

**Changes to legislation:** Children (Care and Justice) (Scotland) Act 2024 is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

## SCHEDULE

Introduced by section 37

### MINOR AND CONSEQUENTIAL MODIFICATIONS

#### PART 1

##### CHILDREN'S HEARINGS SYSTEM

*Children's Hearings (Scotland) Act 2011*

- 1 (1) The 2011 Act is amended as follows.
- (2) In section 73 (child's duty to attend children's hearing), in subsection (3)(b), for "physical, mental or moral welfare" substitute "health, safety or development".
- (3) In section 103 (child's duty to attend hearing unless excused), in subsection (3)(b), for "physical, mental or moral welfare" substitute "health, safety or development".

#### Commencement Information

- II** Sch. para. 1 not in force at Royal Assent, see [s. 38\(3\)](#)

#### PART 2

##### AGE OF CRIMINAL RESPONSIBILITY

*Age of Criminal Responsibility (Scotland) Act 2019*

- 2 (1) The Age of Criminal Responsibility (Scotland) Act 2019 is amended as follows.
- (2) In section 39 (limitation on police questioning of certain children), in subsection (3), the definition of "child" is repealed.
- (3) In section 58 (limitation on taking prints and samples from children under 12), subsection (6)(b) is repealed.
- (4) In section 76 (interpretation of Part 4), the definition of "child" is repealed.
- (5) In section 80 (interpretation), in the definition of "child", for "16 years of age (except where provided otherwise: see section 39(3))" substitute "18 years of age".

#### Commencement Information

- I2** Sch. para. 2 not in force at Royal Assent, see [s. 38\(3\)](#)

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### PART 3

#### OFFENCES AGAINST CHILDREN TO WHICH SPECIAL PROVISIONS APPLY

##### *Criminal Procedure (Scotland) Act 1995*

- 3 (1) The 1995 Act is amended as follows.
- (2) In section 48 (power to refer certain children to the reporter), in subsection (2)(c), for “17” substitute “18”.
- (3) In section 50 (children and certain proceedings), in subsection (5)—
- (a) for “person under the age of 17 years” substitute “child”,
  - (b) for second “person” substitute “child”.

##### Commencement Information

**I3** Sch. para. 3 not in force at Royal Assent, see [s. 38\(3\)](#)

##### *Children’s Hearings (Scotland) Act 2011*

- 4 (1) The 2011 Act is amended as follows.
- (2) In section 67 (meaning of “section 67 ground”), in subsection (6), in the definition of “schedule 1 offence”, “under 17 years of age” is repealed.

##### Commencement Information

**I4** Sch. para. 4 not in force at Royal Assent, see [s. 38\(3\)](#)

##### *National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004*

- 5 In the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 ([S.S.I. 2004/115](#)), in regulation 5(2)(h), “under the age of 17 years” is revoked.

##### Commencement Information

**I5** Sch. para. 5 not in force at Royal Assent, see [s. 38\(3\)](#)

##### *Adoptions with a Foreign Element (Scotland) Regulations 2009*

- 6 In the Adoptions with a Foreign Element (Scotland) Regulations 2009 ([S.S.I. 2009/182](#)), in paragraph 2 of schedule 1, “under the age of 17 years” is revoked.

##### Commencement Information

**I6** Sch. para. 6 not in force at Royal Assent, see [s. 38\(3\)](#)

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## PART 4

### REMIT TO CHILDREN’S HEARING FROM CRIMINAL COURTS

#### *Criminal Procedure (Scotland) Act 1995*

- 7 (1) The 1995 Act is amended as follows.
- (2) In section 106 (right of appeal in solemn proceedings), in subsection (1)(da), for “49(1)(a)” substitute “49(1)(a)(ii), (1A)(b), (1D)(b) or (1E)(a)”.
- (3) In section 108 (Lord Advocate’s right of appeal against disposal), in subsection (1)(f), for “49(1)(a)” substitute “49(1)(a)(ii), (1A)(b), (1D)(b) or (1E)(a)”.
- (4) In section 175 (right of appeal in summary proceedings)—
- (a) in subsection (1)(ca), for “49(1)(a) or (7)(b)” substitute “49(1)(a)(ii), (1A)(b), (1D)(b) or (1E)(a)”;
- (b) in subsection (4)(f), for “49(1)(a) or (7)(b)” substitute “49(1)(a)(ii), (1A)(b), (1D)(b) or (1E)(a)”.

#### **Commencement Information**

**I7** Sch. para. 7 not in force at Royal Assent, see **s. 38(3)**

## PART 5

### CRIMINAL PROCEDURE: MISCELLANEOUS MODIFICATIONS

#### *Social Work (Scotland) Act 1968*

- 8 (1) The Social Work (Scotland) Act 1968 is amended as follows.
- (2) In section 27(1) (supervision and care of persons put on probation or released from prisons etc.), in paragraph (b)(vb), for “16” substitute “18”.

#### **Commencement Information**

**I8** Sch. para. 8 not in force at Royal Assent, see **s. 38(3)**

#### *Prisoners and Criminal Proceedings (Scotland) Act 1993*

- 9 (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.
- (2) In section 7 (children detained in solemn proceedings)—
- (a) in subsection (2A), “in a young offenders institution” is repealed,
- (b) for subsection (2C) substitute—
- “(2C) In a case where subsection (2A) applies and the single term mentioned in that subsection is of four or more years, this Part applies to the person as if the single term were an equivalent sentence of detention or, as the case may be, imprisonment.”.

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**Commencement Information**

**I9** Sch. para. 9 not in force at Royal Assent, see [s. 38\(3\)](#)

*Criminal Procedure (Scotland) Act 1995*

- 10 (1) The 1995 Act is amended as follows.
- (2) In section 205ZC (terrorism sentence with fixed licence period), in subsection (4), for “16” substitute “18”.
- (3) In section 245A (restriction of liberty orders), in subsection (11A), for “under 16 years of age” substitute “a child”.
- (4) In section 248D (extension of disqualification where sentence of imprisonment also imposed), in subsection (10), in the definition of “sentence of imprisonment”, for “residential accommodation” substitute “a residential establishment”.

**Commencement Information**

**I10** Sch. para. 10 not in force at Royal Assent, see [s. 38\(3\)](#)

*Antisocial Behaviour etc. (Scotland) Act 2004*

- 11 (1) The Antisocial Behaviour etc. (Scotland) Act 2004 is amended as follows.
- (2) In section 111 (restriction on reporting proceedings relating to parenting orders), in subsection (6), for “(1)(a)” substitute “(1A)(a)”.

**Commencement Information**

**I11** Sch. para. 11 not in force at Royal Assent, see [s. 38\(3\)](#)

**PART 6**

ABOLITION OF REMAND CENTRES

*Children and Young Persons (Scotland) Act 1937*

- 12 (1) The Children and Young Persons (Scotland) Act 1937 is amended as follows.
- (2) Section 62 (power of Secretary of State to send certain juvenile offenders to approved schools) is repealed.

**Commencement Information**

**I12** Sch. para. 12 not in force at Royal Assent, see [s. 38\(3\)](#)

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### *Law Reform (Miscellaneous Provisions) (Scotland) Act 1980*

- 13 (1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 is amended as follows.
- (2) In schedule 1 (ineligibility for and disqualification and excusal from jury service), in Group B of Part 1, in paragraph (o), “, remand centres” and “, borstal institutions” are repealed.

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#### **Commencement Information**

**I13** Sch. para. 13 not in force at Royal Assent, see [s. 38\(3\)](#)

### *Prisons (Scotland) Act 1989*

- 14 (1) The 1989 Act is amended as follows.
- (2) In section 20 (temporary detention of persons liable to detention in young offenders institution or remand centre)—
- (a) “or remand centre” is repealed,
  - (b) in the section title, “or remand centre” is repealed.
- (3) In section 20A (transfer of young offenders to prison or remand centre)—
- (a) in subsection (2)—
    - (i) “or remand centre” is repealed,
    - (ii) the words from “, but” to the end are repealed,
  - (b) in subsection (3), “or remand centre” is repealed,
  - (c) in the section title, “or remand centre” is repealed.
- (4) In section 37 (discontinuance of prison), in subsection (2), “remand centre or” is repealed.
- (5) In section 39 (rules for the management of prisons and other institutions), in subsection (1), “, remand centres” is repealed.
- (6) In section 40 (arrest of and rules for absent prisoners)—
- (a) in subsection (1), “or remand centre” is repealed,
  - (b) in subsection (2), “or remand centre” in each place is repealed.

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#### **Commencement Information**

**I14** Sch. para. 14 not in force at Royal Assent, see [s. 38\(3\)](#)

### *Criminal Law (Consolidation) (Scotland) Act 1995*

- 15 (1) The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as follows.
- (2) In section 49C (offence of having offensive weapon etc. in prison), in subsection (7), paragraph (b) is repealed.

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#### Commencement Information

**I15** Sch. para. 15 not in force at Royal Assent, see [s. 38\(3\)](#)

#### *Criminal Procedure (Scotland) Act 1995*

- 16 (1) The 1995 Act is amended as follows.
- (2) In section 51 (remand and committal of children and young persons), subsection (2A) is repealed.
- (3) In section 144 (procedure at first diet), in subsection (6), “, remand centre” is repealed.
- (4) In section 285 (previous convictions: proof, general), in subsection (4), “or of a remand centre” is repealed.
- (5) In section 307 (interpretation), in subsection (1), in the definition of “place of safety”, “, prison or remand centre,” is repealed.

#### Commencement Information

**I16** Sch. para. 16 not in force at Royal Assent, see [s. 38\(3\)](#)

#### *Prisoners’ Earnings Act 1996*

- 17 (1) The Prisoners’ Earnings Act 1996 is amended as follows.
- (2) In section 4 (interpretation), in subsection (3), in the definition of “prisoner”, “or remand centre” is repealed.

#### Commencement Information

**I17** Sch. para. 17 not in force at Royal Assent, see [s. 38\(3\)](#)

#### *Housing (Scotland) Act 2006*

- 18 (1) The Housing (Scotland) Act 2006 is amended as follows.
- (2) In section 126 (HMOs exempt from licensing requirement), in subsection (1), in paragraph (d), for “, a young offenders institution or a remand centre” substitute “or a young offenders institution”.

#### Commencement Information

**I18** Sch. para. 18 not in force at Royal Assent, see [s. 38\(3\)](#)

#### *Protection of Vulnerable Groups (Scotland) Act 2007*

- 19 (1) The Protection of Vulnerable Groups (Scotland) Act 2007 is amended as follows.

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(2) In schedule 2 (as substituted by section 74(3) and schedule 3 of the Disclosure (Scotland) Act 2020), paragraph 31, in the definition of “prison”, for “, young offenders institution or remand centre” substitute “or young offenders institution”.

(3) In schedule 3 (as substituted by section 74(4) and schedule 4 of the Disclosure (Scotland) Act 2020), in paragraph 24, in the definition of “prison”, for “, young offenders institution or remand centre” substitute “or young offenders institution”.

**Commencement Information**

**I19** Sch. para. 19 not in force at Royal Assent, see [s. 38\(3\)](#)

*Community Justice (Scotland) Act 2016*

20 (1) The Community Justice (Scotland) Act 2016 is amended as follows.

(2) In section 37 (interpretation), in subsection (1), in the definition of “penal institution”, paragraph (b) is repealed.

**Commencement Information**

**I20** Sch. para. 20 not in force at Royal Assent, see [s. 38\(3\)](#)

*Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016*

21 (1) The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 is amended as follows.

(2) In section 2 (mandatory inquiries), in subsection (7), in the definition of “penal institution”, paragraph (b) is repealed.

**Commencement Information**

**I21** Sch. para. 21 not in force at Royal Assent, see [s. 38\(3\)](#)

**PART 7**

LOCAL AUTHORITY DUTIES IN RELATION TO DETAINED CHILDREN

*Social Work (Scotland) Act 1968*

22 (1) The Social Work (Scotland) Act 1968 is amended as follows.

(2) In section 5 (powers of Scottish Ministers), in subsection (1B)(f), for “section 51” substitute “sections 44, 51 and 216”.

**Commencement Information**

**I22** Sch. para. 22 not in force at Royal Assent, see [s. 38\(3\)](#)

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*Public Services Reform (Scotland) Act 2010*

- 23 (1) The 2010 Act is amended as follows.
- (2) In schedule 13 (social work services functions: specified enactments), “Section 51 of the Criminal Procedure (Scotland) Act 1995 (c. 46)” is repealed.

**Commencement Information**

**I23** Sch. para. 23 not in force at Royal Assent, see [s. 38\(3\)](#)

**PART 8**

SECURE ACCOMMODATION

*Representation of the People Act 1983*

- 24 (1) The Representation of the People Act 1983 is amended as follows.
- (2) In section 7B (notional residence: declarations of local connection), in subsection (2C)(b), for the definition of “secure accommodation” substitute—
- ““secure accommodation” has the meaning given by paragraph (a) of the definition of “secure accommodation” in section 202(1) of the Children’s Hearings (Scotland) Act 2011.”.

**Commencement Information**

**I24** Sch. para. 24 not in force at Royal Assent, see [s. 38\(3\)](#)

*Protection of Vulnerable Groups (Scotland) Act 2007*

- 25 (1) The Protection of Vulnerable Groups (Scotland) Act 2007 is amended as follows.
- (2) In schedule 2 (as substituted by section 74(3) and schedule 3 of the Disclosure (Scotland) Act 2020)—
- (a) in each of the following paragraphs, “for children” is repealed—
- (i) paragraph 3(1), in paragraph (c)(i) of the definition of “responsible person”,
  - (ii) paragraph 20, in the second place where it occurs,
  - (iii) paragraph 21,
- (b) in paragraph 31, for the definition of “secure accommodation for children” substitute—
- ““secure accommodation” has the meaning given in paragraph (a) of the definition of “secure accommodation” in section 202(1) of the Children’s Hearings (Scotland) Act 2011.”.

**Commencement Information**

**I25** Sch. para. 25 not in force at Royal Assent, see [s. 38\(3\)](#)



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### *Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016*

- 26 (1) The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 is amended as follows.
- (2) In section 2 (mandatory inquiries), in subsection (7), for the definition of “secure accommodation” substitute—
- ““secure accommodation” has the meaning given by paragraph (a) of the definition of “secure accommodation” in section 202(1) of the Children’s Hearings (Scotland) Act 2011,”.

#### **Commencement Information**

**I26** Sch. para. 26 not in force at Royal Assent, see [s. 38\(3\)](#)

### *Cross-border Placements (Effect of Deprivation of Liberty Orders) (Scotland) Regulations 2022*

- 27 (1) The Cross-border Placements (Effect of Deprivation of Liberty Orders) (Scotland) Regulations 2022 ([S.S.I. 2022/225](#)) are amended as follows.
- (2) In each of the following paragraphs of regulation 13 (application and modifications of the Act), for “Children’s Hearings (Scotland) Act 2011 (Effect of Deprivation of Liberty Orders)” substitute “Cross-border Placements (Effect of Deprivation of Liberty Orders) (Scotland)”—
- (a) paragraph (3)(b),
  - (b) paragraph (4),
  - (c) paragraph (12)—
    - (i) sub-paragraph (a), in paragraph (a) of the definition of “implementation authority”,
    - (ii) sub-paragraph (c), in the definition of “receiving local authority”.

#### **Commencement Information**

**I27** Sch. para. 27 not in force at Royal Assent, see [s. 38\(3\)](#)

## **PART 9**

### **NAMED PERSON AND CHILD’S PLAN**

### *Human Trafficking and Exploitation (Scotland) Act 2015*

- 28 (1) The Human Trafficking and Exploitation (Scotland) Act 2015 is amended as follows.
- (2) In section 12 (presumption of age), in subsection (3), paragraphs (d) and (e) are repealed.

#### **Commencement Information**

**I28** Sch. para. 28 not in force at Royal Assent, see [s. 38\(3\)](#)

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*Criminal Justice (Scotland) Act 2016*

- 29 (1) The 2016 Act is amended as follows.
- (2) Sections 107 and 108 are repealed.

**Commencement Information**

**I29** Sch. para. 29 not in force at Royal Assent, see [s. 38\(3\)](#)

*Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014*

- 30 (1) The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014 ([S.S.I. 2014/344](#)) are amended as follows.
- (2) In schedule 1 (functions prescribed for the purposes of section 1(6) of the Public Bodies (Joint Working) (Scotland) Act 2014), the entry relating to the Children and Young People (Scotland) Act 2014 (inserted by the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2016 ([S.S.I. 2016/15](#))) is revoked.

**Commencement Information**

**I30** Sch. para. 30 not in force at Royal Assent, see [s. 38\(3\)](#)

*Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2016*

- 31 The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2016 ([S.S.I. 2016/15](#)) are revoked.

**Commencement Information**

**I31** Sch. para. 31 not in force at Royal Assent, see [s. 38\(3\)](#)

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**Changes and effects yet to be applied to :**

- s. 33 coming into force by [2024 asp 5 s. 38\(2\)](#)

**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\(2\)\(b\)](#)