



# Children (Scotland) Act 1995

## 1995 CHAPTER 36

### PART II

#### PROMOTION OF CHILDREN'S WELFARE BY LOCAL AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

### CHAPTER I

#### SUPPORT FOR CHILDREN AND THEIR FAMILIES

##### *Introductory*

#### **17 Duty of local authority to child looked after by them.**

- (1) Where a child is looked after by a local authority they shall, in such manner as the Secretary of State may prescribe—
- (a) safeguard and promote his welfare (which shall, in the exercise of their duty to him be their paramount concern);
  - (b) make such use of services available for children cared for by their own parents as appear to the authority reasonable in his case; <sup>F1</sup>...
  - (c) take such steps to promote, on a regular basis, personal relations and direct contact between the child and any person with parental responsibilities in relation to him as appear to them to be, having regard to their duty to him under paragraph (a) above, both practicable and appropriate <sup>F2</sup>; and
  - (d) take such steps to promote, on a regular basis, personal relations and direct contact between the child and any person mentioned in subsection (1A) as appear to them to be appropriate having regard to their duty to the child under paragraph (a).]

<sup>F3</sup>(1A) The persons referred to in subsection (1)(d) are—

- (a) a sibling of the child, and

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- (b) any other person with whom the child has lived and with whom the child has an ongoing relationship with the character of a relationship between siblings.
- (1B) For the purposes of subsection (1A), two people are siblings if they have at least one parent in common.]
- (2) The duty under paragraph (a) of subsection (1) above includes, without prejudice to that paragraph’s generality, the duty of providing advice and assistance with a view to preparing the child for when he is no longer looked after by a local authority.
- (3) Before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the views of—
- (a) the child;
  - (b) his parents;
  - (c) any person who is not a parent of his but who has parental rights in relation to him; <sup>F4</sup>...
- [<sup>F5</sup>(ca) any person mentioned in subsection (1A); and]
- (d) any other person whose views the authority consider to be relevant, regarding the matter to be decided.
- (4) In making any such decision a local authority shall have regard so far as practicable—
- (a) to the views (if he wishes to express them) of the child concerned, taking account of his age and maturity;
  - (b) to such views of any person mentioned in subsection (3)(b) to (d) above as they have been able to ascertain; and
  - (c) to the child’s religious persuasion, racial origin and cultural and linguistic background.
- (5) If, for the purpose of protecting members of the public from serious harm (whether or not physical harm) a local authority consider it necessary to exercise, in a manner which (but for this paragraph) would not be consistent with their duties under this section, their powers with respect to a child whom they are looking after, they may do so.
- (6) Any reference in this Chapter of this Part to a child who is “looked after” by a local authority, is to a child—
- (a) for whom they are providing accommodation under section 25 of this Act;
  - [<sup>F6</sup>(b) who is subject to a compulsory supervision order or an interim compulsory supervision order and in respect of whom they are the implementation authority (within the meaning of the Children’s Hearings (Scotland) Act 2011);]
  - <sup>F7</sup>(c) .....;
  - (d) who is subject to an order in accordance with which, by virtue of regulations made under section 33(1) of this Act [<sup>F8</sup>or section 190 of the Children’s Hearings (Scotland) Act 2011 (asp 1) (effect of Orders made outwith Scotland)], they have [<sup>F9</sup>responsibilities as respects the child ] [<sup>F10</sup>; or
  - (e) in respect of whom a permanence order has, on an application by them under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4), been made and has not ceased to have effect.]
- (7) Regulations made by the Secretary of State under subsection (1) above may, without prejudice to the generality of that subsection, include—

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- (a) provision as to the circumstances in which the child may be cared for by the child's own parents; and
- (b) procedures which shall be followed in the event of the child's death.

#### Textual Amendments

- F1** Word in s. 17(1) repealed (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 13(2)(a)(i)**, 34(2); S.S.I. 2020/412, reg. 2(2)(a)
- F2** S. 17(1)(d) and word inserted (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 13(2)(a)(ii)**, 34(2); S.S.I. 2020/412, reg. 2(2)(a)
- F3** S. 17(1A)(1B) inserted (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 13(2)(b)**, 34(2); S.S.I. 2020/412, reg. 2(2)(a)
- F4** Word in s. 17(3) repealed (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 13(2)(c)(i)**, 34(2); S.S.I. 2020/412, reg. 2(2)(a)
- F5** S. 17(3)(ca) inserted (26.7.2021) by Children (Scotland) Act 2020 (asp 16), **ss. 13(2)(c)(ii)**, 34(2); S.S.I. 2020/412, reg. 2(2)(a)
- F6** S. 17(6)(b) substituted (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 2(4)(a)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F7** S. 17(6)(c) repealed (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 2(4)(b)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F8** Words in s. 17(6)(d) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 1 para. 9(3)**
- F9** Words in s. 17(6)(d) substituted (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 2(4)(c)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F10** S. 17(6)(e) and word inserted (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(1), 121(2), **Sch. 2 para. 9(4)(b)**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21)

#### Modifications etc. (not altering text)

- C1** S. 17(1) applied (1.4.1997) by S.I. 1996/3263, **reg. 6(2)**
- C2** S. 17(1)-(5) applied (1.4.1997) by S.I. 1996/3262, **reg. 3(2)(b)**
- C3** S. 17(6) applied (26.7.2021) by The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (S.S.I. 2021/174), regs. 1, **17(6)(a)** (with sch. para. 13(a))
- C4** S. 17(6) applied (21.3.2022) by The Disability Assistance for Working Age People (Scotland) Regulations 2022 (S.S.I. 2022/54), regs. 1, **27(6)(a)**

#### Commencement Information

- I1** S. 17 wholly in force at 1.4.1997; s. 17 not in force at Royal Assent see s. 105(1), s. 17 in force for certain purposes at 12.12.1996 by S.I. 1996/3201, **art. 3(1)** (with arts. 4-6 (as inserted (7.3.1997) by S.I. 1997/744, **art. 3**)); s. 17 in force at 1.4.1997 insofar as not already in force by S.I. 1996/3201, **art. 3(7)** (with arts. 4-6) (as amended (7.3.1997) by S.I. 1997/744, **arts. 2, 3**)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to [legislation.gov.uk](#). These Regulations never came into effect, having been revoked before coming into force by S.I. 2010/1906, reg. 2)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 3(3A)(ba) inserted by [2009 c. 24 Sch. 6 para. 25](#)
- s. 4B inserted by [2020 asp 16 s. 28\(2\)](#)
- s. 6(1A)-(1D) inserted by [2020 asp 16 s. 1\(2\)\(b\)](#)
- s. 10(1A) inserted by [2024 asp 2 Sch. 1 para. 18\(b\)](#)
- s. 11(14) inserted by [2020 asp 16 s. 10\(2\)\(b\)](#)
- s. 11B11C inserted by [2020 asp 16 s. 8\(2\)](#)
- s. 11B(2) power to amend conferred by [2020 asp 16 s. 32](#)
- s. 11D inserted by [2020 asp 16 s. 17\(2\)](#)
- s. 11D(3) power to amend conferred by [2020 asp 16 s. 32](#)
- s. 11E inserted by [2020 asp 16 s. 18\(2\)](#)
- s. 11F inserted by [2020 asp 16 s. 20\(2\)](#)
- s. 11G inserted by [2020 asp 16 s. 22\(2\)](#)
- s. 11ZA11ZB inserted by [2020 asp 16 s. 1\(4\)](#)
- s. 11ZA(2A) inserted by [2020 asp 16 s. 30\(2\)](#)
- s. 11ZA(3)(f) inserted by [2020 asp 16 s. 16\(2\)](#)
- s. 16(1A) inserted by [2020 asp 16 s. 30\(3\)](#)
- s. 16(2)-(2B) substituted for s. 16(2) by [2020 asp 16 s. 1\(6\)](#)
- s. 100A inserted by [2020 asp 16 s. 21\(2\)](#)
- s. 101D inserted by [2020 asp 16 s. 11\(2\)](#)
- s. 101E inserted by [2020 asp 16 s. 12\(2\)](#)