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# Children and Young People (Information Sharing) (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to amend the Children and Young People (Scotland) Act 2014 on the provision of information in relation to the named person service and the preparation and implementation of child's plans.

## **1 Provision of information by and to named person service provider**

- 5 (1) The Children and Young People (Scotland) Act 2014 (in this Act, the “2014 Act”) is amended as follows.
- (2) In section 23 (communication in relation to movement of children and young people)—
- (a) in subsection (2)(b), sub-paragraph (ii) (including “and” immediately preceding it) is repealed,
- 10 (b) for subsections (3) to (7) substitute—
- “(3) The outgoing service provider must as soon as is reasonably practicable and before providing any information under subsection (4)—
- (a) identify such other information it holds, the provision of which to the incoming service provider could, in its opinion, promote, support or safeguard the wellbeing of the child or young person, and
- 15 (b) consider whether the identified information could be so provided in compliance with the Data Protection Act 1998, any directly applicable EU instrument relating to data protection, any other enactment and any rule of law.
- 20 (4) Subject to section 26A, the outgoing service provider may provide information to the incoming service provider if providing the information could, in its opinion, promote, support or safeguard the wellbeing of the child or young person.”.
- (3) For section 26 (information sharing) substitute—

## **“26 Provision of information by and to named person service provider**

- 25 (1) Where a service provider in relation to a child or young person (an “information holder”) acquires information relating to the child or young person, the information holder must—

- 5 (a) consider whether providing the information, or the information together with other information it holds, to another service provider or to a relevant authority could, in its opinion, promote, support or safeguard the wellbeing of the child or young person (such information being “relevant information”), and
- (b) consider whether the relevant information could be so provided in compliance with the Data Protection Act 1998, any directly applicable EU instrument relating to data protection, any other enactment and any rule of law.
- 10 (2) Where a service provider or relevant authority (an “information holder”) acquires information relating to a child or young person, the information holder must—
- 15 (a) consider whether providing the information, or the information together with other information it holds, to the service provider in relation to the child or young person could, in its opinion, promote, support or safeguard the wellbeing of the child or young person (such information being “relevant information”), and
- 20 (b) consider whether the relevant information could be so provided in compliance with the Data Protection Act 1998, any directly applicable EU instrument relating to data protection, any other enactment and any rule of law.
- (3) Subject to section 26A—
- (a) a service provider in relation to a child or young person may provide information to another service provider or to a relevant authority,
- 25 (b) a service provider or relevant authority may provide information to the service provider in relation to a child or young person,
- if providing the information could, in its opinion, promote, support or safeguard the wellbeing of the child or young person.
- 30 (4) References in this section to a service provider in relation to a child or young person, a service provider and a relevant authority include any person exercising a function on behalf of a provider or authority.”
- (4) After section 26 (information sharing) insert—

**“26A Limitations on provision of information**

Information may not be provided under this Part—

- 35 (a) if its provision would be in breach of any prohibition or restriction on the disclosure of information arising by virtue of the Data Protection Act 1998, any directly applicable EU instrument relating to data protection, any other enactment or any rule of law, or
- 40 (b) if the person providing the information considers that its provision would prejudice the conduct of a criminal investigation or the prosecution of any offence.

**26B Code of practice in relation to provision of information**

- (1) The Scottish Ministers must issue a code of practice about the provision of information (including the consideration of the provision of information) by persons exercising functions conferred by this Part.
- 5 (2) A code of practice under this section must in particular provide for safeguards applicable to the provision of information under this Part.
- (3) A person providing information (or considering the provision of information) when exercising functions conferred by this Part must do so in accordance with such a code of practice, or revised code, issued by the Scottish Ministers.
- 10 (4) Before issuing a code of practice or revised code, the Scottish Ministers must comply with subsections (5) to (8).
- (5) The Scottish Ministers must consult—
- (a) any person to which the code of practice relates, and
  - (b) such other persons as they consider appropriate.
- 15 (6) The Scottish Ministers must lay before the Scottish Parliament a draft of a code of practice they propose to issue.
- (7) The Scottish Ministers must not issue the code of practice until after the expiry of the period of 40 days beginning with the day on which the draft code was laid before the Parliament.
- 20 (8) The Scottish Ministers must, in the code of practice they issue, take account of any comments on the draft code expressed by the Parliament within that period.
- (9) In calculating any period of 40 days for the purposes of subsection (7), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.”
- 25 (5) Section 27 (disclosure of information) is repealed.

**2 Provision of information in relation to child’s plans**

- (1) The 2014 Act is further amended as follows.
- (2) In section 40 (assistance in relation to child’s plan), subsections (4) to (6) are repealed.
- 30 (3) After section 40 (assistance in relation to child’s plan) insert—

**“40A Limitations on provision of information**

Information may not be provided in exercise of a function conferred by or under this Part—

- 35 (a) if its provision would be in breach of any prohibition or restriction on the disclosure of information arising by virtue of the Data Protection Act 1998, any directly applicable EU instrument relating to data protection, any other enactment or any rule of law, or
- (b) if the person providing the information considers that its provision would prejudice the conduct of a criminal investigation or the prosecution of any offence.
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**40B Code of practice in relation to provision of information**

- (1) The Scottish Ministers must issue a code of practice about the provision of information by persons exercising functions conferred by or under this Part.
- (2) A code of practice under this section must in particular provide for safeguards applicable to the provision of information under this Part.
- (3) A person providing information when exercising functions conferred by or under this Part must do so in accordance with such a code of practice, or revised code, issued by the Scottish Ministers.
- (4) Before issuing a code of practice or revised code, the Scottish Ministers must comply with subsections (5) to (8).
- (5) The Scottish Ministers must consult—
- (a) any person to which the code of practice relates, and
  - (b) such other persons as they consider appropriate.
- (6) The Scottish Ministers must lay before the Scottish Parliament a draft of a code of practice they propose to issue.
- (7) The Scottish Ministers must not issue the code of practice until after the expiry of the period of 40 days beginning with the day on which the draft code was laid before the Parliament.
- (8) The Scottish Ministers must, in the code of practice they issue, take account of any comments on the draft code expressed by the Parliament within that period.
- (9) In calculating any period of 40 days for the purposes of subsection (7), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.”.

**3 Commencement**

- (1) This section and section 4 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force at the end of the period of 2 months beginning with the day of Royal Assent.

**4 Short title**

The short title of this Act is the Children and Young People (Information Sharing) (Scotland) Act 2017.



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[AS INTRODUCED]

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Introduced by: John Swinney  
On: 19 June 2017  
Bill type: Government Bill

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