—

"(3A) Subsections (1) to (3) apply in relation to a further interim compulsory supervision order made under subsection (3) as they apply in relation to the original order.",

(c) in subsection (4)—

(i) for "The" substitute "But the",

(ii) for "same interim compulsory supervision order made under section 93(5)" substitute "original order".

(3) In section 98 (application for extension or variation of interim compulsory supervision order)—

(a) in subsection (1), in paragraph (b)—

(i) at the beginning insert "the current order is",

(ii) for sub-paragraph (i), substitute—

"(i) the second order made under section 96(3) in relation to the original order made in relation to the child, or",

(iii) in sub-paragraph (ii), the words "the current order is" are repealed,

(b) after subsection (4) insert—

"(5) In this section, "the original order" has the same meaning as in section 96.".

56 Principal Reporter's power to initiate review of compulsory supervision order

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

(2) After section 133, insert—

"133A Principal Reporter's power to initiate review

(1) The Principal Reporter may initiate a review of a compulsory supervision order in relation to a child if—

(a) following the children's hearing which most recently made a decision in relation to the order (whether that was a decision to make, vary or continue it), the Principal Reporter becomes aware of relevant information,

(b) as a consequence, the Principal Reporter considers that the compulsory supervision order ought to be terminated or varied, and

(c) at the time the Principal Reporter reaches that view, the Principal Reporter is not otherwise required by section 137(2) to arrange a children's hearing in relation to the child.

(2) In subsection (1)(a), "relevant information" means information which was not available to the children's hearing mentioned in that subsection, other than information by virtue of which the Principal Reporter has, since that hearing, prepared a further statement of grounds in relation to the child.".

57 Family group decision-making: information to be provided to Principal Reporter

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

(2) In section 60 (local authority's duty to provide information to Principal Reporter), after subsection (4) insert—

"(5) Where subsection (2) applies the local authority must also provide the Principal Reporter with information on—

(a) the availability of family group decision-making services in the area,

(b) whether family group decision-making services have been, or will be, considered in relation to the child,

(c) the response and any report or views gathered through any family group decision-making services that have already been provided.

(6) In subsection (5), "family group decision-making service" has the same meaning as in Part 12 of the Children and Young People (Scotland) Act 2014.".

Children's legal aid

58 Children's legal aid

(1) The Legal Aid (Scotland) Act 1986 is amended as follows.

(2) In section 28B (children's legal aid), in subsection (3), after paragraph (d) insert—

"(da) proceedings before a children's hearing or a pre-hearing panel if—

(i) the statement of grounds specifies as a ground that the child to whom the proceedings relate has committed an offence, and

(ii) the offence in question is such that, were the child prosecuted in respect of it, it would be or would most likely be prosecuted under solemn procedure,".

(3) In section 28C (circumstances where children's legal aid automatically available)—

(a) in subsection (1), after paragraph (d) insert—

"(da) a children's hearing is arranged in relation to a child and—

(i) the statement of grounds specifies as a ground that the child has committed an offence, and

(ii) the offence in question is such that, were the child prosecuted in respect of it, it would be or would most likely be prosecuted under solemn procedure,",

(b) in subsection (2), in paragraph (b) for "or (d)" substitute ", (d) or (da)".

CHAPTER 6

PLACE OF SAFETY FOR CHILDREN WHO HAVE BEEN ARRESTED

59 Power to require that arrested children be taken to a place other than a police station, etc.

(1) The Scottish Ministers may by regulations modify Part 1 of the Criminal Justice (Scotland) Act 2016—

(a) so that where, following arrest, a child is to be taken to a place in accordance with section 4(1) of the Act, that place is not a police station,

(b) so that section 4(1) of the Act does not require a child to be taken anywhere if the child is arrested at a place that—

(i) is not a police station, but

(ii) is a place to which a child may be taken in accordance with section 4(1) of the Act by virtue of provision made under paragraph (a),

(c) for the purpose of having provisions of the Part—

(i) apply in relation to a child who, in accordance with section 4(1) of the Act, has been or is to be taken to a place other than a police station as they would apply in relation to a person who has been or is to be taken to a police station in accordance with that section,

(ii) apply in relation to a child who has been arrested at a place of the kind described by paragraph (b)(i) and (ii) as they would in relation to a person arrested at a police station,

(d) to require the recording and reporting of information connected to the operation of provision made under the other paragraphs of this subsection.

(2) The power under subsection (1)(a) may be exercised only for the purpose of requiring children to be taken to places that the Scottish Ministers consider to be more suitable for children than police stations.

(3) Provision made under subsection (1)(a) may identify the places to which a child is to be taken by reference to a document that is not an enactment only if the following conditions are met—

(a) the Scottish Ministers are under a duty to make the document publicly available,

(b) if the document does not exist on the day the provision is made, the Scottish Ministers are under a duty to consult the following persons before finalising the document's content—

(i) the Police Service of Scotland,

(ii) local authorities,

(iii) any other persons that the Scottish Ministers consider appropriate.

(4) For the purposes of subsection (3), a new version of a document (for example, an updated version of a web page) is a different document from any prior version.

(5) Without prejudice to the generality of section 68(1)—

(a) the powers conferred by subsection (1) include the power to make different provision for different areas,

(b) the power conferred by subsection (1)(a) need not be exercised so that there is no case in which a child is to be taken to a police station under section 4(1) of the Criminal Justice (Scotland) Act 2016.

PART 2

CHILDREN'S SERVICES PLANNING

60 Lead children's services planning bodies

(1) The Children and Young People (Scotland) Act 2014 is amended by subsections (2) to (12).

(2) In section 7 (introductory provision for Part 3 (children's services planning))—

(a) in subsection (1)—

(i) at the appropriate places in alphabetical order insert—

""lead children's services planning bodies" means, in relation to the area of a local authority—

(a) where there is a relevant integration joint board—

(i) the local authority,

(ii) the relevant health board, and

(iii) the relevant integration joint board,

(b) where there is no relevant integration joint board—

(i) the local authority, and

(ii) the relevant health board,",

""relevant integration joint board" means—

(a) if the area of the local authority is the same as that of an integration joint board, that integration joint board,

(b) if the area of the local authority falls within the area of an integration joint board but is not the same as the integration joint board area, the integration joint board area within whose area the area of the local authority falls.",

(ii) in the definition of "other service provider", paragraph (f) is repealed,

(b) in subsection (2), after paragraph (b) insert—

"(ba) any relevant integration joint board,",

(c) in subsection (4), after paragraph (b) insert—

"(ba) each integration joint board,",

(d) in subsection (6), for "a local authority and the relevant health board" substitute "the lead children's services planning bodies in relation to the area of a local authority".

(3) In section 8 (requirement to prepare children's services plan), in subsection (1)—

(a) for "A local authority and the relevant health board" substitute "The lead children's services planning bodies in relation to the area of a local authority",

(b) the words "of the local authority" are repealed.

(4) In section 10 (children's services plan: process)—

(a) in subsection (1)—

(i) in the opening words, for "a local authority and the relevant health board" substitute "the lead children's services planning bodies in relation to the area of a local authority",

(ii) in paragraph (b)(ii), the words "of the local authority" are repealed,

(b) in subsection (2)—

(i) in paragraph (a), the words "of the local authority" are repealed,

(ii) in paragraph (b), after "the relevant health board," insert "any relevant integration joint board,",

(c) in subsection (6), for "local authority and the relevant health board" substitute "lead children's services planning bodies in relation to the area",

(d) in subsection (7)—

(i) in the opening words, for "local authority and the relevant health board" substitute "lead children's services planning bodies in relation to the area",

(ii) in paragraph (b), for "local authority and the relevant health board" substitute "bodies".

(5) In section 11 (children's services plan: review), in subsection (1)—

(a) in the opening words, for "A local authority and the relevant health board" substitute "The lead children's services planning bodies in relation to the area of a local authority",

(b) in paragraph (a), the words "of the local authority" are repealed.

(6) In section 12 (implementation of children's services plan), in subsection (2), after paragraph (b) insert—

"(ba) any relevant integration joint board,".

(7) In section 13 (reporting on children's services plan), in subsection (1)—

(a) in the opening words, for "a local authority and the relevant health board" substitute "the lead children's services planning bodies in relation to the area of a local authority",

(b) in paragraph (a), the words "of the local authority" are repealed.

(8) In section 14 (assistance in relation to children's services planning), in subsection (1), for "a local authority and the relevant health board" substitute "the lead children's services planning bodies in relation to the area of a local authority".

(9) In section 15 (guidance in relation to children's services planning), in subsection (2), for paragraph (a) substitute—

"(a) the lead children's services planning bodies in relation to a local authority area,".

(10) In section 16 (directions in relation to children's services planning), in subsection (2), for paragraph (a) substitute—

"(a) the lead children's services planning bodies in relation to a local authority area,".

(11) In section 17 (children's services planning: default powers of Scottish Ministers)—

(a) in subsection (1), in the opening words, for "a local authority and the relevant health board" substitute "the lead children's services planning bodies in relation to a local authority area",

(b) in subsection (3)—

(i) after paragraph (b) insert—

"(ba) any relevant integration joint board,",

(ii) in paragraph (c), for "or health board" substitute ", health board or integration joint board",

(c) in subsection (5), in paragraph (a), for "local authority and relevant health board" substitute "lead children's services planning bodies".

(12) In section 18 (interpretation of Part 3), at the appropriate place in alphabetical order insert—

""integration joint board" means an integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,".

(13) The Public Services Reform (Scotland) Act 2010 is amended by subsection (14).

(14) In section 59A (further provision in relation to registration of certain care services)—

(a) in subsection (2)(b), for the words from "the persons" to the end substitute "the lead children's services planning bodies in relation to each local authority area in which the service is to be provided.",

(b) subsection (3) is repealed,

(c) after subsection (4), insert—

"(5) In subsection (2)(b), "lead children's services planning bodies", in relation to a local authority area, has the meaning given by section 7(1) of the Children and Young People (Scotland) Act 2014.".

61 Aims of children's services planning

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) In section 9 (aims of children's services plan)—

(a) in subsection (2), in paragraph (a)—

(i) the "and" immediately preceding sub-paragraph (iv) is repealed,

(ii) after sub-paragraph (iv) insert—

"(v) supports the delivery of the recommendations set out in the report published on 5 February 2020 on behalf of the Independent Care Review established by the Scottish Ministers in October 2016 ("the Promise").

(vi) supports the delivery of local priorities and of such national outcomes, priorities and activities as the Scottish Ministers may by regulations prescribe, and

(vii) promotes such outcomes in relation to the wellbeing of children in the area as the Scottish Ministers may by regulations prescribe.",

(b) after subsection (2) insert—

"(3) Before making regulations under—

(a) subsection (2)(a)(vi), the Scottish Ministers must consult—

(i) lead children's services planning bodies,

(ii) such other persons as they consider appropriate,

(b) subsection (2)(a)(vii), the Scottish Ministers must consult—

(i) lead children's services planning bodies for the area,

(ii) such other persons as they consider appropriate.".

(3) In section 13 (reporting on children's services plan), in subsection (1), paragraph (b), sub-paragraph (ii) is repealed.

62 Children's services plans: process and review

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) In section 10 (children's services plan: process), after subsection (8) insert—

"(9) Where the Scottish Ministers or any of the other service providers have published a notice and statement under subsection (8), they must send a copy of the notice and statement to the lead children's services planning bodies in relation to the area.

(10) Where the lead children's services planning bodies receive a notice and statement under subsection (9), they must prepare and publish (in such manner as they consider appropriate) a response to the notice and statement.".

(3) In section 11 (children's services plan: review), after subsection (1) insert—

"(1A) Where a response is published under section 10(10) the lead children's services planning bodies may in consequence prepare a revised children's services plan.".

63 Reporting on children's services plans

(1) The Children and Young People (Scotland) Act 2014 is amended as follows.

(2) In section 13 (reporting on children's services plan)—

(a) after subsection (1) insert—

"(1A) The Scottish Ministers may by regulations prescribe other matters to be included in the report.",

(b) after subsection (2) insert—

"(3) Before making regulations under subsection (1A), the Scottish Ministers must consult—

(a) lead children's services planning bodies,

(b) such other persons as they consider appropriate.".

PART 3

REPORTS AND REVIEWS

64 Report on family group decision-making services

(1) Before the end of the period of 3 years beginning with the day of Royal Assent, the Scottish Ministers must—

(a) prepare a report summarising the information provided to them by local authorities under subsection (4),

(b) make the report publicly available,

(c) lay a copy of the report before the Scottish Parliament.

(2) It is otherwise for the Scottish Ministers to determine the form and content of the report and, in particular, the report may be part of another document.

(3) In preparing the report, the Scottish Ministers must consult—

(a) each local authority,

(b) other providers of family group decision-making services,

(c) the Principal Reporter,

(d) the National Convener of Children's Hearings Scotland, and

(e) such other persons as the Scottish Ministers consider appropriate.

(4) Before the end of the period of 2 years beginning with the day of Royal Assent, each local authority must provide the Scottish Ministers with information about the operation of family group decision-making services in its area, including—

(a) the arrangements the local authority has in place for making family group decision-making services available,

(b) the ways in which family group decision-making services are promoted by the local authority,

(c) in the period of 18 months beginning with the day of Royal Assent—

(i) the number of children in respect of whom the use of a family group decision-making service was considered by the authority,

(ii) the number of children in respect of whom a decision was made by the authority to use a family group decision-making service,

(iii) the number of children in respect of whom a family group decision-making service was provided by the authority,

(d) the steps taken to ensure, where appropriate, the participation of the child in family group decision-making services.

(5) The information required under subsection (4) may be provided to the Scottish Ministers as part of a wider report.

(6) In this section, "family group decision-making service" has the same meaning as in Part 12 of the Children and Young People (Scotland) Act 2014.

65 Review of the Act

(1) The Scottish Ministers must, before the deadline, carry out a review of the implementation of this Act.

(2) The deadline, for the purpose of subsection (1), is the day falling 2 years after Royal Assent.

(3) As soon as reasonably practicable after concluding the review, the Scottish Ministers must—

(a) prepare a report on the review,

(b) make the report publicly available, and

(c) lay a copy of the report before the Scottish Parliament.

(4) The report may contain any other information that the Scottish Ministers consider appropriate.

66 Report on fulfilment of the Promise

(1) The Scottish Ministers must, before the deadline, produce a report on the extent to which the recommendations set out in the Promise have been implemented.

(2) The deadline, for the purpose of subsection (1), is 30 June 2031.

(3) The report may contain any other information that the Scottish Ministers consider appropriate.

(4) In this section, "the Promise" means the report published on 5 February 2020 on behalf of the Independent Care Review established by the Scottish Ministers in October 2016.

PART 4

FINAL PROVISIONS

67 Ancillary provision

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

(2) Regulations under subsection (1) may modify any enactment (including this Act).

68 Regulation-making powers

(1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes.

(2) Regulations under section 1(7), (10) or (11), 8, 9, 30(2)(e) and (f) and (3), 31(1), 32(2), 34(1) and 59 are subject to the affirmative procedure.

(3) Regulations under the following provisions are subject to the negative procedure—

(a) section 2(2),

(b) section 3(2),

(c) section 4(2).

(4) Regulations under section 67—

(a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but

(b) otherwise are subject to the negative procedure.

69 Meaning of "child"

In this Act, "child" means a person aged under 18.

70 Commencement

(1) The following provisions come into force on the day after Royal Assent: this section and sections 67, 68 and 71.

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

(3) The Scottish Ministers may by regulations amend a provision of this Act that refers to the day on which a section comes into force so that it specifies the date on which the section actually came into force.

(4) Regulations under this section may include transitional, transitory or saving provision.

71 Short title

The short title of this Act is the Children (Care, Care Experience and Services Planning) (Scotland) Act 2026.

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