



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

Provision of services

23 Children affected by disability.

- (1) Without prejudice to the generality of subsection (1) of section 22 of this Act, services provided by a local authority under that subsection shall be designed—
 - (a) to minimise the effect on any—
 - (i) disabled child who is within the authority's area, of his disability; and
 - (ii) child who is within that area and is affected adversely by the disability of any other person in his family, of that other person's disability; and
 - (b) to give those children the opportunity to lead lives which are as normal as possible.
- (2) For the purposes of this Chapter of this Part a person is disabled if he is chronically sick or disabled or ^{F1}has a mental disorder (as defined in section 328(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)).
- (3) Where requested to do so by ^{F2}—
 - (a) a child's parent or guardian ^{F3}; or
 - (b) a mental health officer (as defined in section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)) who—

Status: Point in time view as at 05/04/2020. This version of this provision has been superseded.

Changes to legislation: Children (Scotland) Act 1995, Section 23 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(i) has responsibility under that Act or the Criminal Procedure (Scotland) Act 1995 (c. 46) for a child’s case; and

(ii) makes the request for the purposes of either of those Acts,]

a local authority shall, for the purpose of facilitating the discharge of such duties as the authority may have under section 22(1) of this Act (whether or not by virtue of subsection (1) above) as respects the child, carry out an assessment of the child, or of any other person in the child’s family, to determine the needs of the child in so far as attributable to his disability or to that of the other person.

^{F4}[(4) In determining the needs of a child under subsection (3) above, the local authority shall take account—

[^{F5}(a) if an adult carer provides, or intends to provide, care for the child, of the care provided by that carer,

(aa) if a young carer provides, or intends to provide, care for the child, of the care provided by that carer,]

(b) in so far as it is reasonable and practicable to do so, of—

(i) the views of the parent or guardian of the child, and the child; ^{F6}...

^{F6}(ii)

provided that the parent, guardian, [^{F7}or child] in question has a wish, or as the case may be, a capacity, to express a view.]

[^{F8}(5) In subsection (4)(a) and (aa), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,

(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(6) In—

(a) determining the needs of a child under subsection (3),

(b) deciding whether to provide any services under section 22(1), and

(c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.

(7) In this section—

“adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2016,

“young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2016.]

Textual Amendments

F1 Words in s. 23(2) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(3), [Sch. 4 para. 7](#); S.S.I. 2005/161, [art. 3](#) (as amended by S.S.I. 2005/375, [art. 2](#))

F2 Word in s. 23(3) become s. 23(3)(a) (5.10.2005) by virtue of [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), [ss. 227\(2\)\(a\)](#), 333(3); S.S.I. 2005/161, [art. 3](#) (as amended by S.S.I. 2005/375, [art. 2](#))

F3 S. 23(3)(b) and preceding word inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), [ss. 227\(2\)\(b\)](#), 333(3); S.S.I. 2005/161, [art. 3](#) (as amended by S.S.I. 2005/375, [art. 2](#))

Status: Point in time view as at 05/04/2020. This version of this provision has been superseded.

Changes to legislation: Children (Scotland) Act 1995, Section 23 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F4** S. 23(4) inserted (1.9.2002) by 2002 asp 5, s. 10; S.S.I. 2002/170, art. 2(4)
- F5** S. 23(4)(a)(aa) substituted for s. 23(4)(a) (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), ss. 30(6)(a), 45(2); S.S.I. 2017/152, reg. 4
- F6** S. 23(4)(b)(ii) and word repealed (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), ss. 30(6)(b)(i), 45(2); S.S.I. 2017/152, reg. 4
- F7** Words in s. 23(4)(b) substituted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), ss. 30(6)(b)(ii), 45(2); S.S.I. 2017/152, reg. 4
- F8** S. 23(5)-(7) inserted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), ss. 30(7), 45(2); S.S.I. 2017/152, reg. 4

Modifications etc. (not altering text)

- C1** S. 23(3) restricted (temp.) (5.4.2020) by Coronavirus Act 2020 (c. 7), ss. 16(7)(8), 87(2) (with ss. 16(12)(13), 88-90); S.S.I. 2020/121, reg. 2(a) (which affecting provision is suspended (29.9.2021) by The Coronavirus Act 2020 (Suspension: Children and Young Persons Social Care) (Scotland) Regulations 2021 (S.S.I. 2021/315), regs. 1(1), 2(d) (with reg. 3) (and which affecting provision expires (25.3.2022) by virtue of Coronavirus Act 2020 (c. 7), s. 89)

Status:

Point in time view as at 05/04/2020. This version of this provision has been superseded.

Changes to legislation:

Children (Scotland) Act 1995, Section 23 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.