Children and Young People (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 80
Long Title
Schedules 1 to 4

Amendments marked * are new (including manuscript amendments) or have been altered.

Before section 1

Jean Urquhart

116* Before section 1, insert—

<Duty on Scottish Ministers to establish a body to consider whether the UNCRC should be given legislative effect>

(1) Within one year of this Act receiving Royal Assent, the Scottish Ministers must by order establish a body to consider whether the UNCRC should be given legislative effect.

(2) Where a body established under subsection (1) has completed its consideration it must—

(a) make a written report of its conclusions,
(b) lay the report before the Scottish Parliament,
(c) publish the report.

(3) As soon as practicable after the report has been laid before the Parliament, the Scottish Ministers must make a statement—

(a) responding to the report,
(b) indicating, on the basis of that report, whether they intend to give legislative effect to the UNCRC.

(4) The Scottish Ministers must—

(a) lay a copy of the statement under subsection (3) before the Parliament,
(b) publish the statement in such a manner as they consider appropriate.

(5) An order under subsection (1) may make provision about—

(a) the status, constitution and proceedings of the body,
(b) the period within which the body must report to the Parliament,
(c) the matters which must be covered in the report,
(d) the publication of the report.>


Section 1

Liam McArthur

117 In section 1, page 1, line 9, at end insert—

(A1) The Scottish Ministers must, when exercising any of their functions, treat the best interests of any children likely to be affected by the exercise of the function as a key consideration.

(A2) Subsection (A1) does not apply to the extent that the Scottish Ministers are required by any enactment to consider the best interests of a child as the paramount or a primary consideration.

Liam McArthur

118 In section 1, page 1, line 9, at end insert—

( ) The Scottish Ministers must, when exercising any of their functions, give any children affected by the exercise of the function an opportunity to express any views freely and give any such views due weight in accordance with the age and maturity of the child.

Siobhan McMahon

92 In section 1, page 1, line 13, after <requirements> insert <and the UNCRPD requirements>

Aileen Campbell

93 In section 1, page 1, line 15, at end insert—

( ) In complying with their duty under subsection (1)(a), the Scottish Ministers must take such account as they consider appropriate of any relevant views of children of which the Scottish Ministers are aware.

Alison Johnstone

119 In section 1, page 1, line 15, at end insert—

(1A) The Scottish Ministers must take all appropriate legislative, administrative, social and educational measures to protect children from all forms of—

(a) physical or mental violence,
(b) injury or abuse,
(c) neglect or negligent treatment,
(d) maltreatment or exploitation, including sexual abuse.

(1B) Protective measures under subsection (1A), may include—

(a) effective procedures for the establishment of social programmes to provide necessary support for children and for those who have care of children,
(b) identification, reporting, referral, investigation and treatment,
(c) follow-up of instances of maltreatment as described in subsection (1A),
(d) as appropriate, judicial involvement.
Siobhan McMahon
94  In section 1, page 1, line 21, at end insert <and the UNCRPD requirements>  

Alison Johnstone
120  In section 1, page 1, line 22, leave out <subsection> and insert <subsections (1A) and>  

Neil Bibby
121  In section 1, page 1, line 22, after <(2),> insert—  
<( ) what they have done in response to any statements made (however made or communicated) in that period by the United Nations Committee on the Rights of the Child (as established by Article 43 of the UNCRC) that—  
(a) relate specifically to Scotland (whether or not they also relate to other parts of the United Kingdom), or  
(b) are generally applicable to all state parties to the UNCRC,>  

Siobhan McMahon
95  In section 1, page 1, line 25, after <requirements> insert <and the UNCRPD requirements>  

Alison Johnstone
122  In section 1, page 1, line 26, leave out <subsection> and insert <subsections (1A) and>  

Neil Bibby
123  In section 1, page 2, line 2, after <children> insert <,  
( ) the Commissioner for Children and Young People in Scotland, and  
( ) such other persons as they consider appropriate,>  

Neil Bibby
124  In section 1, page 2, line 2, leave out <what their> and insert <the matters mentioned in subsection (3B).  
(3B) Those matters are—  
(a) the extent to which—  
(i) steps taken by the Scottish Ministers in the 3 year period referred to in subsection (3)(a) have secured better or further effect in Scotland of the UNCRC requirements, and  
(ii) things done by the Scottish Ministers in that period in pursuance of subsection (2) have succeeded in promoting the public awareness and understanding mentioned in that subsection, and  
(b) what the Scottish Ministers’>
After section 1

Liam McArthur

125  After section 1, insert—

<Duties of Scottish Ministers: statements of compatibility with the UNCRC in relation to bills

(1) As soon as reasonably practicable after the introduction of a Bill, the Scottish Minister in charge of that Bill must—

(a) make a statement to the effect that in the Minister’s view the provisions of the Bill are compatible with the UNCRC requirements (“a statement of compatibility”), or

(b) make a statement to the effect that although the Minister is unable to make a statement of compatibility, the Minister nevertheless wishes to proceed with the Bill.

(2) A statement of compatibility must set out how the Bill will secure better or further effect in Scotland of the UNCRC requirements.

(3) The statement must be in writing and be published in such a manner as the Minister making it considers appropriate.>

Liam McArthur

126*  After section 1, insert—

<Children’s rights impact assessment

(1) The Scottish Ministers must prepare and publish an assessment of the impact on the rights of children (“a children’s rights impact assessment”) in relation to every relevant Bill introduced in the Scottish Parliament by a member of the Scottish Government.

(2) A children’s rights impact assessment under subsection (1) must be laid before the Parliament before the introduction of the Bill to which it relates.

(3) The Scottish Ministers may prepare and publish a children’s rights impact assessment in relation to—

(a) any relevant subordinate legislation laid by virtue of an enactment introduced prior to the commencement of this section,

(b) any other relevant subordinate legislation where the Scottish Ministers or the Parliament consider that the children’s rights impact assessment under subsection (1) of the Bill by virtue of which the subordinate legislation is laid was unsatisfactory.

(4) A children’s rights impact assessment under subsection (3) must be laid in the Parliament before the laying of the subordinate legislation to which it relates.

(5) In preparing a children’s rights impact assessment under subsection (1) or (3) the Scottish Ministers must consult—

(a) children,

(b) such other persons as they consider appropriate.

(6) A children’s rights impact assessment under subsection (1) or (3) must contain—

(a) information on the impact of the Bill or subordinate legislation on children,
(b) information on how the Bill or subordinate legislation might secure better or further effect in Scotland of the UNCRC requirements,

(c) the views of children on the Bill or subordinate legislation,

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

(7) The Scottish Ministers may by order specify further documents in relation to which a children’s rights impact assessment must or may be required.

(8) In this section a “relevant Bill” or “relevant subordinate legislation” means a Bill or subordinate legislation which impacts on the rights of children.

Section 2

Siobhan McMahon

96 In section 2, page 2, line 15, at end insert <and the UNCRPD requirements>

Section 4

Siobhan McMahon

97 In section 4, page 3, line 19, at end insert <and
( ) Article 7 of the UNCRPD,>

Siobhan McMahon

98 In section 4, page 3, line 31, at end insert <,


“the UNCRPD requirements” means the rights and obligations set out in Article 7 of the UNCRPD.>

Siobhan McMahon

99 In section 4, page 3, line 32, after <document> insert <or to Article 7 of the UNCRPD>

Siobhan McMahon

100 In section 4, page 3, line 33, after <document> insert <or Article>

Section 7

Siobhan McMahon

127 In section 7, page 6, line 25, at end insert <, or

( ) families of children mentioned in paragraph (b).>
Siobhan McMahon

128 In section 7, page 6, line 33, after <service> insert <or a young persons’ service>

Aileen Campbell

55 In section 7, page 6, line 35, leave out from <a> to the end of line 36 and insert—

< ( ) if the area of the local authority is the same as that of a health board, that health board, 
( ) if the area of the local authority is not the same as that of a health board, the health board within whose area the area of the local authority falls.>

Siobhan McMahon

130* In section 7, page 6, line 36, at end insert <, “young person” means a person who has attained the age of 18 years but who has not attained the age of 25 years and who—

(a) has needs of a particular type (such as needs arising from having been a looked after child, needs arising from a disability or a need for additional support in learning), or

(b) is of a description specified by order by the Scottish Ministers,

“young persons’ service” means any service provided in the area of a local authority by a person mentioned in subsection (2) to young persons; but, where such a service is also provided to persons other than young persons, “young persons’ service” includes the service only to the extent that it is provided to young persons.>

Siobhan McMahon

131 In section 7, page 6, line 37, after first <service”> insert <, “young persons’ service”>

Aileen Campbell

56 In section 7, page 6, line 40, leave out <any> and insert <the>

Siobhan McMahon

132 In section 7, page 7, line 6, after first <service”> insert <, “young persons’ service”>

Siobhan McMahon

133 In section 7, page 7, line 7, leave out <either> and insert <any>

Aileen Campbell

57 In section 7, page 7, line 19, leave out <each> and insert <the>
Section 8

Aileen Campbell

58 In section 8, page 7, line 22, leave out first <each> and insert <the>

Siobhan McMahon

134 In section 8, page 7, line 23, after <children’s> and insert <and young persons’>

Siobhan McMahon

135 In section 8, page 7, line 29, after <children’s> insert <and young persons’>

Siobhan McMahon

136* In section 8, page 7, line 31, after <services,> insert—

<(  ) young persons’ services,>

Section 9

Siobhan McMahon

137 In section 9, page 7, line 34, after <children’s> insert <and young persons’>

Siobhan McMahon

138 In section 9, page 7, line 37, after <services> insert <and young persons’ services>

Siobhan McMahon

139 In section 9, page 8, line 1, after <children> insert <and young persons>

John Wilson

140 In section 9, page 8, line 6, leave out <most efficient> and insert <best>

Siobhan McMahon

141 In section 9, page 8, line 6, at end insert—

<(  ) that young persons’ transitions, on attaining the age of 18, from children’s services to young persons’ services are planned sufficiently well in advance,>

Siobhan McMahon

142 In section 9, page 8, line 9, after <children> insert <and young persons>

Section 10

Siobhan McMahon

143 In section 10, page 8, line 12, after <children’s> insert <and young persons’>
Aileen Campbell

59 In section 10, page 8, line 12, leave out <each> and insert <the>

Siobhan McMahon

144 In section 10, page 8, line 16, after <children’s> insert <and young persons’>

Siobhan McMahon

145 In section 10, page 8, line 26, after first <service> insert <, young persons’ service>

Aileen Campbell

60 In section 10, page 8, line 27, leave out <any> and insert <the>

Siobhan McMahon

146 In section 10, page 8, line 29, after first <service> insert <, a young persons’ service>

Siobhan McMahon

147 In section 10, page 8, line 34, after <children’s> insert <and young persons’>

Aileen Campbell

61 In section 10, page 8, line 37, leave out <each> and insert <the>

Siobhan McMahon

148 In section 10, page 8, line 38, after <children’s> insert <and young persons’>

Siobhan McMahon

149 In section 10, page 8, line 40, after <children’s> insert <and young persons’>

Aileen Campbell

62 In section 10, page 8, line 41, leave out <each> and insert <the>

Aileen Campbell

63 In section 10, page 9, line 4, leave out <each> and insert <the>

Section 11

Aileen Campbell

64 In section 11, page 9, line 12, leave out <each> and insert <the>

Siobhan McMahon

150 In section 11, page 9, line 13, after <children’s> insert <and young persons’>
Siobhan McMahon
151 In section 11, page 9, line 15, after <children’s> insert <and young persons’>

Siobhan McMahon
152 In section 11, page 9, line 16, after <children’s> in <and young persons’>

Siobhan McMahon
153 In section 11, page 9, line 17, after <children’s> insert <and young persons’>

Section 12

Siobhan McMahon
154 In section 12, page 9, line 22, after <children’s> insert <and young persons’>

Siobhan McMahon
155 In section 12, page 9, line 23, after <services> insert <, young persons’ services>

Aileen Campbell
65 In section 12, page 9, line 27, leave out <each> and insert <the>

Siobhan McMahon
156 In section 12, page 9, line 32, at end insert <or young person>

Section 13

Aileen Campbell
66 In section 13, page 10, line 2, leave out second <each> and insert <the>

Siobhan McMahon
157 In section 13, page 10, line 5, after first <services> insert <, young persons’ services>

Siobhan McMahon
158 In section 13, page 10, line 6, after <children’s> insert <and young persons’>

Siobhan McMahon
159 In section 13, page 10, line 9, after <children> insert <and young persons>

Section 14

Aileen Campbell
67 In section 14, page 10, line 16, leave out <each> and insert <the>
Siobhan McMahon

160 In section 14, page 10, line 20, after <service> insert <, a young persons’ service>

Section 15

Aileen Campbell

68 In section 15, page 10, line 32, leave out <each> and insert <the>

Aileen Campbell

69 In section 15, page 10, line 34, leave out from second <the> to end of line 35 and insert—

<( ) any person to which it relates, and
( ) such other persons as they consider appropriate.>

Section 16

Aileen Campbell

70 In section 16, page 11, line 6, leave out <each> and insert <the>

Aileen Campbell

71 In section 16, page 11, line 8, leave out from second <the> to end of line 9 and insert—

<( ) any person to which it relates, and
( ) such other persons as they consider appropriate.>

Section 17

Aileen Campbell

72 In section 17, page 11, line 11, leave out <each> and insert <the>

Aileen Campbell

73 In section 17, page 11, line 22, leave out <any> and insert <the>

Aileen Campbell

74 In section 17, page 11, line 30, leave out <boards> and insert <board>

Section 18

Siobhan McMahon

161 In section 18, page 11, line 37, after <children’s> insert <and young persons’>
Section 19

Liz Smith
1 In section 19, page 12, line 7, leave out <or young person>

Liz Smith
2 In section 19, page 12, line 19, leave out <or young person>

Liz Smith
3 In section 19, page 12, line 21, leave out <subject to subsection (5A),>

Liz Smith
4 In section 19, page 12, line 23, leave out <or young person>

Liz Smith
5 In section 19, page 12, line 24, leave out <or young person>

Liz Smith
6 In section 19, page 12, line 25, leave out <or young person>

Liz Smith
7 In section 19, page 12, line 26, leave out first <or young person>

Liz Smith
8 In section 19, page 12, line 26, leave out second <or young person>

Liz Smith
9 In section 19, page 12, line 28, leave out <or young person>

Liz Smith
10 In section 19, page 12, line 31, leave out <or young person>

Liz Smith
11 In section 19, page 12, line 32, leave out subsection (5A)

Liz Smith
162 In section 19, page 12, line 34, at end insert—
   <(5B) A named person may exercise the functions mentioned in subsection (5) only if the
   exercise of the functions is necessary—
   (a) in the interests of public safety,
(b) for the prevention of crime or disorder,
(c) for the protection of the wellbeing of the child or young person in respect of whom the functions are proposed to be exercised, or
(d) for the protection of the rights or freedoms of others.

Liz Smith

162A As an amendment to amendment 162, line 6, leave out <or young person>

Section 21

Liz Smith

12 In section 21, page 13, line 20, leave out <or (3)>

Liz Smith

13 In section 21, page 13, leave out lines 27 to 36

Liz Smith

14 In section 21, page 13, line 37, leave out subsection (3)

Liz Smith

15 In section 21, page 14, line 7, leave out subsection (6)

Section 22

Liz Smith

16 Leave out section 22

Section 23

Liz Smith

17 In section 23, page 14, line 23, leave out <or young person>

Liz Smith

18 In section 23, page 14, line 27, leave out <or young person>

Liz Smith

19 In section 23, page 14, line 29, leave out <or young person>

Liz Smith

20 In section 23, page 14, line 31, leave out <or young person>
Liz Smith
21 In section 23, page 14, line 32, leave out <or young person>

Liz Smith
22 In section 23, page 15, line 1, leave out <or young person>

Liz Smith
23 In section 23, page 15, line 8, leave out <or young person>

Liz Smith
24 In section 23, page 15, line 13, leave out <or young person>

After section 23

Liz Smith
163 After section 23, insert—

<Notification that named person functions are to be exercised

(1) A service provider must, as soon as reasonably practicable after it decides that one or more of the conditions mentioned in section 19(5B) for the exercise of the named person functions is met in relation to a child or young person, give the child or young person, and the parents of the child or young person, notice in writing of that fact.

(2) A notice under subsection (1) must—

(a) state—

(i) in relation to each condition mentioned in section 19(5B) which the service provider considers is met, the service provider’s reasons for so considering,

(ii) when it intends to start exercising the named person functions in relation to the child or young person, and

(iii) how it intends to exercise those functions, and

(b) identify the person who is to be the named person for the child or young person and provide details of how that person may be contacted.

(3) A person who receives a notice under subsection (1) may appeal against the service provider’s decision that one or more of the conditions mentioned in section 19(5B) is met in relation to the child or young person to the sheriff.>

Liz Smith
163A As an amendment to amendment 163, line 5, leave out first <or young person>

Liz Smith
163B As an amendment to amendment 163, line 5, leave out second <or young person>
Liz Smith
163C As an amendment to amendment 163, line 6, leave out <or young person>

Liz Smith
163D* As an amendment to amendment 163, line 12, leave out <or young person>

Liz Smith
163E* As an amendment to amendment 163, line 14, leave out <or young person>

Liz Smith
163F* As an amendment to amendment 163, line 18, leave out <or young person>

Section 24

Liz Smith
164 In section 24, page 15, line 23, after <exercised> insert <(in cases where they may be exercised)>

Liz Smith
25 In section 24, page 15, line 27, leave out first <or young person>

Liz Smith
26 In section 24, page 15, line 27, leave out second <or young person>

Liz Smith
27 In section 24, page 15, line 28, leave out <or young person>

Liz Smith
28 In section 24, page 15, line 29, leave out <or young person>

Liz Smith
29 In section 24, page 15, line 31, leave out <or young person>

Section 25

Liz Smith
30 In section 25, page 15, line 34, leave out <or young person>

Liz Smith
31 In section 25, page 15, line 36, leave out <or young person>
Section 26

Liz Smith
32 In section 26, page 16, line 7, leave out <or young person>

Liz Smith
33 In section 26, page 16, line 11, leave out <or young person>

Liz Smith
34 In section 26, page 16, line 13, leave out <or young person>

Liz Smith
35 In section 26, page 16, line 16, leave out <or young person>

Liz Smith
36 In section 26, page 16, line 21, leave out <or young person>

Liam McArthur
165 In section 26, page 16, line 27, after <practicable> insert—
<(a)>

Liz Smith
37 In section 26, page 16, line 28, leave out <or young person>

Liam McArthur
166 In section 26, page 16, line 28, at end insert—
<(b) where the information to be provided is confidential, seek to obtain informed and explicit consent—
(i) if the information holder considers that the child has capacity to give informed consent, from the child or young person, or
(ii) if the information holder does not consider that the child has such capacity, from any person with parental responsibilities in respect of the child,
unless the information holder considers that to seek such consent would be likely to adversely affect the wellbeing of the child or young person.>

Liam McArthur
167 In section 26, page 16, line 28, at end insert—
< ( ) In the event that consent under subsection (4A)(b) cannot be obtained, the information holder should proceed in accordance with the terms of any guidance issued under section 28.>
Liam McArthur

168* In section 26, page 16, line 29, leave out <(4A)> and insert <(4A)(a) or seeking to obtain the informed and explicit consent of a child under subsection (4A)(b)>

Liz Smith

38 In section 26, page 16, line 33, leave out <or young person>

Liz Smith

39 In section 26, page 16, line 35, leave out <or young person>

Liam McArthur

169 In section 26, page 17, line 1, leave out subsection (8)

Section 28

Liam McArthur

170 In section 28, page 17, line 20, at end insert—

<(  ) Guidance issued under subsection (1) must include guidance on how an information holder should proceed with the sharing of confidential information under section 26 in the event that consent under section 26(4A)(b) cannot be obtained.>

Aileen Campbell

75 In section 28, page 17, line 21, leave out from <any> to end of line 22 and insert—

<(  ) any person to which it relates, and
(  ) such other persons as they consider appropriate.>

Section 29

Aileen Campbell

76 In section 29, page 17, line 31, leave out from second <the> to end of line 32 and insert—

<(  ) any person to which it relates, and
(  ) such other persons as they consider appropriate.>

After section 29

Aileen Campbell

101 After section 29, insert—

<Complaints in relation to Part 4

(1) The Scottish Ministers may by order make provision about the making, consideration and determination of complaints concerning the exercise of functions conferred by or under this Part.>
(2) The provision which may be made under subsection (1) includes provision about—
   (a) matters which may, or may not, be the subject of a complaint,
   (b) who may make a complaint,
   (c) how a complaint may be made,
   (d) time limits for making complaints,
   (e) steps which require to be taken before a complaint may be made,
   (f) who is to consider a complaint,
   (g) the procedure for the consideration of a complaint,
   (h) the obtaining of information for the purpose of considering a complaint,
   (i) the keeping of records in relation to complaints or their consideration,
   (j) the making of findings, and reporting, following the consideration of a complaint.

(3) An order under subsection (1) may modify any enactment.>

Aileen Campbell

77 After section 29, insert—

<Relevant authorities

(1) The persons listed, or within a description listed, in schedule 2, are “relevant authorities” for the purposes of this Part (subject to subsection (3)).

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

(3) The following persons are not relevant authorities for the purposes of section 29—

   (a) the Commissioner for Children and Young People in Scotland,
   (b) a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.

(4) An order under subsection (2) which adds a person, or a description of persons, to schedule 2, may modify this section so as to provide that the person is not a relevant authority, or the persons within the description are not relevant authorities, for the purposes of section 29.>

Liam McArthur

77A* As an amendment to amendment 77, leave out line 10

Section 30

Liz Smith

40 In section 30, page 17, line 34, at end insert—

<“child” means a person who has not attained the age of 16 years,>
Liz Smith
41 In section 30, page 17, leave out lines 35 and 36

Liz Smith
42 In section 30, page 18, leave out lines 16 to 21

Liz Smith
43 In section 30, page 18, leave out lines 23 and 24

Aileen Campbell
78 In section 30, page 18, leave out lines 25 and 26

Liz Smith
44 In section 30, page 18, leave out lines 27 and 28

Liz Smith
45 In section 30, page 18, leave out line 38

Liz Smith
46 In section 30, page 19, leave out lines 4 and 5

Liz Smith
47 In section 30, page 19, leave out lines 6 and 7

Liz Smith
48 In section 30, page 19, leave out line 8

Aileen Campbell
79 In section 30, page 19, line 9, leave out subsection (2)

Section 38

Aileen Campbell
80 In section 38, page 24, line 23, leave out <person listed, or within a description listed, in schedule 2A> and insert <listed authority>

Liam McArthur
171 In section 38, page 24, line 28, leave out subsection (3)

Aileen Campbell
81 In section 38, page 24, line 39, leave out subsection (6)
Section 39

Aileen Campbell 82 In section 39, page 25, line 9, leave out <person (other than the Scottish Ministers) listed, or within a description listed, in schedule 2A> and insert <listed authority>.

Aileen Campbell 83 In section 39, page 25, line 11, leave out from <any> to end of line 12 and insert—

<(  ) any person to which it relates, and
(  ) such other persons as they consider appropriate.>

Section 40

Aileen Campbell 84 In section 40, page 25, line 19, leave out <person (other than the Scottish Ministers) listed, or within a description listed, in schedule 2A> and insert <listed authority>.

Aileen Campbell 85 In section 40, page 25, line 21, leave out from second <the> to end of line 22 and insert—

<(  ) any person to which it relates, and
(  ) such other persons as they consider appropriate.>

After section 40

Aileen Campbell 102 After section 40, insert—

<Complaints in relation to Part 5

(1) The Scottish Ministers may by order make provision about the making, consideration and determination of complaints concerning the exercise of functions conferred by or under this Part.

(2) The provision which may be made under subsection (1) includes provision about—

(a) matters which may, or may not, be the subject of a complaint,
(b) who may make a complaint,
(c) how a complaint may be made,
(d) time limits for making complaints,
(e) steps which require to be taken before a complaint may be made,
(f) who is to consider a complaint,
(g) the procedure for the consideration of a complaint,
(h) the obtaining of information for the purpose of considering a complaint,
(i) the keeping of records in relation to complaints or their consideration,
(j) the making of findings, and reporting, following the consideration of a complaint.

(3) An order under subsection (1) may modify any enactment.>

Aileen Campbell

86 After section 40, insert—

<Listed authorities

(1) The persons listed, or within a description listed, in schedule 2A, are “listed authorities” for the purposes of this Part (subject to subsections (3) and (4)).

(2) The Scottish Ministers may by order modify schedule 2A by—

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

(3) The Scottish Ministers are not a listed authority for the purposes of sections 39 and 40.

(4) The following persons are not listed authorities for the purposes of section 40—

(a) the Commissioner for Children and Young People in Scotland,
(b) a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.

(5) An order under subsection (2) which adds a person, or a description of persons, to schedule 2A, may modify this section so as to provide that the person is not a listed authority, or the persons within the description are not listed authorities, for the purposes of section 40.>

Liam McArthur

86A* As an amendment to amendment 86, leave out line 11

Section 43

Liz Smith

51 In section 43, page 26, line 16, leave out from <under> to end of line 22 and insert <of pre-school age and has not commenced attendance at a primary school (other than at a nursery class in such a school), or

(b) is under pre-school age but falls within subsection (3).

(2A) A child is of pre-school age from the school commencement date in the year in which, on the last day of February, the child was aged (or turned) 2 until the school commencement date two years later.

(2B) The Scottish Ministers may by order specify that a child—

(a) who—

(i) is under school age on the second school commencement date mentioned in subsection (2A),
(ii) is not commencing attendance at a primary school on that date (other than commencing or continuing attendance at a nursery class in such a school), and

(iii) meets such other criteria as may be specified in the order,

is, until the next school commencement date, to be regarded as an eligible pre-school child, or

(b) who is within such age range below pre-school age, or is of such other description, as may be specified in the order is to be regarded as an eligible pre-school child.

Aileen Campbell

103 In section 43, page 26, line 23, at beginning insert <Subject to subsection (3A),>

Neil Bibby

172 In section 43, page 26, line 23, after <and> insert—

   <(aa) the child>

Aileen Campbell

104 In section 43, page 26, line 26, at end insert <or a child falling within section 64(3)(f)>

Neil Bibby

173 In section 43, page 26, line 26, at end insert <,

   (ab) the child—

   (i) would, if the child was a pupil at a school, be entitled by virtue of subsection (3)(a) of section 53 of the 1980 Act to be provided with a school lunch free of charge by virtue of subsection (3AA) of that section, or

   (ii) has at any time since the child’s second birthday fallen within sub-paragraph (i).>

Aileen Campbell

105 In section 43, page 26, line 26, at end insert—

   <(3A) The Scottish Ministers may by order provide that a child aged 4 or over does not (or is no longer to) fall within subsection (3) in such circumstances as may be specified in the order.>

Neil Bibby

174 In section 43, page 26, line 26, at end insert—

   <(3B) The Scottish Ministers must, no later than 30 April 2015, lay before the Scottish Parliament an order under subsection (2)(c)(ii) which secures the outcome specified in subsection (3C).

   (3C) That outcome is that, with effect from a date in August 2015 specified in the order, every child within the description in subsection (3D) is an eligible pre-school child.>
(3D) That description is a child—
(a) who is under school age but aged 2 or over,
(b) who has not commenced attendance at a primary school (other than at a nursery class in such a school), and
(c) who—
(i) would, if the child was a pupil at a school, be entitled by virtue of subsection (3)(a) of section 53 of the 1980 Act to be provided with a school lunch free of charge by virtue of subsection (3AA) of that section, or
(ii) has at any time since the child’s second birthday fallen within sub-paragraph (i).

Liz Smith
52 In section 43, page 26, line 27, leave out <(2)(c)(ii) may provide that a child is to be> and insert <(2B) may provide that a child is to be regarded as>

Liz Smith
53 In section 43, page 26, line 29, at end insert—

<(  ) In subsection (2A), “school commencement date” means the date fixed under section 32(1) of the 1980 Act by the local authority for the area in which the child resides.>

Before section 49

Neil Bibby
175 Before section 49B, insert—

<Duty to provide out of school care
(1) Section 27 of the 1995 Act is amended as follows.
(2) For subsection (3) substitute—
“(3) Each local authority must secure that the mandatory amount of—
(a) care outside school hours, and
(b) care during school holidays,
is made available to children within their area who are in attendance at a school.

(3ZA) The “mandatory amount” for the purposes of subsection (3) is such number of hours, to be provided over such period of time and by such methods, as the Scottish Ministers may by order specify in relation to each of paragraph (a) and (b) of that subsection.

(3ZB) A local authority may secure that—
(a) care outside school hours,
(b) care during school holidays,
other than that which they are required to secure under subsection (3) is made available to children within their area who are in attendance at a school.>
(3ZC) An order under subsection (3ZA)—
   (a) may make different provision for different purposes (and may in
       particular specify different mandatory amounts in relation to different
       descriptions of children specified in the order),
   (b) is subject to the affirmative procedure.

(3ZD) Before laying a draft order under subsection (3ZA) before the Scottish
Parliament, the Scottish Ministers must consult—
   (a) each local authority,
   (b) such other persons as they consider appropriate.

(3ZE) For the purposes of such consultation, the Scottish Ministers must—
   (a) lay a copy of the proposed draft order before the Parliament,
   (b) publish the proposed draft order in such manner as they consider
       appropriate, and
   (c) have regard to any representations about the proposed draft order that are
       made to them within 60 days of the date on which the copy of the
       proposed draft order is laid before the Parliament under paragraph (a).

(3ZF) In calculating any period of 60 days for the purposes of subsection (3ZE)(c),
no account is to be taken of any time during which the Parliament is dissolved
or is in recess for more than 4 days.

(3ZG) When laying a draft order under subsection (3ZA) before the Parliament, the
Scottish Ministers must also lay before the Scottish Parliament an explanatory
document giving details of—
   (a) the consultation carried out under subsection (3ZD),
   (b) any representations received as a result of the consultation, and
   (c) the changes (if any) made to the proposed draft order as a result of those
       representations.”.

Section 50

Aileen Campbell

87 In section 50, page 30, line 5, leave out <subsection (3)> and insert <subsections (3) and (3A)>

Liam McArthur

176 In section 50, page 30, leave out line 12

Section 57

Aileen Campbell

88 In section 57, page 32, line 35, leave out <they relate> and insert <it relates>
After section 59

Jayne Baxter

177* After section 59, insert—

PART

SIBLING CONTACT

Sibling contact: duty of local authority to child looked after by that authority

(1) The 1995 Act is amended as follows.

(2) In section 17—

(a) in subsection (1)(c)—

(i) after first “to” insert “—

(ii) “(ii) promote and facilitate, on a regular basis, personal relations and
direct contact between the child and any siblings of the child,”,

(iii) the text after sub-paragraph (ii) becomes full-out text to paragraph (c) as a
whole,

(b) after subsection (7), insert—

“(8) Any reference in this section to a sibling includes a sibling by virtue of
adoption, marriage or civil partnership, a sibling of the half blood and any
other person the child regards as the child’s sibling and with whom the child
has an established family life.”.

Section 60

Aileen Campbell

89 In section 60, page 34, line 27, at end insert—

<( ) in the opening words, for “Subject to subsection (3) below, a” substitute
“A”,>.

Section 60A

Aileen Campbell

178 In section 60A, page 36, line 14, at end insert—

<( ) Before making an order under this section, the Scottish Ministers must consult—

(a) each local authority, and

(b) such other persons as they consider appropriate.>
Section 64

Jayne Baxter

180 In section 64, page 38, line 11, after <is> insert—

<(a) in the case of a person who is applying for a kinship care order in relation to an eligible child who has not attained the age of 16 years or who falls within paragraph (c) or (e) of subsection (3)—

5 (i) the provision of the minimum rate of financial support, and

(ii) the provision of additional assistance of such description as the Scottish Ministers may by order specify,

(b) in any other case, the provision of assistance of such description as the Scottish Ministers may by order specify.

10 (2A) The Scottish Ministers must by order specify the minimum rate of financial support for the purposes of subsection (2)(a)(i).

(2B) An order under subsection (2A)—

(a) must provide for the rate to be the same for all local authorities, but

(b) may provide for the rate to increase with the age of the child.>

Jayne Baxter

180A As an amendment to amendment 180, line 2, leave out <an eligible> and insert <a>

Jayne Baxter

180B* As an amendment to amendment 180, line 4, leave out <(c) or (e)> insert <(aa), (c), (ca), (e) or (ea)>

Jayne Baxter

181 In section 64, page 38, line 15, leave out <an eligible> and insert <a>

Jayne Baxter

202* In section 64, page 38, line 15, at end insert—

<(aa) a person who is applying for a kinship care order in relation to an eligible child who—

5 (i) has attained the age of 16 but not the age of 18, and

(ii) is cared for by the person applying for the order,>

Jayne Baxter

202A* As an amendment to amendment 202, line 2, leave out <an eligible> and insert <a>

Jayne Baxter

182 In section 64, page 38, line 16, leave out <an eligible> and insert <a>
Jayne Baxter
183  In section 64, page 38, line 18, leave out <an eligible> and insert <a>

Jayne Baxter
203*  In section 64, page 38, line 19, at end insert—

<(ca) a person—

(i)  who is caring for an eligible child who has attained the age of 16 but not the age of 18, and

(ii)  in whose favour a kinship care order in relation to that child subsists or subsisted immediately prior to the child attaining the age of 16,>

Jayne Baxter
203A* As an amendment to amendment 203, line 3, leave out <an eligible> and insert <a>

Jayne Baxter
184  In section 64, page 38, line 22, leave out from <and> to end of line 23

Jayne Baxter
185  In section 64, page 38, line 25, leave out <an eligible> and insert <a>

Jayne Baxter
204*  In section 64, page 38, line 26, at end insert—

<(ea) a person—

(i)  who is caring for an eligible child who has attained the age of 16 but not the age of 18, and

(ii)  who is or was, immediately prior to the child attaining the age of 16, a guardian of that child by virtue of an appointment under section 7 of the 1995 Act,

(but this is subject to subject to subsection (3A)),>

Jayne Baxter
204A* As an amendment to amendment 204, line 3, leave out <an eligible> and insert <a>

Jayne Baxter
186  In section 64, page 38, line 27, leave out <an eligible> and insert <a>

Jayne Baxter
205*  In section 64, page 38, line 29, leave out <Subsection (3)(e) does> and insert <Paragraphs (e) and (ea) of subsection (3) do>
In section 64, page 38, leave out subsection (4)

In section 66, page 39, line 17, after <specified> insert <by virtue of section 64(2)(a)(ii) or (b)>

In section 66, page 39, line 25, after <assistance> insert <specified by virtue of section 64(2)(a)(ii) or (b)>

In section 66, page 39, leave out lines 26 to 29

After section 66

After section 66, insert—

<Kinship care assistance: allowances for care>

In section 110 of the Adoption and Children (Scotland) Act 2007—

(a) in subsection (1) at the beginning insert “Subject to subsection (1A),”;

(b) after subsection (1) insert—

“(1A) The Scottish Ministers must make regulations under subsection (1) in respect of a child who falls within subsection (2) and is in the care of a qualifying person.”;

(c) in subsection (3) at the beginning insert “Subject to subsection (3A),”;

(d) after subsection (3) insert—

“(3A) Regulations under subsection (1) where subsection (1A) applies—

(a) must specify the minimum rate of financial support to be provided to a qualifying person,

(b) must provide for that rate to be the same for all local authorities, but

(c) may provide for the rate to increase with the age of the child.”;

(e) after subsection (6) insert—

“(6A) For the purposes of this section “qualifying person” has the same meaning as in Part 10 of the Children and Young People (Scotland) Act 2014.”>
After section 68C

Liam McArthur

191 After section 68C, insert—

<Correction of proposal paper>

(1) Section 5 of the 2010 Act (correction of the proposal paper) is amended in accordance with subsections (2) to (4).

(2) In subsection (2)—

(a) the word “and” immediately following paragraph (a) is repealed,

(b) after that paragraph insert—

“(aa) inform the notifier of its determination under paragraph (a), and the reasons for that determination,”,

(c) in paragraph (b), for “subsection (3)” substitute “subsection (4) and of the reasons why it is, or is not, taking such action”,

(d) after paragraph (b) insert “, and

(c) invite the notifier to make representations to the authority if the notifier disagrees with the authority’s determination under paragraph (a) or its decision as to whether to take action under subsection (4).”.

(3) After that subsection insert—

“(2A) Where the notifier makes representations to the authority in pursuance of subsection (2)(c), the authority may—

(a) make a fresh determination under subsection (2)(a),

(b) make a fresh decision as to whether to take action under subsection (4).

(2B) The authority must inform the notifier if it takes a step mentioned in subsection (2A)(a) or (b).”.

(4) For subsection (3) substitute—

“(3) Subsection (4) applies—

(a) where, in a situation mentioned in subsection (1)(a), the education authority determines that—

(i) relevant information has (in its opinion) been omitted from the proposal paper, or

(ii) there is (in fact) an inaccuracy in the proposal paper,

(b) in a situation mentioned in subsection (1)(b).

(4) Where—

(a) the information that has been omitted or, as the case may be, the inaccuracy relates to a material consideration relevant to the education authority’s decision as to implementation of the proposal, it must take action as mentioned in subsection (5)(a) or (b),

(b) that information or inaccuracy does not relate to such a material consideration, the authority may—

(i) take action as mentioned in subsection (5)(a) or (b), or
(ii) take no further action (except by virtue of section 10(3)).

(5) The action referred to in subsection (4)(a) and (b)(i) is—

(a) to take the following steps—

(i) publish a corrected proposal paper,
(ii) give revised notice in accordance with section 6, and
(iii) send a copy of the corrected paper to HMIE,

(b) to issue a notice to the relevant consultees and HMIE—

(i) providing the omitted information or, as the case may be, correcting the inaccuracy, and
(ii) if the authority considers it appropriate, extending the consultation period by such period as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction.

(6) Where the education authority issues a notice mentioned in subsection (5)(b) after the end of the consultation period—

(a) the notice may, instead of extending the consultation period, specify such further period during which representations may be made on the proposal as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction, and

(b) any such further period is to be treated as part of the consultation period for the purposes of sections 8, 9 and 10.”.

(5) In section 10 of the 2010 Act (content of the consultation report), in subsection (3)—

(a) in the opening text, after “applies,” insert “including any alleged omission or inaccuracy notified to the education authority,”,

(b) in paragraph (a), after “inaccuracy” insert “, or (as the case may be) the alleged omission or inaccuracy,”,

(c) in paragraph (b), after “inaccuracy” insert “, or (as the case may be) the alleged omission or inaccuracy,”,

(d) after that paragraph insert—

“(e) any representations made to the authority in pursuance of section 5(2)(e).”.

Section 68D

Michael Russell

106 In section 68D, page 43, line 31, after <closure> insert <proposals>

Michael Russell

107 In section 68D, page 44, line 1, after <that> insert <such>

Liz Smith

108 In section 68D, page 44, line 3, at end insert—
The authority must publish on its website notice of—

(a) its decision as to implementation of the proposal, and

(b) where it decides to implement the proposal (wholly or partly), the reasons why it is satisfied that such implementation is the most appropriate response to the reasons for formulating the proposal identified by the authority under section 12A(2)(a).”.

In section 68D, page 45, line 8, after <explain> insert <the reasons>

In section 68D, page 45, line 39, at end insert—

“whether and, if so, the reasons why the authority considers that implementation of the proposal (wholly or partly) would be the most appropriate response to the reasons for the proposal.”.

Section 68E

In section 68E, page 46, line 7, at end insert—

“in subsection (2), after paragraph (b)(ii) insert—

“(iii) where the decision relates to a rural school, the notice published under section 11A(3).”,

after that subsection insert—

“(2A) At the same time as it notifies the Scottish Ministers of the decision under subsection (2)(a), the education authority must publish on its website notice of—

(a) the fact that the Scottish Ministers have been so notified, and

(b) the opportunity for making representations to the Scottish Ministers in connection with subsection (4), including the date on which the 3 week period referred to in that subsection ends.”.

Section 71A

After section 71A, insert—

“Provision of school meals

Provision of free school lunches

(1) Section 53 of the 1980 Act is amended as follows.

(2) Subsection (2) is repealed.

(3) In subsection (2A), after “lunches” insert “which the authority are required to provide by virtue of subsection (3)”.

30
(4) In subsection (2C)(b), the words “(other than in the middle of the day)” are omitted.

(5) In subsection (2D), the words “(2) or” are omitted.

(6) In subsection (3), after paragraph (b) insert—

“(c) who is in such yearly stage of primary or secondary education, or is of such other description, as the Scottish Ministers may by regulations prescribe.”.

After section 71B

Liam McArthur

193* After section 71B, insert—

<Pre-school children with additional support needs

General functions of education authority in relation to children with additional support needs

In section 5 of the Education (Additional Support for Learning) (Scotland) Act 2004—

(a) in subsection (2)—

(i) after first “have” insert “additional support”,

(ii) omit “of the type mentioned in subsection (3)(c)”,

(b) in subsection (3)—

(i) insert the word “and” immediately after paragraph (a),

(ii) omit the word “and” immediately following paragraph (b),

(iii) omit paragraph (c).

Siobhan McMahon

179* After section 71B, insert—

<Mentoring scheme

Mentoring scheme for children and young people with a disability

(1) The Scottish Ministers may by order make provision for a mentoring scheme for eligible children and young people with a disability to support such children and young people in their transition to adulthood.

(2) An order under subsection (1) must include provision about—

(a) the criteria which will be applied in determining eligibility for the scheme,

(b) the advice, assistance and support to be provided under the scheme,

(c) the qualifications and experience required of persons to provide such advice, assistance and support under the scheme,

(d) such other matters about the establishment and provision of the scheme as the Scottish Ministers consider appropriate.

(3) For the purposes of this section, a child or young person is disabled if they have a disability within the meaning of section 1 of the Disability Discrimination Act 1995.
National speech, language and communication strategy for children and young people

(1) The Scottish Ministers must, no later than one year after this section comes into force, lay a national speech, language and communication strategy for children and young people before the Scottish Parliament.

(2) The strategy must, in particular, set out—
   (a) the Scottish Ministers’ objectives for speech, language and communication for children and young people,
   (b) their proposals for meeting those objectives,
   (c) the timescales over which those proposals and policies are expected to take effect.

(3) Before laying the strategy before the Parliament, the Scottish Ministers must publish a draft strategy and consult with—
   (a) children and young people, including children and young people with speech, language and communication needs,
   (b) the parents of children and young people with speech, language and communication needs,
   (c) persons working for, and on behalf of, children and young people, including children and young people with speech, language and communication needs,
   (d) the providers of services to children with speech, language and communication needs in relation to those needs,
   (e) such others persons as they consider appropriate.

(4) The strategy must be accompanied by a report setting out—
   (a) the consultation process undertaken in order to comply with subsection (3), and
   (b) the ways in which the views expressed during that process have been taken account of in finalising the strategy (or stating that no account has been taken of such views).

(5) The Scottish Ministers must, no later than—
   (a) 3 years after laying a strategy before the Parliament under subsection (1), and
   (b) the end of every subsequent period of 3 years,
lay a revised strategy before the Parliament; and subsections (2) to (4) apply to a revised strategy as they apply to a strategy laid under subsection (1).

(6) The Scottish Ministers must, when laying a revised strategy before the Parliament, also lay before the Parliament a report evaluating the effectiveness of the strategy immediately preceding that revised strategy.>
Section 75

Liz Smith

49 In section 75, page 59, line 12, after <means> insert <(except in Part 4)>

Section 77

Jayne Baxter

195 In section 77, page 59, line 35, at beginning insert <except in the case of an order under section 64(2A),>

Aileen Campbell

112 In section 77, page 60, line 6, at end insert—

<section (Complaints in relation to Part 4)(1),>

Aileen Campbell

90 In section 77, page 60, line 7, leave out <30(2)> and insert <(Relevant authorities)(2)>

Aileen Campbell

113* In section 77, page 60, line 8, at end insert—

<section (Complaints in relation to Part 5)(1),>

Aileen Campbell

91 In section 77, page 60, line 9, leave out <38(6)> and insert <(Listed authorities)(2)>

Liz Smith

54 In section 77, page 60, line 10, leave out <43(2)(c)(ii)> and insert <43(2B)>

Aileen Campbell

114 In section 77, page 60, line 10, at end insert—

<section 43(3A),>

Siobhan McMahon

196* In section 77, page 60, line 17, at end insert—

<section (Mentoring scheme for children and young people with a disability)(1)>

Section 79

Aileen Campbell

115 In section 79, page 61, line 9, at end insert—
Subsections (2) to (4) of section 43 also come into force on the day after Royal Assent.

Neil Bibby

115A As an amendment to amendment 115, line 2, after <(4)> insert <(other than subsection (3)(ab))>

Neil Bibby

197 In section 79, page 61, line 11, at end insert—

<( ) The day (or days) appointed for section 43(3)(ab) to come into force must be in or before August 2015.>

Schedule 2

Liz Smith

50 In schedule 2, page 62, line 26, at end insert—

<The Scottish Ministers>

Liam McArthur

198 In schedule 2, page 63, line 3, leave out paragraph 13

Schedule 2A

Liam McArthur

199 In schedule 2A, page 63, line 21, leave out paragraph 13

Schedule 3

Liam McArthur

200* In schedule 3, page 64, line 11, leave out paragraph 20

Schedule 4

Adam Ingram

201 In schedule 4, page 65, line 7, at end insert—

<%( ) In section 53A(2), for “53(3)” substitute “53”.

%( ) In section 53B—

(a) in subsection (1)—

(i) after “applies” insert “, subject to subsection (1A),”,

(ii) for “53(3)” substitute “53”,

(b) after subsection (1), insert—

“(1A) This section does not apply in such circumstances as the Scottish Ministers may by regulations prescribe.”,>
(c) in subsection (5)(b), for “53(3)” substitute “53”.

( ) In section 133—

(a) in subsection (2), for “(2ZA)” substitute “(2YA)”,

(b) after subsection (2), insert—

“(2YA)Subsection (2) above shall not apply to any regulations under section 53(3)(c) of this Act; and such regulations shall be subject to the affirmative procedure.”.