

CHILDREN (SCOTLAND) ACT 2020

EXPLANATORY NOTES

THE ACT

Detailed provisions

Pilot scheme for mandatory alternative dispute resolution meetings

91. Section 24 of the Act requires the Scottish Ministers to set up a pilot scheme of mandatory alternative dispute resolution meetings. A court would only be able to make an order under section 11 of the 1995 Act in the pilot area where parties to the proceedings have attended a meeting on the options available to resolve the dispute or are exempt from participating in the meeting.
92. The provision exempts parties from attending a meeting if there has been proven or alleged history of abuse between some or all of the parties. Parties are also not required to attend the meeting together. Other exemptions would be set out by regulations which are subject to the affirmative procedure.
93. The Scottish Ministers must lay before the Scottish Parliament within six months of Royal Assent of the Act a statement detailing the pilot including any exemptions that will be applied and also setting out how the Scottish Ministers intend to evaluate the pilot. If the Scottish Ministers have not discharged their duty to set up a pilot within 6 months of the Act gaining Royal Assent, they must report the reasons why to the Scottish Parliament, and they must continue to do that at six monthly intervals until the pilot is established.
94. The Scottish Ministers have flexibility as to how they establish the pilot and have a power to make regulations if this is necessary or appropriate for the purposes of fulfilling the duty. Any regulations would be subject to the affirmative procedure.
95. The provision requires the Scottish Government to consider the impact of parties attending the pilot on the ability of the child at the centre of the dispute to give their views.
96. Under the pilot scheme, the court, before making a section 11 order, could require the parties to attend a mediation information meeting on the options available to resolve the dispute, except where the dispute involves domestic abuse. This would be a meeting about mediation and other ways of resolving the dispute, rather than actual mediation.