

Status: This version of this provision is prospective.

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Section 27 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



Children (Care and Justice) (Scotland) Act 2024

2024 asp 5

PART 4

RESIDENTIAL AND SECURE CARE

PROSPECTIVE

27 Secure accommodation services

- (1) The Public Services Reform (Scotland) Act 2010 (“the 2010 Act”) is amended as follows.
- (2) After section 78 insert—

“78A Regulations: approval of secure accommodation services

- (1) Regulations may make provision about the approval of secure accommodation services by the Scottish Ministers under paragraph 6(c) of schedule 12.
- (2) Regulations under subsection (1) may, in particular, make provision about—
 - (a) the making of applications for such approval, including—
 - (i) the categories of applicant who cannot competently make an application,
 - (ii) the form and content of applications,
 - (iii) the information to be provided in connection with applications,
 - (iv) the modification of applications,
 - (b) the procedure to be followed by the Scottish Ministers when making decisions on applications, including—
 - (i) the criteria to be applied,
 - (ii) the matters to be taken into account or disregarded,
 - (iii) the notification of decisions,

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- (iv) the giving of reasons for decisions,
 - (c) the duration of approvals,
 - (d) the attaching of conditions to approvals,
 - (e) the variation of any conditions attached to approvals,
 - (f) the review of approvals,
 - (g) the renewal of approvals,
 - (h) the withdrawal of approvals,
 - (i) appeals against decisions to—
 - (i) attach conditions to approvals,
 - (ii) vary conditions attached to approvals,
 - (iii) refuse or withdraw approvals.
- (3) Regulations under subsection (1) must include provision requiring the Scottish Ministers, before approving a secure accommodation service, to be satisfied that the service will ensure that a child is not placed in the same residential establishment as another child where—
- (a) in proceedings under the Children’s Hearings (Scotland) Act 2011, it has been established that—
 - (i) the child has committed an offence against or in respect of the other child, or
 - (ii) the child has acted or behaved in a way that has had, or is likely to have had, a serious adverse effect on the health, safety or development of the other child, or
 - (b) in criminal proceedings, the child has pled guilty to, or been found guilty of, having committed an offence against or in respect of the other child.”.
- (3) In section 104 (orders and regulations: procedure), in subsection (2), for “or 78” substitute “, 78 or 78A”.
- (4) In schedule 12 (care services: definitions), for paragraph 6 substitute—
- “6 A “secure accommodation service” is a service which—
- (a) provides accommodation in a residential establishment for the purpose of depriving children of their liberty,
 - (b) also provides, in such an establishment, appropriate care, education and support—
 - (i) for the purposes of safeguarding and promoting the welfare of the children who are accommodated there, and
 - (ii) that takes account of the effects of trauma which the children may have experienced,
 - (c) is approved by the Scottish Ministers, in accordance with regulations made under section 78A, for those purposes.
- 6A In paragraph 6(a), “residential establishment” has the meaning given by section 105(1).
- 6B In paragraph 6(b), “appropriate care, education and support” means the kind of care, education and support required to meet the health, educational and other needs of the children.”.

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(5) The Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 ([S.S.I. 2011/210](#)) are amended as follows.

(6) In regulation 10 (fitness of premises), paragraph (3) is revoked.

Commencement Information

II S. 27 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\(2\)\(b\)](#)