

Children (Scotland) Bill – Stage 3

Amendments 35 and 42 have been lodged as manuscript amendments under Rule 9.10.6. The Presiding Officer has decided under that rule to allow the amendments to be moved at the meeting of the Parliament on 25 August 2020.

Section 1

Alex Cole-Hamilton

- 35 In section 1, page 1, line 15, after <maturity> insert <(including views expressed by the child about the child’s desire to maintain personal relations with family members, in so far as doing so is practicable and in the interests of the child)>

Section 1A

Liam McArthur

- 36 Leave out section 1A

After section 4

Ash Denham

- 37 After section 4, insert—
- <Vulnerable witnesses: requirement to consider special measures without application in certain cases**
- (1) The Vulnerable Witnesses (Scotland) Act 2004 is modified as follows.
- (2) In section 12 (orders authorising the use of special measures for vulnerable witnesses), after subsection (6) insert—
- “(6A) If the witness is deemed to be a vulnerable witness by virtue of section 11B—
- (a) before the proof or other hearing at which the witness is to give evidence the court must either—
- (i) make an order under subsection (6) authorising the use of a special measure for the purpose of taking the witness’s evidence, or
- (ii) make an order that the witness is to give evidence without the benefit of any special measure,
- (b) the court is to do so whether or not a vulnerable witness application is made.”.>

Section 7

Ash Denham

- 38 In section 7, page 14, line 3, leave out <applies,> and insert <applies—

- (a) in relation to a party whom the court would be required by section 11B of the Vulnerable Witnesses (Scotland) Act 2004 to consider a vulnerable witness if the party were to give evidence in or for the purposes of the proceedings, the court must—
 - (i) order the use of any special measure that the party requests,
 - (ii) order the use of a special measure that the court considers appropriate and, if the party requested a different special measure, give reasons for not ordering its use, or
 - (iii) give reasons for not ordering the use of any special measure,
- (b) in relation to any other party,>

Ash Denham

- 39 In section 7, page 14, line 4, leave out <in relation to a party>

Section 8

Liam McArthur

- 40 In section 8, page 16, line 20, at end insert—
<() Only a social worker registered with the Scottish Social Services Council may be appointed as a child welfare reporter.>

Section 9

Bob Doris

- 41 In section 9, page 17, line 36, at end insert—
<() 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,>

Ash Denham

- 42 In section 9, page 18, line 7, at end insert—
<“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,>

Section 10

Rona Mackay

- 43 *In substitution for amendment 21—*
In section 10, page 19, line 1, leave out from <(including> to <whole-blood)> in line 2

Rona Mackay

44 *In substitution for amendment 23—*

In section 10, page 19, line 6, at end insert—

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

Section 10A

Rona Mackay

45 In section 10A, page 19, leave out lines 19 to 27 and insert <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.”.>

Section 13A

Liam McArthur

46 Leave out section 13A and insert—

<Duty to consider child’s best interests 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’s best interests when allowing access to information

- (1) 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 private information about a child is recorded,in making that decision it must comply with subsections (2) and (3) in relation to that child.
- (2) The court must regard the best interests of the child as a primary consideration.
- (3) The court must—
 - (a) give the child an opportunity to express the child’s views in—
 - (i) the manner that the child prefers, or

- (ii) a manner that is suitable to the child if the child has not indicated a preference or it would not be reasonable in the circumstances to accommodate the child's preference, and
 - (b) have regard to any views expressed by the child, taking into account the child's age and maturity.
- (4) But the court is not required to comply with subsection (3) if satisfied that—
 - (a) the child is not capable of forming a view, or
 - (b) the location of the child is not known.
 - (5) The child is to be presumed to be capable of forming a view unless the contrary is shown.
 - (6) In this section, “private information” means information in which the child could have a reasonable expectation of privacy.”.>

After section 16

John Finnie

47 After section 16, insert—

<Duty to ensure system of redress

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11F (which is inserted by section 16 of this Act) insert—

“11FA Duty to ensure system of redress

- (1) The Scottish Ministers must by regulations make such provision as they consider necessary and expedient to establish an effective, child-sensitive redress scheme for children who are the subject of proceedings where the court is deciding whether an order should be made under section 11(1).
- (2) The regulations must include provision to ensure redress where duties and obligations under this Act to the child in question in relation to—
 - (a) participating in court proceedings,
 - (b) the process by which an order under section 11(1) is made,
 - (c) expressing views in regard to court proceedings,
 - (d) breach of duty to provide feedback to the child,
 - (e) any other matter that the Scottish Ministers consider necessary or appropriate,
 have not been complied with.
- (3) The regulations must include provision to ensure that the person making a decision about redress is able, when considering whether duties and obligations have been complied with, to take into account whether actions have been taken for the purpose of securing the child's best interests.
- (4) Regulations under subsection (1) are subject to the affirmative procedure.
- (5) For the avoidance of doubt, the scheme referred to in this section does not affect any right of appeal under this Act.”.>

Before section 22

Liam McArthur

48 Before section 22, insert—

<Review of children’s ability to participate

- (1) The Scottish Ministers must review the ability of children to effectively participate in the making of decisions in relation to which one of the following enactments requires that the child be given an opportunity to express a view and that regard be had to any view expressed—
 - (a) sections 11ZB(1), 11DA(3), 11F(2)(b) and 16(1) of the Children (Scotland) Act 1995,
 - (b) sections 14(4A) and 84(5) of the Adoption and Children (Scotland) Act 2007,
 - (c) section 27(3) of the Children’s Hearings (Scotland) Act 2011.
- (2) The review must, in particular, consider the resources required to ensure effective participation by children in the making of the decisions.
- (3) The review must be completed no later than 5 years after the date of Royal Assent.
- (4) As soon as practicable after completing the review, the Scottish Ministers must—
 - (a) make a report of the review publicly available, and
 - (b) lay a copy of the report before the Scottish Parliament.
- (5) The report must set out—
 - (a) the steps, if any, that the Scottish Ministers propose to take in light of the review,
 - (b) a proposed timetable for taking the steps, and
 - (c) if any of the steps are not to be taken in the parliamentary session during which the copy of the report is laid before the Parliament, an explanation of why the Ministers do not propose to take those steps before that session ends.
- (6) In subsection (5)(c), “parliamentary session” has the meaning given in section 19(1) of the Interests of Members of the Scottish Parliament Act 2006.>