



# Children (Scotland) Act 2020

## 2020 asp 16

### *Contact*

#### **10 Regulation of provision of contact services**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) In section 11 (court orders relating to parental responsibilities etc.)—
  - (a) in subsection (2)(d), at end insert “(see subsection (14))”,
  - (b) after subsection (13) insert—

“(14) Where the court makes a contact order which requires any contact to take place within Scotland at a contact centre, the court may only require that contact to take place through a regulated contact service as defined in section 101C.”.

- (3) After section 101B (which is inserted by section 17(3) of this Act) insert—

#### **“101C Contact services: regulation**

- (1) The Scottish Ministers may by regulations make provision about the regulation of a contact service provided in relation to the requirements of a contact order.
- (2) Regulations under subsection (1) may in particular—
  - (a) make provision for the minimum standards to be met by contact service providers, including qualifications and training of staff,
  - (b) make provision for the registration of contact service providers that meet those minimum standards and, for those that do not, the refusal of registration or removal from the register (including appeal rights),
  - (c) make provision for minimum standards to be met by contact centres (including standards in respect of accommodation),
  - (d) make provision for the registration of contact centres that meet those minimum standards and, for those that do not, the refusal of registration or removal from the register (including appeal rights),
  - (e) make provision about the conditions on which a regulated contact service provider may, in accordance with the regulations, provide

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- a contact service at a place that is not registered as a contact centre (including conditions about the minimum standards for accommodation at a place if it is to be used for that purpose),
- (f) appoint a person or persons for the purposes of administering the registration of contact service providers and contact centres,
  - (g) confer functions on the appointed person or persons,
  - (h) determine the fees payable in connection with the registration of a contact service provider or contact centre.
- (3) Functions conferred by virtue of subsection (2)(g) may include—
- (a) inspecting contact centres, regulated contact service providers and contact service providers applying for registration,
  - (b) having risk assessments of contact centres undertaken by persons trained in undertaking such assessments,
  - (c) issuing reports on the inspection of contact centres, regulated contact service providers and contact service providers applying for registration,
  - (d) issuing reports on any failure, or possible failure, by a contact service provider to comply with the provider's duties under the Equality Act 2010, and in particular any duty to make reasonable adjustments to premises in order to facilitate their use by disabled people,
  - (e) refusing to register contact service providers and contact centres, and removing from a register regulated contact service providers and contact centres, that do not meet the minimum standards.
- (4) Regulations under subsection (1)—
- (a) may make such modifications to other enactments as the Scottish Ministers consider appropriate for the purposes of, or in connection with, or for giving full effect to the regulations,
  - (b) are subject to the affirmative procedure.
- (5) In this section—
- “contact centre” means a place that is used for the provision of a contact service,
- “contact service” means the facilitation of contact between a child and a person with whom the child is not, or will not be, living (including the handover of the child to that person),
- “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,
- “regulated contact service” means a contact service that—
- (a) is provided by a regulated contact service provider, and
  - (b) is either—
    - (i) provided at a place that is registered as a contact centre in accordance with regulations under subsection (1), or
    - (ii) provided in circumstances in which the provider may, in accordance with regulations under subsection (1), provide the service at a place that is not registered as a contact centre,
- “regulated contact service provider” means an organisation that is registered in accordance with regulations under subsection (1) to provide contact services.”.

## **11 Referrals by solicitors to contact services**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 101C (which is inserted by section 10(3) of this Act) insert—

### **“101D Contact services: referrals by solicitors**

- (1) A solicitor must not—
  - (a) refer a person to a contact service that is not a regulated contact service, or
  - (b) allow another person to do so on the solicitor’s behalf.
- (2) If a solicitor fails to comply with subsection (1), that failure may be treated as professional misconduct or unsatisfactory professional conduct.
- (3) In this section, “contact service” and “regulated contact service” have the meanings given in section 101C(5).”.

## **12 Arrangements for contact services**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 101D (which is inserted by section 11(2) of this Act) insert—

### **“101E Contact services: arrangements by Scottish Ministers**

The Scottish Ministers may enter into an arrangement with a person for the provision of services to facilitate contact between children and other individuals.”.

## **13 Promotion of contact between looked after children and siblings**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) In section 17 (duty of local authority to child looked after by them)—
  - (a) in subsection (1)—
    - (i) the “and” following paragraph (b) is repealed,
    - (ii) after paragraph (c) insert “; and
    - (d) take such steps to promote, on a regular basis, personal relations and direct contact between the child and any person mentioned in subsection (1A) as appear to them to be appropriate having regard to their duty to the child under paragraph (a).”.
  - (b) after subsection (1) insert—

“(1A) The persons referred to in subsection (1)(d) are—

    - (a) a sibling of the child, and
    - (b) any other person with whom the child has lived and with whom the child has an ongoing relationship with the character of a relationship between siblings.

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(1B) For the purposes of subsection (1A), two people are siblings if they have at least one parent in common.”,

(c) in subsection (3)—

(i) the “and” following paragraph (c) is repealed,

(ii) after paragraph (c) insert—

“(ca) any person mentioned in subsection (1A); and”.

#### **14 Duty to consider contact when making etc. compulsory supervision order**

(1) The Children’s Hearings (Scotland) Act 2011 is modified as follows.

(2) In section 29A (duty to consider including contact direction), after subsection (2), insert—

“(3) In considering whether to include a measure of the type mentioned in section 83(2)(g), the children’s hearing or, as the case may be, the sheriff must in particular consider the inclusion of a measure regulating contact between the child and any person mentioned in subsection (4) with whom the child does not reside.

(4) The persons referred to in subsection (3) are—

(a) a relevant person in relation to the child,

(b) a sibling of the child,

(c) any other person with whom the child has resided and with whom the child has an ongoing relationship with the character of a relationship between siblings.

(5) For the purposes of subsection (4), two people are siblings if they have at least one parent in common.”.