

CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Children’s Services Planning

Section 7 – Introductory

24. Subsections (1) and (2) are interpretation subsections for this Part. Subsection (1) defines the terms “children’s service” and “related service” and who are “other service providers” and “relevant health boards” for the purposes of Part 3. Subsection (2) defines the persons who may provide a “children’s service” or a “related service” as being local authorities, relevant health boards, any other service provider and the Scottish Ministers (but only in relation to a service provided by them in exercise of their functions under the Prisons (Scotland) Act 1989) i.e. when they are providing children’s or related services through the medium of the Scottish Prison Service.
25. Subsections (3) and (4) provide that the Scottish Ministers may, by order, specify the services which are to be included within, or excluded from, the definition of children’s services or related services for the purposes of this Part. They may also specify matters in relation to those services. Before making such an order the Scottish Ministers must consult with each health board, local authority and where the service is provided by another service provider, that person.
26. Subsection (5) provides that the Scottish Ministers may, by order, modify the definition of “other service provider” in subsection (1) by adding a person, removing an entry or varying an entry.
27. This Part confers certain functions on “a local authority and the relevant health board”. Subsection (6) provides that those are joint functions (i.e. functions that are to be exercised by those persons together).

Section 8 – Requirement to prepare children’s services plan

28. Subsection (1) provides that each local authority and the relevant health board must jointly prepare a Children’s Services Plan for the area of the local authority, in respect of each 3 year period.
29. Subsection (2) defines “3 year period” as that beginning with such date after the coming into force of this section as the Scottish Ministers specify, by order, and each subsequent period of 3 years. It defines “children’s services plan” as a document setting out their plans for the provision of children’s services and related services over that 3 year period.

Section 9 – Aims of children’s services plan

30. Subsections (1) and (2) provide that a children’s services plan should be prepared with a view to achieving the aims of providing children’s services in the area in a way which:

best safeguards, supports or promotes the wellbeing of children; ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising; is most integrated from the point of view of the recipients; and constitutes the best use of available resources. “Most integrated” would be where service providers co-operate with each other to ensure that service provision is planned and delivered in a way which best meets the needs of children and families. Also, related services in the area are to be provided in the way which safeguards, supports or promotes the wellbeing of children, so far as this is consistent with the objects and proper delivery of the service concerned.

Section 10 – Children’s services plan: process

31. Subsection (1) provides that in preparing a children’s services plan, the local authority and relevant health board must give the other service providers and the Scottish Ministers an effective opportunity to participate in or contribute to the preparation of the plan. The local authority and relevant health board must also consult with organisations falling within subsection (2) (which represent the interests of persons who use or are likely to use any children’s service or related service in the area; or provide a service in the area which, if it were provided by the local authority, health board, other service provider or the Scottish Ministers, would be a children’s service or related service), such social landlords as appear to provide housing in the area of the local authority and other such persons as the Scottish Ministers may, by direction, specify. “Social landlords” has the meaning given by section 165 of the Housing (Scotland) Act 2010.
32. Subsection (4) provides that a direction under subsection (1)(b)(iii) may be revised or revoked.
33. Subsections (5) and (6) require the other service providers and the Scottish Ministers to participate in, or contribute to, the preparation of the children’s services plan, and the bodies to be consulted within subsection (1)(b) are to meet any reasonable request of the local authority or health board in participating in, or contributing to, the preparation of the children’s services plan. Subsection (7) provides that, as soon as reasonably practicable after the plan has been prepared, the persons who prepared it must send a copy to the Scottish Ministers and each of the other service providers, and publish it (in such a manner as considered appropriate).
34. Subsection (8) provides that, where the Scottish Ministers or any of the other service providers disagree with any aspect of a plan which relates to a service provided by them, they must prepare and publish a notice detailing the matters in relation to which they disagree and a statement of their reasons for disagreeing.

Section 11 – Children’s services plan: review

35. Subsection (1) provides that local authorities and the relevant health board in an area must jointly keep the children’s services plan under review and as a consequence of that review may prepare a revised plan.
36. Subsection (2) provides that sections 9, 10 and 11(1) apply to a revised children’s services plan as they apply to a children’s services plan. This means that revised plans must be prepared with a view to securing the aims listed in section 9, must be prepared following the process set out in section 10 and that the revised plan itself must be kept under review and may also be revised in accordance with section 11(1).

Section 12 – Implementation of children’s services plan

37. Subsections (1) and (2) provide that, during the period to which the children’s services plan relates, the local authority, the relevant health board, the Scottish Ministers and each of the other service providers in an area must, so far as reasonably practicable, provide services in accordance with the children’s services plan for that area. Subsection (3) provides that the duty does not apply to the extent the person providing the service

considers that doing so would adversely affect the wellbeing of a child or where the service is delivered by the Scottish Ministers or one of the other service providers and they have published a notice of disagreement in line with section 10(8).

Section 13 – Reporting on children’s services plan

38. Subsection (1) provides that as soon as is practicable at the end of each year, the local authority and relevant health board must publish, in such manner as they consider appropriate, a joint report on how the provision of children’s services and related services in that area during that period have been provided in accordance with the children’s services plan and the extent to which the aims specified in section 9(2) have been achieved, and such outcomes in relation to the wellbeing of the children in the area as the Scottish Ministers may, by order, prescribe.
39. Subsection (2) defines “1 year period” as the period of a year beginning on the date on which the children’s services plan for the area has begun, in accordance with section 8(1), and each period of a year thereafter.

Section 14 – Assistance in relation to children’s services planning

40. Subsections (1) and (2) provide that any of the other service providers, the Scottish Ministers and persons mentioned in section 10(1)(b) must comply with any reasonable request made of them to provide the local authority or relevant health board with information, advice or assistance, for the purposes of carrying out their functions under this Part.
41. Subsection (3) states that subsection (1) does not apply where the person considers the provision of information, advice or assistance would be incompatible with any duties of that person or unduly prejudices the carrying out of any functions of the person.

Section 15 – Guidance in relation to children’s services planning

42. Subsections (1) and (2) state that local authorities and the relevant health board and each of the other service providers must have regard to any guidance issued by the Scottish Ministers about how to exercise the functions conferred by this Part (other than the function of complying with section 12).
43. Subsection (3) states that before guidance is issued or revised, the Scottish Ministers have to consult with any person to which the guidance relates and such other persons as they consider appropriate.

Section 16 – Directions in relation to children’s services planning

44. Subsections (1) and (2) provide that local authorities, the relevant health board and the other service providers must comply with any direction issued by the Scottish Ministers about the carrying out of the functions conferred by this Part (other than the function of complying with section 12).
45. Subsection (3) provides that, before issuing, revising or revoking a direction, the Scottish Ministers must consult any person to which it relates and such other persons as they consider appropriate.

Section 17 – Children’s services plan: default powers of Scottish Ministers

46. This section applies where the Scottish Ministers consider that local authorities and relevant health boards are either not carrying out one of their functions conferred on them by this Part (other than the function of complying with section 12) or, in carrying out such a function, are not complying with their duty to have regard to guidance issued under section 15(1).

*These notes relate to the Children and Young People (Scotland)
Act 2014 (asp 8) which received Royal Assent on 27 March 2014*

47. Subsection (2) provides a power for the Scottish Ministers to issue directions stating that the function is to be carried out in a particular way or that the function is to be carried out instead by such of the persons mentioned in subsection (3) as the Scottish Ministers consider appropriate.
48. Subsection (3) explains that persons referred to in subsection (2)(b) are the local authority, the relevant health board or another local authority or health board. Subsection (4) states that a direction under subsection (2)(b) may include such provision as the Scottish Ministers consider appropriate as to the making by a local authority or relevant health board in an area, which is not to be carrying out the function, of payment to a person who is to carry out the function by virtue of the direction.
49. Subsection (5) states that before issuing, revising or revoking a direction under subsection (2) the Scottish Ministers must consult with the local authority and relevant health board whose failure is to be, or is, the subject of the direction, and such other persons as they consider appropriate.
50. Subsection (6) requires that any direction given under subsection (2) must be complied with by the person to whom it is addressed.