

# CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 6 – Early Learning and Childcare**

#### ***Section 49 – Looked after 2 year olds: alternative arrangements to meet wellbeing needs***

119. **Section 49** enables an authority to make alternative provision of education and care in order to meet the wellbeing needs of children. Subsection (1) provides that where an authority's duty under section 47(1) applies in relation to a child only by virtue of the child falling within section 47(3)(a) and the authority, after assessing the child's needs considers that making alternative arrangements in relation to the child's education and care would better safeguard or promote the child's wellbeing, then subsection (2) applies. It is important to note the "only" in subsection (1): it means that if section 47(1) applies to the child for an additional reason, such as the child falling within an age range or other description prescribed under section 47(2)(c)(ii), then the child ceases to be one in respect of whom section 49(2) applies.
120. Subsection (2) provides that in relation to these children the authority need not comply with its duty under section 47(1) in relation to the child but must make alternative arrangements in relation to the child's education and care as it considers appropriate for the purposes of safeguarding or promoting the child's wellbeing. The power for the authority to make alternative arrangements by virtue of section 47(1) and (2) continues to apply notwithstanding that the 2 year old child ceases to be looked after so as to ensure continuity in the education and care of the child. However, under subsection (3), alternative arrangements cannot continue to be made if a parent of the child objects to those alternative arrangements being made.
121. Subsection (4) provides that the authority may, at any time, review any alternative arrangements it makes in relation to a child in pursuance of subsection (2)(b) and must do so on becoming aware of any significant change in the child's circumstances. It may, following such a review, alter those arrangements.
122. Subsection (5) provides that the authority must seek to ensure that a record of the outcome of any assessment of a child's needs that it undertakes in pursuance of subsection (1)(b) and any alternative arrangements that it makes in relation to the child's education and care in pursuance of subsection (2)(b) is included in any child's plan which is prepared under Part 5.