

CHILDREN (SCOTLAND) ACT 2020

EXPLANATORY NOTES

THE ACT

Detailed provisions

Child welfare reporters and curators ad litem

41. Sections 9, 17 and 19 cover the regulation of child welfare reporters and local authority reporters and curators ad litem appointed in cases under section 11 of the 1995 Act. Child welfare reporters provide reports to the courts on a child's welfare. At the moment, child welfare reporters are usually family lawyers but some are social workers. Curators ad litem can be appointed by the court to represent a child's interests in the litigation.
42. Section 9 and section 17 amend the 1995 Act to require the Scottish Ministers to establish registers of child welfare reporters and of curators ad litem. These registers are to be used when the court wishes to appoint a child welfare reporter or curator ad litem in cases under section 11 of the 1995 Act. These sections give the Scottish Ministers the power to set through regulations the eligibility criteria for membership of both registers; to establish the procedure for removing an individual from either list if the individual does not meet the required standards; and the procedure for handling complaints about both child welfare reporters and curators ad litem. The Scottish Ministers may also set through regulations the fee rate for child welfare reporters and curators ad litem appointed in section 11 cases and may make the payments to child welfare reporters and curators ad litem.
43. In both cases, the regulations are subject to the negative procedure.
44. In relation to child welfare reporters, the Scottish Ministers are required (by new section 101A(4) of the 1995 Act) to consult persons with lived experience of domestic abuse and court ordered contact when making, revising or revoking regulations in connection with the regulation of child welfare reporters.
45. The operation and management of the lists of child welfare reporters and curators ad litem may be contracted out if the Scottish Ministers consider this the most appropriate way of running the register.
46. As well as establishing a register for curators ad litem (the new section 101B of the 1995 Act), section 17 of the Act makes provision on the appointment of curators ad litem, by adding new section 11D to the 1995 Act. Section 11D sets out the requirements for the appointment of a curator ad litem and requires the court to give reasons for the appointment. It also requires the court to decide every 6 months whether to continue the appointment and to record the reasons for any decision to continue the appointment.
47. Section 19 amends section 11 of the Matrimonial Proceedings (Children) Act 1958 as it applies to cases under section 11 of the 1995 Act. This amendment means that where the court appoints a local authority under section 11(1) of the 1958 Act to investigate

*These notes relate to the Children (Scotland) Act 2020
(asp 16) which received Royal Assent on 1 October 2020*

and report to the court, the person the local authority assigns to carry out that task must be a child welfare reporter who is registered