



# Children (Care and Justice) (Scotland) Act 2024

2024 asp 5

PROSPECTIVE

## PART 3

### SECURE TRANSPORTATION

#### 25 Standards for provision of secure transportation

- (1) The Children and Young People (Scotland) Act 2014 is amended as follows.
- (2) After section 90 insert—

#### “PART 16A

### SECURE TRANSPORTATION

#### **90A Secure transportation: duty of Scottish Ministers to prepare and publish standards**

- (1) The Scottish Ministers must prepare and publish standards applicable to any service (a “secure transportation service”) which consists of or includes providing secure transportation—
  - (a) for persons—
    - (i) who have not attained the age of 19 years, and
    - (ii) in relation to whom the taking to or the placing, keeping or detention in secure accommodation is authorised or required under or by virtue of a relevant enactment, and
  - (b) for the purpose of transporting those persons to or from secure accommodation.
- (2) The standards—

*Status: This version of this part contains provisions that are prospective.*

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- (a) must include the minimum standards to be met by a provider of a secure transportation service which may, in particular, relate to—
    - (i) the manner in which, and the extent to which, the service provider is to have regard to the rights of the persons mentioned in subsection (1)(a) who require to be transported to or from secure accommodation,
    - (ii) the establishment of measures and procedures to prevent or minimise a risk of a serious incident occurring,
    - (iii) the establishment of measures and procedures to deal with, and prevent the recurrence of, a serious incident,
    - (iv) the circumstances in which restraint or control of persons mentioned in subsection (1)(a) who require to be transported to or from secure accommodation may or may not be appropriate,
    - (v) the provision of training and support to staff to ensure the safe transportation of the persons mentioned in subsection (1)(a) to or from secure accommodation,
  - (b) may include such further provision in connection with the provision of a secure transportation service as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers may make different provision for different kinds of secure transportation service.
- (4) The Scottish Ministers—
- (a) must publish the first standards under subsection (1) no later than one year after the day on which [section 25](#) of the Children (Care and Justice) (Scotland) Act 2024 comes into force,
  - (b) must keep the standards published under subsection (1) under review,
  - (c) may, under subsection (1), publish revised standards whenever they consider it appropriate to do so, and
  - (d) must lay a copy of the first published standards, and any published revised standards, before the Scottish Parliament.
- (5) Before publishing the standards or any revised standards under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (6) In this section—
- “relevant enactment” means the following enactments—
- (a) the Children (Scotland) Act 1995,
  - (b) the Criminal Procedure (Scotland) Act 1995,
  - (c) the Adoption and Children (Scotland) Act 2007,
  - (d) the Children’s Hearings (Scotland) Act 2011,
- “secure accommodation” has the meaning given by section 202(1) of the Children’s Hearings (Scotland) Act 2011,
- “secure transportation” means transportation which provides such additional security and support measures as are required to prevent or minimise a risk—
- (a) to the health, safety or welfare of a person mentioned in subsection (1)(a) who is being transported to or from secure accommodation,

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(b) which that person may pose to the safety of any other person, “serious incident” includes an incident involving a person mentioned in subsection (1)(a)—

- (a) absconding or attempting to abscond,
  - (b) suffering harm (including self-harm) or ill-health (whether physical or mental),
  - (c) causing harm to another person, or
  - (d) causing (whether directly or indirectly) damage to property,
- whilst being transported to or from secure accommodation.

(7) The Scottish Ministers may by regulations modify the definition of “relevant enactment” in subsection (6) by—

- (a) adding an enactment,
- (b) removing an enactment for the time being listed in it,
- (c) varying a reference to an enactment for the time being listed in it.

### **90B Secure transportation: duty of providers to meet standards**

(1) The provider of a secure transportation service must meet the applicable standards.

(2) The persons mentioned in subsection (3) must, when making arrangements with another person for the provision of a secure transportation service, ensure that the service meets the applicable standards.

(3) The persons are—

- (a) a local authority,
- (b) the Scottish Ministers.

(4) The Scottish Ministers may by regulations modify subsection (3) by—

- (a) adding a person or description of persons,
- (b) removing a person or description of persons for the time being listed in it,
- (c) varying a description of a person for the time being listed in it.

(5) In this section and in [section 90C](#)—

“applicable standards” means the standards, or (as the case may be) any revised standards, published under section 90A(1) which apply to the secure transportation service being provided,

“secure transportation service” has the meaning given by section 90A(1).

### **90C Secure transportation: reports**

(1) [Subsection \(2\)](#) applies where a relevant person has, during the reporting period—

- (a) provided a secure transportation service,
- (b) made arrangements with another person for the provision of a secure transportation service.

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- (2) The relevant person must, as soon as reasonably practicable (and in any event no later than 3 months) after the end of the reporting period—
  - (a) prepare a report on—
    - (i) how the relevant person monitored the secure transportation service provided or arranged by the relevant person to ensure that the service met the applicable standards during the reporting period,
    - (ii) the extent to which the service met the applicable standards during the reporting period,
  - (b) publish the report, and
  - (c) send a copy of the report to the Scottish Ministers.
- (3) Reports prepared under [subsection \(2\)](#) are to be published in such manner as the relevant person considers appropriate (and, in particular, reports may be published together with, or as part of, any other report or document).
- (4) The Scottish Ministers must, as soon as reasonably practicable (and in any event no later than 6 months) after the end of the reporting period—
  - (a) prepare a report (“the consolidated report”) on—
    - (i) how the relevant persons to whom [subsection \(1\)](#) applies have ensured that the secure transportation services provided or arranged by those relevant persons have met the applicable standards during the reporting period,
    - (ii) the extent to which those services met the applicable standards during the reporting period,
  - (b) publish the consolidated report in such manner as the Scottish Ministers consider appropriate, and
  - (c) lay a copy of the consolidated report before the Scottish Parliament.
- (5) Where the Scottish Ministers have provided or made arrangements for the provision of a secure transportation service during the reporting period, the consolidated report must include a report on—
  - (a) how the Scottish Ministers monitored the service to ensure it met the applicable standards during the reporting period,
  - (b) the extent to which the service met the applicable standards during the reporting period.
- (6) The consolidated report may include such other information as the Scottish Ministers consider appropriate.
- (7) The Scottish Ministers may by regulations prescribe information that reports prepared under [subsection \(2\)](#) must contain.
- (8) In this section—
 

“relevant person” means a local authority,

“reporting period” means—

  - (a) the period of 3 years beginning with the day on which [section 25](#) of the Children (Care and Justice) (Scotland) Act 2024 comes into force, and
  - (b) each subsequent period of 3 years until a date specified in regulations made by the Scottish Ministers.

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- (9) The Scottish Ministers may by regulations modify the definition of “relevant person” in [subsection \(8\)](#) by—
  - (a) adding a person or description of persons,
  - (b) removing a person or description of persons for the time being mentioned in it,
  - (c) varying a description of a person for the time being mentioned in it.”.
- (3) In section 99 (subordinate legislation)—
  - (a) in subsection (1), after “order” insert “or regulations”,
  - (b) in subsection (2)—
    - (i) after “order” insert “or (as the case may be) regulations”,
    - (ii) after “section 71(5)(b)” insert—
      - “section 90A(7)
      - section 90B(4)
      - section 90C(9)”,
  - (c) in subsection (4), after “order” insert “or regulations”.

#### Commencement Information

- II** S. 25 not in force at Royal Assent, see [s. 38\(3\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act power to modify conferred by 1995 c. 36, s. 33A (as inserted) by [2024 asp 5 s. 30\(2\)](#)
- Act power to modify conferred by 2010 asp 8, s. 190(2A) (as substituted) by [2024 asp 5 s. 29\(2\)\(b\)](#)