



Children (Care and Justice) (Scotland) Act 2024

2024 asp 5

PROSPECTIVE

PART 1

CHILDREN'S HEARINGS SYSTEM

1 Age of referral to children's hearing

- (1) The Children's Hearings (Scotland) Act 2011 ("the 2011 Act") is amended as follows.
- (2) In section 199 (meaning of "child")—
 - (a) in subsection (1)—
 - (i) for "16" substitute "18",
 - (ii) for "subsections (2) to (9)" substitute "subsection (2)",
 - (b) subsections (3) to (9) are repealed.

Commencement Information

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

2 Children's hearing: duty to have due regard to effects of trauma on child

- (1) The 2011 Act is amended as follows.
- (2) After section 7 insert—

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

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Part 1 is up to date with all changes known to be in force on or before 22 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

“7A Children’s hearing: duty to have due regard to effects of trauma on child

- (1) This section applies where a children’s hearing is held for the purpose of carrying out functions conferred on a children’s hearing by virtue of this Act or any other enactment.
 - (2) The children’s hearing must, in carrying out its functions, have due regard to the need to treat the child to whom the hearing relates in a way that—
 - (a) takes account of the effects of trauma which the child may have experienced, and
 - (b) seeks to avoid, or minimise the risk of, exposing the child to—
 - (i) any recurrence of past trauma, or
 - (ii) further trauma.
 - (3) The National Convener must, so far as practicable, ensure that the children’s hearing, in carrying out its functions, has due regard to that need.
 - (4) In this section—
 - (a) “children’s hearing” includes a pre-hearing panel,
 - (b) in subsection (2), in so far as it applies to a pre-hearing panel, the reference to the child to whom the hearing relates is to be read as a reference to the child in relation to whom a children’s hearing is to be held.”
- (3) In section 177 (children’s hearings: procedural rules), in subsection (2), after paragraph (h) insert—
- “(ha) treating the child to whom a children’s hearing relates in a way that—
- (i) takes account of the effects of trauma which the child may have experienced, and
 - (ii) seeks to avoid, or minimise the risk of, exposing the child to any recurrence of past trauma or to further trauma,”.

(4) In schedule 2 (the Children’s Panel), in paragraph 3(3), after “may” insert “—

 - (a) treat the child to whom a children’s hearing relates in a way that—
 - (i) takes account of the effects of trauma which the child may have experienced, and
 - (ii) seeks to avoid, or minimise the risk of, exposing the child to any recurrence of past trauma or to further trauma, and
 - (b)”.

Commencement Information

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

3 Child assessment and child protection measures: secure accommodation

- (1) The 2011 Act is amended as follows.

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

Changes to legislation: Children (Care and Justice) (Scotland) Act 2024, Part 1 is up to date with all changes known to be in force on or before 22 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

- (2) In section 35 (child assessment orders), in subsection (3), at the end of paragraph (b) insert “(but see section 57A(2)),”.
- (3) In section 37 (child protection orders), in subsection (2), at the end of paragraph (b) insert “(but see section 57A(2)),”.
- (4) In section 55 (application to justice of the peace), in subsection (1), at the end of paragraph (b) insert “(but see section 57A(2)),”.
- (5) In section 56 (constable’s power to remove child to place of safety), in subsection (1), after “may” insert “, subject to section 57A(3),”.
- (6) In section 57 (sections 55 and 56: regulations), in subsection (1), after “safety” insert “(other than secure accommodation)”.
- (7) After section 57 insert—

“Emergency placement of child in secure accommodation

57A Emergency placement of child in secure accommodation: pre-conditions

- (1) Subsection (2) applies to—
 - (a) a child assessment order,
 - (b) a child protection order,
 - (c) an order made by a justice of the peace under section 55.
- (2) The order may not include an authorisation that enables the child to be taken or removed to, and kept in, a place or, as the case may be, a place of safety that is secure accommodation unless—
 - (a) one or more of the conditions mentioned in subsection (4) applies, and
 - (b) having considered the other options available, the sheriff or, as the case may be, the justice of the peace is satisfied that it is necessary to include such an authorisation in the order.
- (3) A constable may not, under section 56(1), remove a child to a place of safety that is secure accommodation and keep the child there unless—
 - (a) one or more of the conditions mentioned in subsection (4) applies, and
 - (b) having considered the other options available, the constable is satisfied that it is necessary to do so.
- (4) The conditions are—
 - (a) that—
 - (i) the child has previously absconded and is likely to abscond again unless the child is kept in secure accommodation, and
 - (ii) if the child were to abscond, it is likely the child’s health, safety or development would be at risk,
 - (b) that the child is likely to engage in self-harming conduct unless the child is kept in secure accommodation,
 - (c) that the child is likely to cause physical or psychological harm to another person unless the child is kept in secure accommodation.

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

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(5) In subsection (4)(c), “psychological harm” includes fear, alarm and distress.

57B Emergency placement of child in secure accommodation: regulations

(1) The Scottish Ministers may by regulations make further provision about the placing and keeping of a child in secure accommodation—

- (a) by virtue of—
 - (i) a child assessment order,
 - (ii) a child protection order,
 - (iii) an order made by a justice of the peace under section 55,
- (b) by a constable acting under section 56(1).

(2) Regulations under subsection (1) may in particular include provision—

- (a) requiring—
 - (i) the consent of the person in charge of the residential establishment containing the secure accommodation in which the child is to be placed (the “head of unit”),
 - (ii) the agreement of the chief social work officer,
- (b) specifying the criteria to be applied and the procedure to be followed—
 - (i) by the head of unit in deciding whether to give such consent,
 - (ii) by the chief social work officer in deciding whether to give such agreement,
- (c) specifying the procedure for—
 - (i) the notification of decisions,
 - (ii) the giving of reasons for decisions,
- (d) imposing requirements in connection with the protection of the welfare of a child being placed and kept in secure accommodation.

(3) Regulations under subsection (1) are subject to the affirmative procedure.”.

Commencement Information

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

4 Compulsory supervision orders: directions authorising restriction of liberty

(1) The 2011 Act is amended as follows.

(2) In section 83 (meaning of “compulsory supervision order”)—

- (a) in subsection (2), at the end of paragraph (b) insert “(but see subsection (2A))”,
- (b) after subsection (2) insert—

“(2A) A direction of the type mentioned in subsection (2)(b) does not include authorisation to deprive the child of their liberty.”.

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

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Commencement Information

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

5 Compulsory supervision orders: prohibitions

- (1) The 2011 Act is amended as follows.
- (2) In section 83 (meaning of “compulsory supervision order”)—
 - (a) in subsection (2), after paragraph (c) insert—
 - “(ca) a prohibition on the child entering a specified place or description of place,
 - (cb) a prohibition on the child approaching, communicating with or attempting to approach or communicate with (whether directly or indirectly) a specified person or class of person,”
 - (b) in subsection (8)—
 - (i) in the opening words, for “subsection (2)” substitute “this section”,
 - (ii) before the definition of “medical” insert—

““communicating with” another person includes communicating with that person by the use of social media or by any other electronic means.”

Commencement Information

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

6 Compulsory supervision orders: movement restriction conditions

- (1) The 2011 Act is amended as follows.
- (2) In section 83 (meaning of “compulsory supervision order”)—
 - (a) in subsection (4)(a)—
 - (i) for “more” substitute “both”,
 - (ii) for “subsection (6)” substitute “subsection (4A)”,
 - (b) after subsection (4) insert—

“(4A) The conditions referred to in subsection (4)(a) are—

 - (a) that the child’s health, safety or development is at risk,
 - (b) that the child is likely to cause physical or psychological harm to another person.”
- (3) In section 150 (movement restriction conditions: regulations etc.), in subsection (2)—
 - (a) in paragraph (b), after “of” insert “monitoring a child’s movements or whereabouts (including whether a child is at, or is not at, a particular place) for the purpose of”,
 - (b) in paragraph (c), after “devices” insert “(including any apparatus to be linked to a device)”,
 - (c) after that paragraph insert—

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- “(ca) prescribe the circumstances or manner in which a specified device is, or is not, to be used (including how or when a device is to be worn, or otherwise used, by a child subject to a movement restriction condition),
- (cb) prescribe the circumstances or manner in which information obtained through the monitoring of a child by means of such a device may, or may not, be gathered, retained, used or shared for the purpose of the monitoring.”.

Commencement Information

I6 S. 6 not in force at Royal Assent, see s. 38(3)

7 Compulsory supervision orders: secure accommodation authorisations

- (1) The 2011 Act is amended as follows.
- (2) In section 83 (meaning of “compulsory supervision order”)—
 - (a) in subsection (6)—
 - (i) in the opening words, after “conditions” insert “referred to in subsection (5)(b)”,
 - (ii) for paragraph (a) substitute—
 - “(a) that—
 - (i) the child has previously absconded and is likely to abscond again unless the child is kept in secure accommodation, and
 - (ii) if the child were to abscond, it is likely that the child’s health, safety or development would be at risk,”
 - (iii) at the end of paragraph (b) insert “unless the child is kept in secure accommodation,”,
 - (iv) in paragraph (c), for “injury to another person” substitute “physical or psychological harm to another person unless the child is kept in secure accommodation”,
 - (b) in subsection (8), after the definition of “medical” insert—
 - ““psychological harm” includes fear, alarm and distress.”.
- (3) In section 86 (meaning of “interim compulsory supervision order”), in subsection (4)—
 - (a) for “(3) to (6)” substitute “(2A) to (8)”,
 - (b) for “subsection (5)(a)” substitute “subsections (5)(a) and (7)”.
- (4) In section 87 (meaning of “medical examination order”)—
 - (a) in subsection (4)—
 - (i) for paragraph (a) substitute—
 - “(a) that—
 - (i) the child has previously absconded and is likely to abscond again unless the child is kept in secure accommodation, and

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- (ii) if the child were to abscond, it is likely that the child’s health, safety or development would be at risk,”
 - (ii) at the end of paragraph (b) insert “unless the child is kept in secure accommodation,”
 - (iii) in paragraph (c), for “injury to another person” substitute “physical or psychological harm to another person unless the child is kept in secure accommodation”
 - (b) in subsection (5), after the definition of “medical” insert—
““psychological harm” includes fear, alarm and distress.”
- (5) In section 88 (meaning of “warrant to secure attendance”)—
- (a) in subsection (3)—
 - (i) for paragraph (a) substitute—
“(a) that—
 - (i) the child has previously absconded and is likely to abscond again unless the child is kept in secure accommodation, and
 - (ii) if the child were to abscond, it is likely that the child’s health, safety or development would be at risk,”
 - (ii) at the end of paragraph (b) insert “unless the child is kept in secure accommodation,”
 - (iii) in paragraph (c), for “injury to another person” substitute “physical or psychological harm to another person unless the child is kept in secure accommodation”
 - (b) in subsection (4), before the definition of “relevant period” insert—
““psychological harm” includes fear, alarm and distress.”

Commencement Information

I7 S. 7 not in force at Royal Assent, see [s. 38\(3\)](#)

8 Provision of information to person affected by child's offence or behaviour

- (1) The 2011 Act is amended as follows.
- (2) In section 179A (request for information by person affected by child's offence or behaviour)—
 - (a) in subsection (5)—
 - (i) at the beginning insert “Subject to subsections (5A) and (5B),”
 - (ii) for “may” substitute “must, so far as reasonably practicable,”
 - (b) after that subsection insert—
“(5A) The Principal Reporter may, where a person mentioned in subsection (4)(a) or (b) is a child, inform any relevant person in relation to the child, as well as, or instead of, the child, of the relevant person’s right to request information under subsection (3).

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

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(5B) The Principal Reporter need not inform a person mentioned in subsection (4)(a), (b) or (c) of the person’s right to request information under subsection (3)—

- (a) if the person has indicated (whether to the Principal Reporter or otherwise) that they do not wish to exercise that right,
- (b) if satisfied that doing so would be detrimental to the best interests of—
 - (i) the child mentioned in subsection (1),
 - (ii) where the person mentioned in subsection (4)(a) or (b) is a child, that child, or
 - (iii) any other child, or
- (c) if satisfied, having regard to the factors mentioned in section 179C(2), that it would be inappropriate in the circumstances of the case to do so.”.

(3) In section 179B (information to which section 179A applies)—

- (a) in subsection (1)—
 - (i) in paragraph (a)(i), for “subsection (2)(a)” substitute “subsection (2)”,
 - (ii) in paragraph (a)(ii), for “subsection (2)(b)” substitute “subsection (3) and the further information mentioned in subsection (4)”,
 - (iii) in paragraph (b), for “subsection (2)(b)” substitute “subsection (3) and the further information mentioned in subsection (4)”,
- (b) for subsection (2) substitute—

“(2) The information referred to in subsection (1)(a)(i) is information as to—

 - (a) what determination the Principal Reporter made under section 66(2), and
 - (b) any other action taken by the Principal Reporter (under section 68(5) or otherwise).”.
- (c) after subsection (2) insert—

“(3) The information referred to in subsection (1)(a)(ii) and (b) is—

 - (a) information as to whether a compulsory supervision order has been made in respect of the child or, as the case may be, whether a compulsory supervision order which is already in force in respect of the child has been terminated, varied or continued,
 - (b) where such an order has been made or, as the case may be, varied or continued, information as to—
 - (i) whether a measure has been included in the order which prohibits the child from approaching, communicating with, attempting to approach or communicate with or otherwise contacting the person who made the request or, where that person is a relevant person, the child in relation to whom that person is a relevant person,
 - (ii) whether a secure accommodation authorisation has been included in the order,

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- (c) information as to how the referral to the children’s hearing was otherwise discharged,
 - (d) other information necessary to assist safety planning by or in relation to the person who made the request or, where the person is a relevant person, the child in relation to whom that person is a relevant person.
- (4) The further information referred to in subsection (1)(a)(ii) and (b) is—
- (a) where a compulsory supervision order has been made in respect of the child, or such an order which is already in force in respect of the child has been varied or continued—
 - (i) information as to whether the order is subsequently varied or continued to include, vary or remove a measure such as is mentioned in subsection (3)(b)(i) or (ii),
 - (ii) information as to whether the order is subsequently terminated,
 - (b) where other changes relating to the child’s case occur, information necessary to assist safety planning by or in relation to the person who made the request or, where the person is a relevant person, the child in relation to whom that person is a relevant person.
- (5) In this section, “communicating with” has the meaning given by section 83(8).
- (6) In this section and in section 179C, references to a compulsory supervision order include references to an interim compulsory supervision order.”.
- (4) In section 179C (decision by Principal Reporter following request under section 179A)
- (a) in subsection (1)(a), for “the child mentioned in section 179A(1) (or any other child),” substitute “—
 - “(i) the child mentioned in section 179A(1),
 - (ii) where a person mentioned in section 179A(4)(a) or (b) is a child, that child, or
 - (iii) any other child,”
 - (b) after subsection (3) insert—
 - “(4) But subsection (3) does not prohibit the Principal Reporter, when providing information that a compulsory supervision order includes a measure mentioned in section 179B(3)(b)(i), from providing information about the details of the measure in so far as they relate to the person who made the request or, where that person is a relevant person, the child in relation to whom that person is a relevant person.”.

Commencement Information

18 S. 8 not in force at Royal Assent, see [s. 38\(3\)](#)

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

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9 Support for victims in the children’s hearings system

- (1) The 2011 Act is amended as follows.
- (2) After section 179C (decision by Principal Reporter following request for information under section 179A) insert—

“179D Support for persons affected by child’s offence or behaviour

- (1) The Scottish Ministers must, by regulations, make provision for or in connection with the provision of support services to the persons mentioned in subsection (2).
- (2) Those persons are—
 - (a) persons against whom an offence mentioned in section 179A(1)(a)(i) or (b) appears to have been committed,
 - (b) persons who appear to have been harmed by the action or behaviour of a child as mentioned in section 179A(1)(a)(ii),
 - (c) where persons mentioned in paragraph (a) or (b) are children, relevant persons in relation to those children,
 - (d) any other persons or classes of person the Scottish Ministers may specify in the regulations (subject to any conditions specified in the regulations).
- (3) Regulations under subsection (1) must, for the purposes of the provision of support services to persons mentioned in subsection (2), establish or specify a person as a single point of contact for those persons.
- (4) Regulations under subsection (1) may in particular include provision about—
 - (a) the support services that may be provided,
 - (b) the training and qualifications of the person providing support services,
 - (c) the provision of information (including relevant information) to and by the person providing support services, including that information is to be provided in a way that is accessible to the person receiving it,
 - (d) the sharing of information with the person providing support services by other persons, including the National Convener, the Principal Reporter, CHS, SCRA, the chief constable of the Police Service of Scotland and local authorities,
 - (e) the payment of expenses, fees and allowances to the person providing support services (including who is to be responsible for making such payments).
- (5) Regulations under subsection (1) may also modify sections 179A to 179C to provide for—
 - (a) information mentioned in section 179B(1) to be provided to persons mentioned in subsection (2) without the need for those persons to make a request under section 179A(3) (including the circumstances in which such persons may opt out of receiving such information),
 - (b) such information to be given by the Principal Reporter to the person providing support services (either at the same time as, or instead of, to persons mentioned in subsection (2)),

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- (c) the circumstances in which such information is to be provided to persons mentioned in subsection (2) by the person providing support services rather than by the Principal Reporter.
- (6) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult—
 - (a) the Principal Reporter,
 - (b) the National Convener,
 - (c) persons who are providing support services to persons in relation to offences perpetrated against or in respect of those persons,
 - (d) such other persons as the Scottish Ministers consider appropriate.
- (7) Regulations under subsection (1) are subject to the affirmative procedure.
- (8) In this section—
 - “relevant information” includes—
 - (a) information about—
 - (i) the children’s hearings system (including about the interaction of that system with the criminal justice system),
 - (ii) the action that can be taken by a children’s hearing (including about the measures that can be included in a compulsory supervision order),
 - (iii) the process for reviewing actions taken by a children’s hearing (including the process for reviewing and enforcing compulsory supervision orders), and
 - (b) where regulations under subsection (1) make provision mentioned in subsection (5)(b) or (c), information requested under section 179A(3),
 - “support services” (other than in subsection (6)(c)) includes the provision of relevant information to persons mentioned in subsection (2) and otherwise has the meaning given in regulations under subsection (1).”.

Commencement Information

19 S. 9 not in force at Royal Assent, see [s. 38\(3\)](#)

10 Support for victims in the children’s hearings system: review and report

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each review period—
 - (a) review the operation of support services provided, by virtue of regulations under section 179D(1) of the 2011 Act, to persons mentioned in section 179D(2) of that Act, and
 - (b) prepare a report on the provision of such support services to those persons.
- (2) The review must in particular—

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- (a) assess the effectiveness of support services by reference to, among other things, the number of, and feedback from, persons to whom those services are provided,
 - (b) identify the steps (if any) that the Scottish Ministers consider should be taken as a result of that assessment.
- (3) In carrying out the review, the Scottish Ministers must consult—
- (a) the National Convener of Children’s Hearings Scotland,
 - (b) the Principal Reporter,
 - (c) the single point of contact established or specified by virtue of section 179D(3) of the 2011 Act,
 - (d) each local authority,
 - (e) persons who are providing support services to persons in relation to offences perpetrated against or in respect of those persons,
 - (f) such other persons as the Scottish Ministers consider appropriate.
- (4) The report prepared under [subsection \(1\)\(b\)](#) must be—
- (a) laid before the Scottish Parliament, and
 - (b) published in such manner as the Scottish Ministers consider appropriate.
- (5) In this section—
- “review period” means the period of 2 years beginning with the day on which regulations under section 179D(1) of the 2011 Act first come into force and each subsequent period of 2 years,
- “support services” has the same meaning as in section 179D(8) of the 2011 Act.

Commencement Information

110 S. 10 not in force at Royal Assent, see [s. 38\(3\)](#)

11 Supervision or guidance post-18

- (1) The 2011 Act is amended as follows.
- (2) In section 138 (powers of children’s hearing on review)—
- (a) in subsection (6), after paragraph (a)—
 - (i) “and” is repealed,
 - (ii) insert—
 - “(aa) consider whether such supervision or guidance will be needed by the child after attaining the age of 18 years, and”,
 - (b) after subsection (7) insert—
 - “(7A) Where the children’s hearing states that supervision or guidance will be needed by a person after attaining the age of 18 years, the duty in subsection (7)—
 - (a) continues to apply despite the person having attained that age,
 - (b) ceases to apply when the person attains the age of 19 years.”.

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

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Commencement Information

III S. 11 not in force at Royal Assent, see [s. 38\(3\)](#)

Status:

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Changes to legislation:

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