

Children and Young People (Scotland) Bill

4th Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the fourth day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

School closures

405, 406, 407, 408, 408A, 409, 409A, 423

Children's hearings

410, 411, 412, 413, 414, 415, 416, 417, 418, 432

Appeal against detention of child in secure accommodation

419, 420, 430

Children's legal aid

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Licensing of child performances

422, 431

Sex education in schools

433

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

434, 436, 437

Minimum age of persons applying for gender recognition

435, 438

Guidance for voluntary organisations

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Minor and consequential modifications of enactments

424, 425, 426, 387, 427, 428, 429

Amendments already debated

Speech, language and communication

With 216 (on Day 1) – 254, 255, 256

Guidance and directions

With 95 (on Day 1) – 118

Default powers in relation to children's services planning

With 108 (on Day 1) – 117

Assistance etc. in relation to child's plan

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Order specifying eligible pre-school children: procedure

With 341 – 313

Corporate parents and their responsibilities

With 303 – 315

Looked after children: aftercare, continuing care and period for which corporate parenting duties apply etc.

With 308 – 381, 382, 383, 384, 385, 314

Counselling and other support for certain children, parents etc.

With 332 – 386, 388

Persons eligible to receive kinship care assistance

With 358 – 389

Adoption register

With 370 – 380

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Amendments in debating order

School closures

Michael Russell

405 After section 68, insert—

<PART

SCHOOL CLOSURE PROPOSALS, ETC.

References to the Schools (Consultation) (Scotland) Act 2010

In this Part, references to the 2010 Act are to the Schools (Consultation) (Scotland) Act 2010.>

Liz Smith

406 After section 68, insert—

<Restriction on closure proposals

After section 2 of the 2010 Act, insert—

“2A Restriction on closure proposals

- (1) This section applies where a decision is made not to implement a closure proposal in relation to a school.
- (2) For the purposes of subsection (1)—
 - (a) a decision not to implement a closure proposal is—
 - (i) a decision not to implement the proposal made by the education authority following the publication of a consultation report in relation to the proposal (whether or not the proposal was called-in under section 15),
 - (ii) a decision of a School Closure Review Panel in relation to the proposal under section 17C(1)(a),
 - (b) such a decision is made by a School Closure Review Panel on the day on which the Panel notifies the decision to the education authority in pursuance of section 17C(5).
- (3) The education authority may not publish a proposal paper concerning a further closure proposal in relation to the school during the period of 5 years beginning with the day on which the decision is made unless there is a significant change in the school’s circumstances.”>

Michael Russell

407 After section 68, insert—

<Financial implications of closure proposals

In section 4 of the 2010 Act (proposal paper), after subsection (2) insert—

- “(2A) Where a proposal paper relates to a closure proposal, it must also contain information about the financial implications of the proposal.”>

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Michael Russell

408 After section 68, insert—

<Special provision for rural school closure proposals

(1) Before section 12 of the 2010 Act (factors for rural school closure), insert—

“11A Presumption against rural school closure

- (1) This section applies in relation to any closure proposal as respects a rural school.
- (2) The education authority may not decide to implement the proposal (wholly or partly) unless the authority—
 - (a) has complied with sections 12, 12A and 13, and
 - (b) having so complied, is satisfied that implementation of the proposal is the most appropriate response to the reasons for formulating the proposal identified by the authority under section 12A(2)(a).”

(2) In that section—

- (a) subsection (3)(a) is repealed,
- (b) in subsection (4), after “(3)(b)” insert “and sections 12A(2)(c)(ii) and 13(5)(b)(ii)”,
- (c) in subsection (5), after “(3)(c)” insert “and sections 12A(2)(c)(iii) and 13(5)(b)(iii)”.

(3) After that section, insert—

“12A Preliminary requirements in relation to rural school closure

- (1) This section applies where an education authority is formulating a closure proposal as respects a rural school.
- (2) The authority must—
 - (a) identify its reasons for formulating the proposal,
 - (b) consider whether there are any reasonable alternatives to the proposal as a response to those reasons,
 - (c) assess, for the proposal and each of the alternatives to the proposal identified under paragraph (b) (if any)—
 - (i) the likely educational benefits in consequence of the implementation of the proposal, or as the case may be, alternative,
 - (ii) the likely effect on the local community (assessed in accordance with section 12(4)) in consequence of such implementation,
 - (iii) the likely effect that would be caused by any different travelling arrangements that may be required (assessed in accordance with section 12(5)) in consequence of such implementation.
- (3) For the purposes of this section and section 13, reasonable alternatives to the proposal include (but are not limited to) steps which would not result in the school or a stage of education in the school (within the meaning of paragraph 12 of schedule 1) being discontinued.

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- (4) The authority may not publish a proposal paper in relation to the proposal unless, having complied with subsection (2), it considers that implementation of the closure proposal would be the most appropriate response to the reasons for the proposal.
 - (5) In this section and section 13, the references to the reasons for the proposal are references to the reasons identified by the education authority under subsection (2)(a).”.
- (4) For section 13 of the 2010 Act substitute—
- “13 Additional consultation requirements**
- (1) This section applies in relation to any closure proposal as respects a rural school.
 - (2) The proposal paper must additionally—
 - (a) explain the reasons for the proposal,
 - (b) describe what (if any) steps the authority took to address those reasons before formulating the proposal,
 - (c) if the authority did not take such steps, explain why it did not do so,
 - (d) set out any alternatives to the proposal identified by the authority under section 12A(2)(b),
 - (e) explain the authority’s assessment under section 12A(2)(c),
 - (f) explain why the authority considers, in light of that assessment, that implementation of the closure proposal would be the most appropriate response to the reasons for the proposal.
 - (3) The notice to be given to relevant consultees under section 6(1) must—
 - (a) give a summary of the alternatives to the proposal set out in the proposal paper,
 - (b) state that written representations may be made on those alternatives (as well as on the proposal), and
 - (c) state that written representations on the proposal may suggest other alternatives to the proposal.
 - (4) In sections 8(4)(c), 9(4) and 10(2)(a), the references to written representations on the proposal include references to written representations on the alternatives to the proposal set out in the proposal paper.
 - (5) When carrying out its review of the proposal under section 9(1), the education authority is to carry out—
 - (a) for the proposal and each of the alternatives to it set out in the proposal paper (if any), a further assessment of the matters mentioned in section 12A(2)(c)(i) to (iii), and
 - (b) an assessment, in relation to any other reasonable alternative to the proposal suggested in written representations on the proposal, of—
 - (i) the likely educational benefits in consequence of the implementation of the alternative,
 - (ii) the likely effect on the local community (assessed in accordance with section 12(4)) in consequence of such implementation,

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- (iii) the likely effect that would be caused by any different travelling arrangements that may be required (assessed in accordance with section 12(5)) in consequence of such implementation.
- (6) The consultation report must additionally explain—
 - (a) the education authority’s assessment under subsection (5)(a),
 - (b) how that assessment differs (if at all) from the authority’s assessment under section 12A(2)(c),
 - (c) the authority’s assessment under subsection (5)(b).”.
- (5) In section 1 of the 2010 Act (overview of key requirements), after subsection (4) insert—
 - “(4A) In the case of a closure proposal in relation to a rural school, the education authority must also comply with—
 - (a) the preliminary requirements set out in section 12A when it is formulating the proposal,
 - (b) the additional consultation requirements set out in section 13.”.>

Liz Smith

408A As an amendment to amendment 408, line 10, leave out <is satisfied> and insert <has demonstrated>

Michael Russell

409 After section 68, insert—

<Call-in of closure proposals

- (1) In section 15 of the 2010 Act (call-in of closure proposals)—
 - (a) in each of subsections (3), (4) and (6) for “6” substitute “8”,
 - (b) subsection (5) is repealed.
- (2) Section 16 of the 2010 Act is repealed.
- (3) In section 17 of the 2010 Act (grounds for call-in etc.)—
 - (a) in subsection (3)—
 - (i) the word “or” immediately following paragraph (a) is repealed,
 - (ii) paragraph (b) is repealed,
 - (b) after that subsection insert—
 - “(3A) HMIE must provide the Scottish Ministers with such advice as to the educational aspects of a closure proposal as the Scottish Ministers may reasonably require of HMIE for the purpose of the Scottish Ministers’ consideration of whether to issue a call-in notice.”.
- (4) After section 17 of the 2010 Act insert—
 - “**17A Referral to the Convener of the School Closure Review Panels**
 - (1) This section applies where a call-in notice is issued as respects a closure proposal.

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- (2) The Scottish Ministers must refer the proposal to the Convener of the School Closure Review Panels.
- (3) The Convener must, within the period of 7 days beginning with the day on which the call-in notice is issued, constitute a School Closure Review Panel to review the proposal under section 17B(1).
- (4) The education authority may not implement the proposal (wholly or partly)—
 - (a) unless the Panel grants its consent to it under section 17C(1), and
 - (b) until—
 - (i) the period mentioned in section 17D(2)(c) has expired without any appeal to the sheriff being made, or
 - (ii) where such an appeal is made, it is abandoned or the sheriff confirms the Panel's decision.
- (5) Schedule 2A makes further provision about the Convener and School Closure Review Panels.
- (6) In this Act—
 - (a) “the Convener” is the Convener of the School Closure Review Panels,
 - (b) a “School Closure Review Panel” is a School Closure Review Panel constituted under subsection (3).

17B Review by Panel

- (1) A School Closure Review Panel must consider both of the following in relation to a closure proposal—
 - (a) whether the education authority has failed in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the proposal,
 - (b) whether the education authority has failed to take proper account of a material consideration relevant to its decision to implement the proposal.
- (2) The education authority must provide the Panel with such information in connection with the proposal as the Panel may reasonably require of it for the purpose of subsection (1).
- (3) HMIE must provide the Panel with such advice as to the educational aspects of the proposal as the Panel may reasonably require of them for the purpose of subsection (1).
- (4) The Panel may request such other information and advice from any other person as it may reasonably require for the purpose of subsection (1).
- (5) The Scottish Ministers may by regulations make further provision as to the procedures to be followed by the Panel when carrying out a review under subsection (1).

17C Decision following review

- (1) Following a review of a closure proposal under section 17B(1), the School Closure Review Panel may—
 - (a) refuse to consent to the proposal,

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- (b) refuse to consent to the proposal and remit it to the education authority for a fresh decision as to implementation,
- (c) grant consent to the proposal—
 - (i) subject to conditions, or
 - (ii) unconditionally.
- (2) The Panel must give reasons for its decision.
- (3) Where the Panel remits the proposal to the education authority under subsection (1)(b), the Panel may specify any steps in the process provided for in sections 1 to 11 and (in relation to a closure proposal as respects a rural school) 12A that the authority must take again in relation to the proposal before making a fresh decision.
- (4) The Panel may refuse to consent to the proposal under subsection (1)(a) or (b) only if the Panel finds either or both of the following—
 - (a) that the education authority has failed in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the proposal,
 - (b) that the authority has failed to take proper account of a material consideration relevant to its decision to implement the proposal.
- (5) The Panel must notify the education authority of its decision within the period of 8 weeks beginning with the day on which the Panel is constituted unless (before the end of that period) the Panel issues a notice to the education authority—
 - (a) stating that the Panel does not intend to notify the decision within that period,
 - (b) specifying the reason why that is so, and
 - (c) indicating the likely date for notifying the decision.
- (6) Where the Panel issues a notice under subsection (5), it must notify the education authority of its decision within the period of 16 weeks beginning with the day on which the Panel is constituted.
- (7) After the Panel notifies the education authority of its decision, the Panel must—
 - (a) notify the Scottish Ministers of the decision, and
 - (b) publish notice of the decision in such manner as it considers appropriate.
- (8) Where the Panel grants consent to the proposal subject to conditions, the education authority must comply with the conditions.

17D Appeal against decision of the Panel

- (1) An appeal may be made to the sheriff against a decision of a School Closure Review Panel under section 17C(1) by—
 - (a) the education authority,
 - (b) a relevant consultee in relation to the closure proposal.
- (2) An appeal under subsection (1)—

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- (a) may be made only on a point of law,
 - (b) must be made by way of summary application,
 - (c) must be made within the period of 14 days beginning with the day on which the Panel publishes notice of the decision under section 17C(7)(b).
- (3) In the appeal, the sheriff may—
- (a) confirm the decision, or
 - (b) quash the decision and refer the matter back to the Panel.
- (4) The sheriff’s determination of the appeal is final.”.
- (5) After schedule 2 to the 2010 Act, insert—

“SCHEDULE 2A
(introduced by section 17A)

SCHOOL CLOSURE REVIEW PANELS

Convener of the School Closure Review Panels

- 1 (1) There is established the office of the Convener of the School Closure Review Panels.
- (2) The Scottish Ministers must appoint a person to hold that office.
- (3) A person so appointed—
- (a) is not to be regarded as a servant or agent of the Crown and does not have any status, immunity or privilege of the Crown,
 - (b) subject to any provision made in regulations under sub-paragraph (9), holds and vacates office on such terms and conditions as the Scottish Ministers may determine.
- (4) The Convener—
- (a) may delegate a function conferred on the Convener by this Act,
 - (b) must delegate such a function if required to do so by directions issued under paragraph 4.
- (5) Nothing in sub-paragraph (4)(a) prevents the Convener from carrying out any function delegated under that sub-paragraph.
- (6) Sub-paragraph (7) applies during any period when—
- (a) the office of the Convener is vacant, or
 - (b) the person holding that office is unable to perform the functions conferred on the office because the person is incapacitated.
- (7) The Scottish Ministers may appoint a person to act as Convener during that period.
- (8) A person appointed to act as Convener under sub-paragraph (7)—
- (a) is to be appointed on such terms and conditions as the Scottish Ministers may determine,
 - (b) while acting as such, is to be treated for all purposes, except those of any regulations made under sub-paragraph (9), as the Convener.
- (9) The Scottish Ministers may by regulations make provision for or about—

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- (a) eligibility for, and disqualification from, appointment under sub-paragraph (2),
- (b) tenure and removal from office of a person appointed under sub-paragraph (2),
- (c) payment of—
 - (i) salary, fees, expenses and allowances to such a person,
 - (ii) pensions, allowances or gratuities (including by way of compensation for loss of office) to, or in respect of, such a person,
- (d) such other matters in relation to the appointment of the Convener as the Scottish Ministers consider appropriate.

Panel members

- 2 (1) The Convener is to appoint such number of persons as the Convener considers appropriate to be eligible to serve as members of a School Closure Review Panel.
- (2) Each Panel is to consist of 3 of the persons appointed under sub-paragraph (1).
- (3) It is for the Convener to select—
 - (a) the members of the Panel,
 - (b) one of those members to chair the Panel.
- (4) The Convener is to make appropriate arrangements for the training of persons appointed under sub-paragraph (1).
- (5) The Scottish Ministers may by regulations make provision for or about—
 - (a) eligibility for, and disqualification from, appointment under sub-paragraph (1),
 - (b) tenure and removal from office of persons so appointed,
 - (c) the process for the selection of Panel members under sub-paragraph (3),
 - (d) payment of expenses, fees and allowances to persons selected under that sub-paragraph,
 - (e) such other matters as the Scottish Ministers consider appropriate in relation to—
 - (i) the appointment of persons under sub-paragraph (1),
 - (ii) the selection of Panel members under sub-paragraph (3).

Property, staff and services

- 3 (1) The Scottish Ministers may—
 - (a) provide, or ensure the provision of, such property, staff and services to the Convener as they consider necessary or expedient in connection with the exercise of the Convener's functions,
 - (b) pay grants to the Convener for the purposes of enabling the Convener to employ staff and obtain services in connection with the exercise of the Convener's functions.

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- (2) The Convener is to provide a School Closure Review Panel with such staff and services as the Convener considers necessary or expedient in connection with the exercise of the Panel's functions.

Directions

- 4 (1) The Scottish Ministers may issue directions to the Convener as to the exercise of the Convener's functions (and the Convener must comply with them).
- (2) Directions under sub-paragraph (1) may vary or revoke earlier such directions.
- (3) The Scottish Ministers must publish any directions issued under sub-paragraph (1) in such manner as they consider appropriate.

Reports

- 5 (1) As soon as practicable after the end of each calendar year, the Convener must prepare a report on—
 - (a) the exercise of the Convener's functions during that year, and
 - (b) the exercise of the functions of any School Closure Review Panel which has carried out a review under section 17B during that year.
 - (2) A report prepared under sub-paragraph (1) must be—
 - (a) submitted to the Scottish Ministers, and
 - (b) published in such manner as the Convener considers appropriate.”.
 - (6) In section 4 of the 2010 Act (proposal paper), in subsection (2) for “17” substitute “17D”.
 - (7) In section 19 of the 2010 Act (guidance)—
 - (a) the existing text becomes subsection (1),
 - (b) after that subsection insert—

“(2) The Convener, and a School Closure Review Panel, must have regard to any such guidance in exercising their functions under this Act.”.
 - (8) In section 20 of the 2010 Act (regulations)—
 - (a) in subsection (3) for “17” substitute “17D”,
 - (b) after subsection (6) insert—

“(7) Regulations under section 17B(5) and paragraphs 1(9) and 2(5) of schedule 2A—
 - (a) may make different provision for different purposes,
 - (b) may make supplemental, incidental, consequential, transitional, transitory or saving provision,
 - (c) are subject to the negative procedure.”.
- (9) In section 21(2) of the 2010 Act (definitions)—
 - (a) after the definition of “consultation period” insert—

““the Convener” is defined in section 17A(6),”,
 - (b) after the definition of “rural school” insert—

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““School Closure Review Panel” is defined in section 17A(6)”.

- (10) In the Scottish Public Services Ombudsman Act 2002, in schedule 2 (listed authorities), before paragraph 21C insert—

“21ZC The Convener of the School Closure Review Panels.”.

- (11) In the Freedom of Information (Scotland) Act 2002, in schedule 1 (Scottish public authorities)—

(a) before paragraph 62C insert—

“62ZC The Convener of the School Closure Review Panels.”,

(b) after paragraph 76 insert—

“76A A School Closure Review Panel constituted under section 17A(3) of the Schools (Consultation) (Scotland) Act 2010.”.

- (12) In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (the specified authorities), before the cross-heading “*Executive bodies*” insert—

“the Convener of the School Closure Review Panels”.>

Liam McArthur

409A As an amendment to amendment 409, line 78, at end insert—

<() Where the Panel does not find that the education authority has—

(a) failed in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the proposal, or

(b) failed to take proper account of a material consideration relevant to its decision to implement the proposal,

the Panel may include in the notification to the authority of its decision a statement that, in the Panel’s view, no call-in notice should have been issued in relation to the proposal.>

Michael Russell

423 Leave out section 72

Children’s hearings

Aileen Campbell

410 Before section 69, insert—

<Safeguarders: exceptions to duty to prepare report on appointment

In section 33 of the 2011 Act—

(a) in subsection (1)(a), after “(2)” insert “or (3)”,

(b) after subsection (2), insert—

“(3) This subsection applies where the children’s hearing was arranged under section 45, 46, 50, 96, 126 or 158.”.>

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Aileen Campbell

411 Before section 69, insert—

<Maximum period of child protection order

In each of paragraphs (c) and (d) of section 54 of the 2011 Act, after “day” insert “after the day on which”.>

Aileen Campbell

412 Before section 69, insert—

<Power to determine that deeming of person as relevant person to end

- (1) The 2011 Act is amended as follows.
- (2) In section 79—
 - (a) in subsection (1), for “This section applies” substitute “Subsections (2) to (5) apply”,
 - (b) after subsection (1), insert—

“(1A) Subsection (5A) applies (in addition to subsections (2) to (5)) where the children’s hearing is—

 - (a) a subsequent children’s hearing under Part 11, or
 - (b) held for the purposes of reviewing a compulsory supervision order.”,
 - (c) after subsection (5), insert—

“(5A) The Principal Reporter—

 - (a) must refer the matter of whether an individual deemed to be a relevant person by virtue of section 81 should continue to be deemed to be a relevant person in relation to the child for determination by a pre-hearing panel if requested to do so by—
 - (i) the individual so deemed,
 - (ii) the child, or
 - (iii) a relevant person in relation to the child,
 - (b) may refer that matter for determination by a pre-hearing panel on the Principal Reporter’s own initiative.”.
- (3) After section 81, insert—

“81A Determination that deeming of person as relevant person to end

 - (1) This section applies where a matter mentioned in section 79(5A)(a) is referred to a meeting of a pre-hearing panel.
 - (2) Where the matter is referred along with any other matter, the pre-hearing panel must determine it before determining the other matter.
 - (3) The pre-hearing panel must determine that the individual is no longer to be deemed to be a relevant person if it considers that the individual does not have (and has not recently had) a significant involvement in the upbringing of the child.
 - (4) Where the pre-hearing panel makes a determination as described in subsection (3), section 81(4) ceases to apply in relation to the individual.

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- (5) Where, by virtue of section 80(3), the children’s hearing is to determine a matter mentioned in section 79(5A)(a), references in subsections (2) to (4) to the pre-hearing panel are to be read as references to the children’s hearing.”>

Aileen Campbell

413 Before section 69, insert—

<Grounds hearing: non-acceptance of facts supporting ground

In section 90 of the 2011 Act—

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

“(a) explain to the child and each relevant person in relation to the child—

- (i) each section 67 ground specified in the statement of grounds, and
(ii) the supporting facts in relation to that ground,”

- (b) after subsection (1) insert—

“(1A) In relation to each ground that a person accepts applies in relation to the child, the chairing member must ask the person whether the person accepts each of the supporting facts.

(1B) Where under subsection (1A) any person does not accept all of the supporting facts in relation to a ground, the ground is taken for the purposes of this Act to be accepted at the grounds hearing only if the grounds hearing considers that—

- (a) the person has accepted sufficient of the supporting facts to support the conclusion that the ground applies in relation to the child, and
(b) it is appropriate to proceed in relation to the ground on the basis of only those supporting facts which are accepted by the child and each relevant person.

(1C) Where a ground is taken to be accepted for the purposes of this Act by virtue of subsection (1B), the grounds hearing must amend the statement of grounds to delete any supporting facts in relation to the ground which are not accepted by the child and each relevant person.

(1D) In this section, “supporting facts”, in relation to a section 67 ground, means facts set out in relation to the ground by virtue of section 89(3)(b).”>

Aileen Campbell

414 Before section 69, insert—

<Failure of child to attend grounds hearing: power to make interim order

In section 95 of the 2011 Act, after subsection (2) insert—

“(3) Subsection (4) applies where under subsection (2) the grounds hearing requires the Principal Reporter to arrange another grounds hearing.

(4) If the grounds hearing considers that the nature of the child’s circumstances is such that for the protection, guidance, treatment or control of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the grounds hearing may make an interim compulsory supervision order in relation to the child.

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- (5) An interim compulsory supervision order made under subsection (4) may not include a measure of the kind mentioned in section 83(2)(f)(i).”.>

Aileen Campbell

- 415** Before section 69, insert—

<Limit on number of further interim compulsory supervision orders

In section 96(4) of the 2011 Act, for the words from “the effect” to the end substitute “it would be the third such order made under subsection (3) in consequence of the same interim compulsory supervision order made under section 93(5)”.>

Aileen Campbell

- 416** In section 69, page 35, line 31, leave out <Children’s Hearings (Scotland) Act 2011> and insert <2011 Act>

Aileen Campbell

- 417** In section 70, page 36, line 31, leave out <Children’s Hearings (Scotland) Act 2011> and insert <2011 Act>

Aileen Campbell

- 418** After section 70, insert—

<Interpretation of Part 12

In this Part, “the 2011 Act” means the Children’s Hearings (Scotland) Act 2011.>

Aileen Campbell

- 432** In schedule 4, page 46, line 27, leave out <In schedule 6 to the Children’s Hearings (Scotland) Act 2011> and insert <The Children’s Hearings (Scotland) Act 2011 is amended as follows.

- () In section 80(1), after “(2)” insert “or (5A)”.
- () In section 81—
 - (a) in subsection (2), after “must” insert “, unless that other matter is a matter mentioned in section 79(5A)(a),”.
 - (b) in subsection (5)(b), after sub-paragraph (iv) insert—

“(iva) section 81A,”.
- () In section 94(3), for the second “of” substitute “given in compliance with section 90(1) in relation to”.
- () In section 105, after subsection (1) insert—

“(1A) The reference in subsection (1)(b) to the ground being accepted is, in relation to a ground which was not accepted by virtue of section 90(1B), a reference to all of the supporting facts in relation to the ground being accepted.”.
- () In section 106, after subsection (1) insert—

“(1A) The reference in subsection (1)(b) to the ground being accepted is, in relation to a ground which was not accepted by virtue of section 90(1B), a reference to all of the supporting facts in relation to the ground being accepted.”.
- () In section 142, after subsection (1) insert—

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- “(1A) But this section does not apply where the matter of whether the individual should continue to be deemed to be a relevant person in relation to the child—
- (a) has been determined by a meeting of a pre-hearing panel held in relation to the children’s hearing, or
 - (b) is, by virtue of section 80(3), to be determined by the children’s hearing.”.
- () In section 160, for subsection (1)(a) substitute—
- “(a) a determination of a pre-hearing panel or a children’s hearing that an individual—
- (i) is or is not to be deemed a relevant person in relation to a child,
 - (ii) is to continue to be deemed, or is no longer to be deemed, a relevant person in relation to a child,”.
- () In section 202(1), after the definition of “super-affirmative procedure” insert—
- ““supporting facts” has the meaning given by section 90(1D),”.
- () In schedule 6,>

Appeal against detention of child in secure accommodation

Aileen Campbell

419 In section 71, page 37, line 7, at end insert—

- <() An appeal under subsection (1) may be made jointly by—
- (a) the child and one or more relevant persons in relation to the child; or
 - (b) two or more relevant persons in relation to the child.
- () An appeal must not be held in open court.>

Aileen Campbell

420 In section 71, page 37, line 23, leave out from <has> to <2011;> in line 30 and insert <is a relevant person in relation to the child for the purposes of the Children’s Hearings (Scotland) Act 2011 (including anyone deemed to be a relevant person in relation to the child by virtue of section 81(3), 160(4)(b) or 164(6) of that Act);>

Aileen Campbell

430 In schedule 4, page 45, line 23, leave out <In section 57A(16) of the Criminal Procedure (Scotland) Act 1995,> and insert—

- <() The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- () In section 44(11), in the definition of “secure accommodation” for “2000 Act” in each place where it occurs substitute “Care Standards Act 2000”.
 - () In section 57A(16),>

THIS IS NOT THE MARSHALLED LIST

Children's legal aid

Aileen Campbell

421 After section 71, insert—

<Children's legal aid

Power of Scottish Ministers to modify circumstances in which children's legal aid to be made available

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) The title of section 28L becomes "**Power of Scottish Ministers to extent or restrict types of proceedings before children's hearings in which children's legal aid to be available**".
- (3) After section 28L, insert—

"28LA Power of Scottish Ministers to provide for children's legal aid to be available to other persons in relation to court proceedings

- (1) The Scottish Ministers may by regulations modify this Part so as to—
 - (a) provide that children's legal aid is to be available, in relation to a type of court proceedings under the 2011 Act, to a person to whom it is not available by virtue of section 28D, 28E or 28F,
 - (b) vary any availability provided by virtue of paragraph (a), or
 - (c) remove any availability provided by virtue of paragraph (a).
- (2) If regulations are made making children's legal aid available to a child, the regulations must include provision requiring the Board to be satisfied that the conditions in subsection (3) are met before children's legal aid is made available.
- (3) The conditions are—
 - (a) that it is in the best interests of the child that children's legal aid be made available,
 - (b) that it is reasonable in the particular circumstances of the case that the child should receive children's legal aid,
 - (c) that, after consideration of the disposable income and disposable capital of the child, the expenses of the case cannot be met without undue hardship to the child, and
 - (d) if the proceedings are an appeal to the sheriff principal or the Court of Session under Part 15 of the 2011 Act, that the child has substantial grounds for making or responding to the appeal.
- (4) If regulations are made making children's legal aid available to a person other than a child, the regulations must include provision requiring the Board to be satisfied that the conditions in subsection (5) are met before children's legal aid is made available.
- (5) The conditions are—
 - (a) that it is reasonable in the particular circumstances of the case that the person should receive children's legal aid,

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- (b) that, after consideration of the disposable income and disposable capital of the person, the expenses of the case cannot be met without undue hardship to the person or the dependants of the person, and
- (c) if the proceedings are an appeal to the sheriff principal or the Court of Session under Part 15 of the 2011 Act, that the person has substantial grounds for making or responding to the appeal.”.>

Licensing of child performances

Aileen Campbell

422 After section 71, insert—

<Licensing of child performances

Extension of licensing of child performances to children under 14

Section 38 of the Children and Young Persons Act 1963 (licences for performances by children under 14 not to be granted except for certain dramatic or musical performances) is repealed.>

Aileen Campbell

431 In schedule 4, page 45, line 24, at end insert—

<Education Act 1996

Paragraph 11 of Schedule 37 to the Education Act 1996 is repealed.>

Sex education in schools

Alex Johnstone

433 After section 71, insert—

<Sex education in schools

Sex education in schools

- (1) A parent of a child who is aged under 16 and in attendance at a public school, may, by making a request to the head teacher of the school which the child attends, withdraw the child from any programme of sex education provided by the school.
- (2) A head teacher to whom a request under subsection (1) is made must make arrangements for the child to whom the request relates to be provided with alternative educational provision at the times when the child would otherwise be attending the programme of sex education.>

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

Liam McArthur

434 After section 71, insert—

THIS IS NOT THE MARSHALLED LIST

<Additional support needs

Additional support needs

- (1) The Education (Additional Support for Learning) (Scotland) Act 2004 is amended as follows.
- (2) In section 1(3)(b), for “in the circumstances” substitute—
 - “(i) to promote the development of the personality, talents and mental and physical abilities of the child to their fullest potential,
 - (ii) to prevent new additional support needs from arising, and
 - (iii) to prevent existing additional support needs from becoming more severe or longer lasting.”.
- (3) In section 4(1)(a)—
 - (a) the words from “each” to “responsible,” become sub-paragraph (i), and
 - (b) after that sub-paragraph, insert “and
 - (ii) each child under school age belonging to the authority’s area,”.
- (4) In section 5, for subsections (2) and (3) substitute—
 - “(2) Every education authority must provide such additional support as is appropriate for each child belonging to the authority’s area who—
 - (a) is under school age (other than a prescribed pre-school child), and
 - (b) has or appears to have additional support needs.
 - (3) Every education authority must provide such information and support as is appropriate to parents or primary carers of children falling within subsection (2).”.
- (5) In section 6(1), after “among” insert “children under school age belonging to the authority’s area and”.
- (6) In section 27 (2)—
 - (a) after paragraph (a) insert—
 - “(aa) the primary prevention of such circumstances or factors,
 - (ab) the mitigation of such circumstances or factors through the earliest appropriate intervention,”,
 - (b) in paragraph (b) after “section 2” insert “including for children under school age belonging to that authority’s area”.
- (7) In section 27A(1), after paragraph (a) insert—
 - “(aa) the number of school age children belonging to that education authority’s area and appearing to have additional support needs,”.>

Liam McArthur

436 In schedule 4, page 46, line 10, at end insert—

- <() In section 6(3)(a) after “parent,” insert “or the child’s named person (unless the child’s parent does not consent),”.
- () In section 8(2)(b) after “parent,” insert “or the child’s named person (unless the child’s parent does not consent),”.

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() In section 26(1)(e) after sub-paragraph (i) insert—

“(ia) to every named person for children under school age,”.>

Liam McArthur

437 In schedule 4, page 46, line 14, at end insert—

<() after the definition of “local authority” insert—

““named person” has the same meaning as in Part 4 of the Children and Young People (Scotland) Act 2013,”.>

Minimum age of persons applying for gender recognition

Mary Fee

435 After section 71, insert—

<*Gender recognition*

Minimum age of persons applying for gender recognition certificate

- (1) The Scottish Ministers must, for the purpose mentioned in subsection (2), review the requirement in section 1(1) of the Gender Recognition Act 2004 that a person making an application for a gender recognition certificate must be aged at least 18.
- (2) That purpose is to consider whether the age at which persons who are ordinarily resident in Scotland may apply for a gender recognition certificate should be lowered (to 16 or to 17).
- (3) The Scottish Ministers must, in conducting the review, consult such persons as they consider appropriate.
- (4) The Scottish Ministers must, no later than 1 July 2015, publish a report of the review (in such manner as they consider appropriate).
- (5) The Scottish Ministers may, if they consider it appropriate in light of the report of the review, by order modify section 1(1) of the Gender Recognition Act 2004 so as to lower to 16 or to 17 the age at which a person who is ordinarily resident in Scotland may apply for a gender recognition certificate.>

Mary Fee

438 In section 77, page 40, line 19, at end insert—

<section (*Minimum age of persons applying for gender recognition certificate*)>

Guidance for voluntary organisations

Liz Smith

82 After section 74, insert—

<Guidance for voluntary organisations

- (1) The Scottish Ministers may issue guidance on the application of this Act as regards voluntary organisations.

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- (2) Guidance may be issued generally or for particular purposes.
- (3) Before issuing or revising guidance, the Scottish Ministers must consult the persons to whom it relates.>

Minor and consequential modifications of enactments

Aileen Campbell

- 424 In schedule 4, page 44, line 15, leave out <(r)> and insert <(s)>

Aileen Campbell

- 425 In schedule 4, page 44, line 16, leave out <(s)> and insert <(t)>

Aileen Campbell

- 426 In schedule 4, page 44, line 37, at end insert—

<Legal Aid (Scotland) Act 1986

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 28F(1)(b), after “deemed” insert “, or is no longer to be deemed,”.
- (3) In section 37(2), after “28L(1) or (8),” insert “28LA(1),”.>

Aileen Campbell

- 387 In schedule 4, page 45, line 8, after <2011;> insert—

<() Part 9 or 10 of the Children and Young People (Scotland) Act 2014;>

Aileen Campbell

- 427 In schedule 4, page 45, line 9, leave out <(s)> and insert <(t)>

Aileen Campbell

- 428 In schedule 4, page 45, line 16, leave out <any> and insert <the>

Aileen Campbell

- 429 In schedule 4, page 45, line 16, after <in> insert <, or any other child connected (in any way) with,>

