

New amendments to Bills lodged on 17 June 2020

Children (Scotland) Bill – Stage 2

Section 1

Rhoda Grant

- 60 In section 1, page 1, line 24, leave out <(7C)> and insert <(7D)>

Rhoda Grant

- 61 In section 1, page 2, line 12, after first <abuse,> insert <any continuing abuse>

Rhoda Grant

- 62 In section 1, page 2, line 21, at end insert—

<(e) the effect of the fact that two or more persons would be required to co-operate with one another with regard to matters affecting the child.>

Rhoda Grant

- 63 In section 1, page 2, line 31, insert at end—

<() For the purposes of subsection (3)(e) (but, for the avoidance of doubt, not for the purposes of any other provision in this section), “person” means—

- (a) a person having parental responsibilities or parental rights in respect of the child or
- (b) a person who has a relationship with a child with the character of a parent but does not have parental responsibilities or parental rights in respect of the child.>

After section 1

Liam McArthur

Supported by John Finnie

- 64 After section 1 insert—

<Disclosure of information

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11ZB (which is inserted by section 1(4) of this Act) insert—

“11ZC Disclosure of information: consideration of the child’s welfare and best interests

- (1) This section applies in proceedings for an order under section 11(1) where a request has been received by the court for the disclosure of any information relating to the child, including the disclosure of a child welfare report.
- (2) In deciding whether to allow a disclosure of information under subsection (1)—
 - (a) the court must, as its paramount consideration have regard to the welfare of the child concerned,

- (b) the information must be disclosed only where the court considers that —
 - (i) the likely benefit to the welfare of the child arising in consequence of disclosing the information outweighs any likely adverse effect on any other person arising from disclosure, and
 - (ii) disclosure is in the child’s best interests, and
- (c) the court, taking account of the child’s age and maturity and proportionate to the child’s best interests, shall as far as practicable—
 - (i) give the child an opportunity to indicate whether the child wishes to express views about disclosure of the information in a manner suitable to the child,
 - (ii) where the child wishes to express views, ensure that the child is given an opportunity to express those views in a manner suitable to the child, and
 - (iii) have regard to any views expressed by the child.”.>

Section 8

Liam McArthur

65 In section 8, page 15, line 9, at end insert—

- <() Only a social worker registered with the Scottish Social Services Council may be appointed as a child welfare reporter.>

Neil Findlay

66 In section 8, page 15, line 21, at end insert—

- <() For the purposes of subsection (3)(a), persons may be included in the register where they have obtained the necessary professional qualifications if they know the child to which the child welfare report relates in a professional capacity.>

Neil Findlay

67 In section 8, page 15, line 21, at end insert—

- <() Before making, revising or revoking regulations under subsection (3), the Scottish Ministers must consult persons with lived experience of—
 - (a) domestic abuse,
 - (b) court-ordered contact.>

Section 9

Neil Findlay

68 In section 9, page 15, line 30, after <centre> insert <—

- <(a)>

Neil Findlay

69 In section 9, page 15, line 31, at end insert <, and

<(b) the child to whom the contact order relates is the responsibility of the contact centre for the duration of that child’s time in the contact centre.>

Neil Findlay

70 In section 9, page 16, line 4, at end insert—

<(aa)make provision for staff referred to in paragraph (a) to be trained and to hold recognised professional qualifications in relation to issues concerning children,>

Bob Doris

71 In section 9, page 16, line 12, at end insert—

<(2A) Minimum standards under subsection (2)(a) must make provision for the relevant adjustments necessary for a disabled child to access a contact centre and use its facilities including toilets.

(2B) In subsection (2A)—

“relevant adjustments” means, in relation to a disabled child, alterations or additions which are likely to avoid a substantial disadvantage to which the disabled child is put in using the contact centre in comparison with children who are not disabled, and

“disabled child” means a child with a disability within the meaning of section 6 of the Equality Act 2010.>

Neil Findlay

72 In section 9, page 16, line 15, at end insert—

<() undertaking risk assessments of contact centres to be carried out by staff trained in undertaking such assessments,>

Neil Findlay

73 In section 9, page 16, line 20, at end insert—

<() The Scottish Ministers must consult persons with lived experience of—

(a) domestic abuse, and

(b) court-ordered contact,

before making, implementing or reviewing regulations under subsection (1).>

Neil Findlay

74 In section 9, page 16, line 32, after <organisation> insert <that is publicly provided and accountable to the Scottish Ministers and>

After section 9

Fulton MacGregor

75 After section 9, insert—

<Renaming residence and contact orders

- (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)(c), the words “(any such order being known as a “residence order”)” are repealed,
 - (b) in subsection (2)(d), the words “(any such order being known as a “contact order”)” are repealed,
 - (c) in subsection (2)(e), the words “(any such order being known as a “residence order”)” are repealed,
 - (d) in subsection (3)(aa), for “contact” substitute “section 11”,
 - (e) in subsection (12), the word “residence” is repealed.>

Section 10

Alex Cole-Hamilton

76 In section 10, page 17, line 6, at end insert—

<() the child’s lineal ancestors,>

Rona Mackay

77 In section 10, page 17, line 8, leave out <of the half-blood or of the whole-blood> and insert <biological or non-biological>

Jeremy Balfour

56 *Withdrawn*

Liam McArthur

Supported by: Jeremy Balfour and Fulton MacGregor

78 In section 10, page 17, line 12, at end insert <, and

() a former foster carer of the child.”.>

After section 10

Alex Cole-Hamilton

79 After section 10, insert—

<Promotion of contact between children and lineal ancestors

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11ZA (paramourcy of child’s welfare, and the non-intervention presumption) (which is inserted by section 1(4) of this Act), insert—

“11ZAB The child’s right to contact with lineal ancestors

- (1) In deciding whether or not to make an order under section 11ZA and what order (if any) to make, the court must have regard to the child's right to maintain contact with the child's lineal ancestors.
- (2) For the avoidance of doubt, the child's right to maintain contact with the child's lineal ancestors is independent of any other familial relationship.”.>

After section 11

Liam McArthur

80 After section 11, insert—

<Legal aid for alternative methods of dispute resolution

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11ZB (which is inserted by section 1(4) of this Act), insert—

“11ZC Legal aid for alternative methods of dispute resolution

- (1) The Scottish Ministers must, by regulations, make provision for legal aid to be made available for alternative methods of dispute resolution in respect of orders made under section 11(1) within 12 months of Royal Assent
- (2) A draft of regulations under subsection (1) must be laid before the Scottish Parliament before the end of the period of 12 months beginning with the day of Royal Assent.
- (3) Before making the regulations referred to in subsection (1), the Scottish Ministers must consult the Scottish Legal Aid Board.
- (4) In this section, alternative methods of dispute resolution may include—
 - (a) arbitration,
 - (b) collaborative law,
 - (c) family group conferencing.
- (5) The Scottish Ministers may by regulations modify the list of alternative methods of dispute resolution for the time being set out in subsection (4).
- (6) Regulations under this section are subject to the affirmative procedure.”.>

Section 12

Alex Cole-Hamilton

81 In section 12, page 17, line 32, at end insert—

<() the involvement of the child's lineal ancestors in the child's life as an important familial relationship including in situations where the child is not able to maintain contact with the child's lineal ancestors,>

Alex Cole-Hamilton

82 In section 12, page 17, line 33, at end insert—

<() the child's right to maintain personal relations with the child's lineal ancestors.”.>

Liam McArthur

83 In section 12, page 17, line 33, at end insert—

<() in the absence of an agreement on the pattern of residence of a child and at the request of at least one of the child’s parents, the possibility of ordering that the child should reside on an approximately equal basis with each of the child’s parents.”.>

After section 13

Rona Mackay

33A As an amendment to amendment 33, line 11, after <consideration> insert <and must, where the court considers it appropriate, seeks the consent of the child to the person having access to the information>

After section 15

Liam McArthur

84 After section 15, insert—

<Duty to ensure availability of child advocacy services

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11E (which is inserted by section 15(2) of this Act), insert—

“11EA Duty to ensure availability of child advocacy services

- (1) The Scottish Ministers must make such provision as they consider necessary and sufficient to ensure that all children concerned in proceedings for an order under section 11(1) have access to appropriate child advocacy services.
- (2) In this section, “child advocacy services” means services of support and representation provided for the purposes of assisting a child in relation to the child's involvement in proceedings under section 11(1).”.>

Section 21

Fulton MacGregor

85 In section 21, page 24, line 17, leave out from <is> to end of line 18 and insert <must resolve disputes about contact as soon as practicable and in any event no later than 60 days after the commencement of proceedings.”.>

Before section 22

Liam McArthur

86 Before section 22, insert—

<Review of effect of Act

- (1) The Scottish Ministers must conduct a review of the effect of this Act on a child's participation in court processes to which the Act applies.
- (2) The review must, in particular, consider the resources required to ensure effective participation by children in those processes.
- (3) The review must be completed no later than 3 years after the date of Royal Assent.
- (4) As soon as practicable after completing the review, the Scottish Ministers must—
 - (a) publish, in such manner as they consider appropriate, a report of the review, and
 - (b) lay a copy of the report before the Scottish Parliament.
- (5) The report of the review must include the steps, if any, the Scottish Ministers propose to take to further improve the participation of children in court processes.>