

## New amendments to Bills lodged on 15 June 2020

### Children (Scotland) Bill – Stage 2

#### Section 1

##### Ash Denham

- 1 In section 1, page 1, line 19, at end insert—

<(1CA) In considering whether the child is capable of forming a view, the person is to start with the presumption that the child is.>

##### Ash Denham

- 2 In section 1, page 2, line 35, after <child> insert <concerned>

##### Ash Denham

- 3 In section 1, page 2, line 41, at end insert—

<(2A) The child is to be presumed to be capable of forming a view unless the contrary is shown.>

##### Ash Denham

- 4 In section 1, page 3, leave out lines 4 and 5

##### Ash Denham

- 5 In section 1, page 3, line 17, at end insert—

<(2B) The child is to be presumed to be capable of forming a view unless the contrary is shown.”.>

#### Section 2

##### Ash Denham

- 6 In section 2, page 3, line 25, leave out <“(4B)”> and insert <“(4C)”>

##### Ash Denham

- 7 In section 2, page 3, line 34, at end insert—

<(4C) The child is to be presumed to be capable of forming a view unless the contrary is shown.”.>

##### Ash Denham

- 8 In section 2, page 3, line 35, leave out <“(4B)”> and insert <“(4C)”>

##### Ash Denham

- 9 In section 2, page 4, line 10, at end insert—

<(5B) The child is to be presumed to be capable of forming a view unless the contrary is shown.”.>

##### Ash Denham

- 10 In section 2, page 4, line 23, at end insert—

<(4A) The child is to be presumed to be capable of forming a view unless the contrary is shown.”.>

#### **Section 4**

##### **Ash Denham**

- 11** In section 4, page 6, line 6, at end insert—
- <( ) an offence under section 1(1) of the Prohibition of Female Genital Mutilation (Scotland) Act 2005,
  - ( ) an offence under section 3(1) of that Act,>

##### **Ash Denham**

- 12** In section 4, page 6, line 6, at end insert—
- <( ) an offence under section 39 of the Criminal Justice and Licensing (Scotland) Act 2010,>

##### **Ash Denham**

- 13** In section 4, page 6, line 6, at end insert—
- <( ) an offence under section 122(1) of the Anti-social Behaviour, Crime and Policing Act 2014,
  - ( ) an offence under section 122(3) of that Act,>

##### **Ash Denham**

- 14** In section 4, page 6, line 25, at end insert—
- <( ) In section 12 (orders authorising the use of special measures for vulnerable witnesses), after subsection (3), insert—
    - “(3A) The court may not make an order under subsection (1)(b) above in relevant proceedings if it is required by section 22C or 22D to consider the special measure described by section 22B to be the most appropriate for the purpose of taking the child witness’s evidence (or one of them if the court considers other special measures to be appropriate too).”.>

#### **Section 9**

##### **Ash Denham**

- 15** In section 9, page 15, line 31, leave out from <at> to end of line 33 and insert <through a regulated contact service as defined in section 101C.”.>

##### **Ash Denham**

- 16** In section 9, page 15, line 37, leave out <contact services> and insert <a contact service>

##### **Ash Denham**

- 17** In section 9, page 16, line 3, leave out <and minimum standards for accommodation at contact centres>

**Ash Denham**

- 18 In section 9, page 16, line 6, leave out <the refusal or revocation of registration of contact service providers that do not> and insert <, for those that do not, the refusal of registration or removal from the register>

**Ash Denham**

- 19 In section 9, page 16, line 7, at end insert—
- <(ba) make provision for minimum standards to be met by contact centres (including standards in respect of accommodation),
  - (bb) 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),
  - (bc) make provision about the conditions on which a regulated contact service provider may, in accordance with the regulations, provide 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),>

**Ash Denham**

- 20 In section 9, page 16, line 9, after <providers> insert <and contact centres>

**Ash Denham**

- 21 In section 9, page 16, line 12, after <provider> insert <or contact centre>

**Ash Denham**

- 22 In section 9, page 16, line 13, leave out <(2)(d)> insert <(2)(g)>

**Ash Denham**

- 23 In section 9, page 16, line 18, after <providers> insert <and contact centres>

**Ash Denham**

- 24 In section 9, page 16, line 18, leave out <the> and insert <a>

**Ash Denham**

- 25 In section 9, page 16, line 19, leave out <, who> and insert <and contact centres, that>

**Ash Denham**

- 26 In section 9, page 16, line 27, leave out <contact services> and insert <a contact service>

**Ash Denham**

- 27 In section 9, page 16, line 29, leave out <services> and insert <service>

**Ash Denham**

- 28 In section 9, page 16, line 31, at end insert—
- <“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.>

**Ash Denham**

**29** In section 9, page 16, line 33, leave out <made>

**After section 9**

**Ash Denham**

**30** After section 9, insert—

**<Arrangements for contact services**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 101C (which is inserted by section 9(3) of this Act) insert—

**“101D Arrangements for child contact services**

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

**After section 10**

**Ash Denham**

**31** After section 10, insert—

**<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—

- (a) any relevant person in relation to the child with whom the child does not reside, and
  - (b) any sibling of the child with whom the child does not reside.
- (4) In subsection (3), “sibling” includes—
- (a) a sibling by virtue of adoption, marriage or civil partnership and whether of the half-blood or of the whole-blood,
  - (b) 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.”.>

## Section 13

### Ash Denham

- 32 In section 13, page 18, leave out lines 6 to 10 and insert—
- <(2) Where, in the course of considering making an order under section 11(1), a court has appointed a curator ad litem, the court must—
    - (a) decide whether to continue the appointment every 6 months, and
    - (b) if it decides to continue the appointment, give reasons for the decision.
  - (3) Subsection (2) does not apply in relation to a curator ad litem appointed before section 13 of the Children (Scotland) Act 2020 comes into force.>

## After section 13

### Ash Denham

- 33 After section 13, insert—
- <Duty to consider child welfare when allowing access to information**
- (1) The Children (Scotland) Act 1995 is modified as follows.
  - (2) After section 11D (which is inserted by section 13(2) of this Act) insert—

**“11DA Duty to consider child welfare when allowing access to information**

Where the court—

    - (a) is considering making an order under section 11(1), and
    - (b) has to decide whether a person should have access to anything in which information relating to a child is recorded,

in making that decision, it must regard the welfare of that child as a primary consideration.”>

## Section 15

### Ash Denham

- 34 In section 15, page 19, line 14, after <child> insert <concerned>

### Ash Denham

- 35 In section 15, page 19, line 15, after <child> insert <concerned>

### Ash Denham

- 36 In section 15, page 19, line 31, leave out <made>

## Section 16

### Ash Denham

- 37 In section 16, page 20, line 5, after <must> insert <— (a)>

### Ash Denham

- 38 In section 16, page 20, line 6, after <failure> insert <, and

- (b) in so doing—
  - (i) give the child concerned an opportunity to express the child’s views in a manner suitable to the child, and
  - (ii) have regard to any views expressed by the child, taking into account the child’s age and maturity.
- (2A) But the court is not required to comply with subsection (2)(b) if satisfied that—
  - (a) the child is not capable of forming a view, or
  - (b) the location of the child is not known.
- (2B) The child is to be presumed to be capable of forming a view unless the contrary is shown.>

**Ash Denham**

**39** In section 16, page 20, line 10, at end insert—

- <(5) The Scottish Ministers may by regulations modify subsection (3) to—
  - (a) add a description of person,
  - (b) vary a description of person,
  - (c) remove a description of person.
- (6) Regulations under subsection (5) are subject to the affirmative procedure.”.>

**Section 21**

**Ash Denham**

**40** In section 21, page 24, line 17, leave out <a> and insert <the>

**Ash Denham**

**41** In section 21, page 24, line 21, leave out <a> and insert <the>

**Ash Denham**

**42** In section 21, page 24, line 26, leave out <a> and insert <the>

**Section 22**

**Ash Denham**

**43** In section 22, page 24, line 36, leave out <11D(2)> and insert <11D(3)>

**Ash Denham**

**44** In section 22, page 25, line 3, leave out <11D(2)> and insert <11D(3)>