



Children (Scotland) Act 2020

2020 asp 16

Alternative dispute resolution

23 Funding for alternative dispute resolution

- (1) The Scottish Ministers must—
 - (a) set up a scheme to make assistance available so that individuals can meet the costs of alternative dispute resolution procedures in relation to a dispute of the kind described in subsection (2), or
 - (b) arrange for assistance to be made available from the Scottish Legal Aid Fund so that individuals can meet those costs.
- (2) The kind of dispute referred to in subsection (1) is a dispute that—
 - (a) is about any of the matters mentioned in section 11(1) of the Children (Scotland) Act 1995, and
 - (b) either—
 - (i) has resulted in an order being sought under that section, or
 - (ii) is likely to do so if it is not resolved through an alternative dispute resolution procedure.
- (3) Entitlement to the assistance that is to be made available by virtue of subsection (1) may be made to depend on an individual satisfying any eligibility conditions that the Scottish Ministers consider appropriate.
- (4) But any eligibility conditions relating to an individual's financial circumstances may not render an individual ineligible for assistance if the individual's circumstances are such that the individual could not be refused civil legal aid under section 15 of the Legal Aid (Scotland) Act 1986.
- (5) Any scheme set up, or arrangement made, in accordance with subsection (1), must be framed so that assistance under it is only available to meet the costs of alternative dispute resolution procedures that ensure regard is had to children's views to at least the same extent as a court would be required to have regard to them by section 11ZB of the Children (Scotland) Act 1995.
- (6) Having fulfilled their duty under subsection (1), the Scottish Ministers must lay before the Scottish Parliament a statement explaining how they have done so.

Changes to legislation: There are currently no known outstanding effects for the Children (Scotland) Act 2020, Section 23. (See end of Document for details)

- (7) If, at the end of a period described by subsection (8), the Scottish Ministers have not fulfilled their duty under subsection (1), they must lay before the Scottish Parliament a statement explaining why not and stating when they expect to fulfil it.
- (8) For the purposes of subsection (7)—
- (a) the first period begins on Royal Assent,
 - (b) after that, a new period begins with the last day of the previous period,
 - (c) each period ends with the day falling 6 months after it began,
 - (d) if the previous period ended on the 29th, 30th or 31st of a month and the month falling 6 months later has no such day, the period ends on the last day of that month.
- (9) The Scottish Ministers may by regulations make any provision that they consider necessary or appropriate for the purpose of fulfilling their duty under subsection (1).
- (10) Regulations under subsection (9) may—
- (a) make different provision for different purposes or areas,
 - (b) modify any enactment.
- (11) Regulations under subsection (9) are subject to the affirmative procedure.

Commencement Information

II S. 23 in force at 17.1.2021 by [S.S.I. 2020/412](#), [reg. 2\(1\)\(b\)](#)

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