

CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 – Corporate Parenting

Section 56 – Corporate parents

134. This Part of the Act gives effect to a concept of “corporate parenting”. This concept involves placing new duties on certain public bodies to act in particular ways in support of certain children and young people. The public bodies are called “corporate parents” and the duties are “corporate parenting responsibilities”.
135. Subsection (1) of this section provides that those people listed, or included within a description which is listed, in schedule 4 are “corporate parents” (subject to subsections (3) and (4)).
136. Subsection (2) provides that the Scottish Ministers can, by order, modify schedule 4 by adding a person or description of persons, removing an entry or changing an entry. Such an order is subject to affirmative procedure by virtue of section 99(2) (subordinate legislation). Subsection (5) provides that an order under subsection (2) which adds a person, or a description of persons, to schedule 3, may modify this section so as to provide that the person is not a corporate parent for the purposes of section 64 (directions).
137. Although the Scottish Ministers are corporate parents, there is an exception for them in relation to certain of the provisions (see subsection (3)). This is because of their special position in relation to some of the duties. Also, subsection (4) provides that the Commissioner for Children and Young People in Scotland and “post-16 education bodies” are not corporate parents for the purposes of section 64.
138. Subsection (6) provides that references in this Part to the “corporate parenting responsibilities” of a corporate parent are to the duties conferred on that corporate parent by section 58(1). (These duties may end up being slightly different in relation to different corporate parents: see section 58).

Section 57 – Application of Part: children and young people

139. The children and young people in relation to whom corporate parenting responsibilities apply are set out in this section. They are children who are looked after by a local authority in accordance with section 17(6) of the 1995 Act and young people who are under 26 and were, on their 16th birthday, or at any subsequent time, but are no longer, looked after by a local authority. This Part also applies to a young person who is at least the age of 16 but under 26 and is not of the description in subsection (1)(b)(ii) but is of other such description of formerly looked after person as the Scottish Ministers may specify by order. Such an order is subject to affirmative procedure by virtue of section 99(2).

Section 58 – Corporate parenting responsibilities

140. As noted above, this section sets out the corporate parenting responsibilities. Subsection (1) provides that it is the duty of every corporate parent (where consistent with their other functions): to be alert to matters which could adversely affect the wellbeing of children and young people to whom this Part applies; to assess the needs of those children and young people for support and services it provides; to promote the interests of those children and young people; to seek to provide those children and young people with opportunities to participate in activities designed to advance their wellbeing; to take such action as it considers appropriate to help those children and young people to access those opportunities and to make use of services, and access the support, which it provides; and to take any other action it considers appropriate to improve the way in which it carries out its functions in relation to those children and young people.
141. Subsection (2)(a) provides that the Scottish Ministers may, by order, modify subsection (1) so as to confer, remove or vary a duty on corporate parents. By virtue of subsection (2)(b) such an order may also provide that subsection (1) is to be read, in relation to a particular corporate parent or particular descriptions of corporate parents, with a modification conferring, removing or varying a duty. The effect of this is that the power may be used to apply different duties to different corporate parents. Orders under subsection (2) are subject to affirmative procedure by virtue of section 99(2).

Section 59 – Planning by corporate parents

142. Subsection (1) provides that corporate parents must prepare a plan for how they propose exercising their corporate parenting responsibilities and must keep this plan under review.
143. Subsection (2) provides that before preparing or revising this plan, corporate parents must consult with other corporate parents and persons as they consider appropriate.
144. Subsection (3) provides that corporate parents must publish their plan, or revised plan, in such manner as they consider appropriate (and, in particular, that plans may be published together with, or as a part of, any other plan or document).

Section 60 – Collaborative working among corporate parents

145. Subsection (1) provides that corporate parents must collaborate with each other, in so far as is reasonably practicable, when undertaking their corporate parenting responsibilities or any other functions under this Part, where they consider that doing so would safeguard or promote the wellbeing of children or young people which this Part applies to.
146. Subsection (2) gives examples of what that collaboration may include, namely sharing information, providing advice or assistance, co-ordinating activities, sharing responsibility for action, funding activities jointly and exercising these functions jointly (for example, by publishing a joint plan or joint report).

Section 61 – Reports by corporate parents

147. Subsection (1) provides that a corporate parent must report on how it has exercised its corporate parenting responsibilities, planning and collaborating functions in pursuance of sections 59 and 60, and its other functions under this Part.
148. Subsection (2) states that these reports may, in particular, include information about standards of performance, and the outcomes achieved in pursuance of this Part.
149. Subsection (3) provides that reports are to be published in such manner as the corporate parent considers appropriate (and, in particular, that reports may be published together with, or as part of, any other report or document).

Section 62 – Duty to provide information to Scottish Ministers

- 150. Subsection (1) states that a corporate parent must provide the Scottish Ministers with such information they require about how it is: exercising its corporate parenting responsibilities; planning, collaborating or reporting in pursuance of sections 59, 60 or 61; or otherwise exercising functions under this Part.
- 151. Subsection (2) states that information which is required may include information about standards of performance, and the outcomes achieved in pursuance of this Part.

Section 63 – Guidance on corporate parenting

- 152. Subsection (1) provides that a corporate parent must have regard to any guidance about corporate parenting issued by the Scottish Ministers.
- 153. Subsection (2) states that guidance may include advice or information about how corporate parents should: exercise their corporate parenting responsibilities; promote awareness of their corporate parenting responsibilities; plan, collaborate or report in pursuance of sections 59, 60 and 61; and otherwise exercise their functions under this Part. Guidance may also include information about the outcomes which corporate parents should seek to achieve in exercising their functions.
- 154. Subsection (3) provides that before issuing guidance the Scottish Ministers must consult with the corporate parents to which guidance relates and such other persons as they consider appropriate.

Section 64 – Directions to corporate parents

- 155. Subsection (1) provides that corporate parents have to comply with any direction issued by the Scottish Ministers about their corporate parenting responsibilities, their planning or collaborating or reporting functions in pursuance of sections 59, 60 and 61 or their functions under this Part. Section 59 requires a corporate parent to prepare and review a plan for how it proposes to exercise its corporate parenting responsibilities. Section 60 requires corporate parents to work collaboratively when exercising their corporate parent responsibilities or other functions under this Part. Section 61 requires a corporate parent to report on how it has exercised its corporate parenting responsibilities, collaborating functions and its other functions under this Part.
- 156. Subsection (2) provides that before issuing, revising, or revoking directions, Scottish Ministers must consult with any corporate parent to which it relates and such other persons as they consider appropriate.

Section 65 – Reports by Scottish Ministers

- 157. Subsection (1) provides that the Scottish Ministers must, as soon as practicable, after the end of each 3 year period, lay before the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period.
- 158. Subsection (2) states that “3 year period” means the period of 3 years beginning with the day on which this section comes into force, and each subsequent 3 years.