Status: *Point in time view as at 29/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 3. (See end of Document for details)*

SCHEDULE 3

(introduced by section 4)

CHILDREN AND VULNERABLE ADULTS

PART 1

CHILDREN

Requirements as to members of children's hearings

1 (1) The Children's Hearings (Scotland) Act 2011 applies in accordance with the modifications in sub-paragraphs (2) to (4).

(2) Section 5 (children's hearing) has effect as if—

(a) the existing text were subsection (1),

(b) after that subsection there were inserted—

"(2) But a children's hearing may consist of fewer than three members where it is not practicable for the children's hearing to consist of three members.".

(3) Section 6(3) (selection of members of children's hearing) has effect as if at the beginning of paragraph (a) there were inserted "so far as practicable,".

(4) Section 79 (referral of certain matters for pre-hearing determination) has effect as if after subsection (2) there were inserted—

"(2A) A pre-hearing panel may consist of fewer than three members where it is not practicable for the pre-hearing panel to consist of three members.".

(5) The Children's Hearings (Scotland) Act 2011 (Safeguarders: Further Provision) Regulations 2012 (S.S.I. 2012/336) apply in accordance with the modification in sub-paragraph (6).

(6) Regulation 9(2)(d) (access to safeguarder reports) has effect as if for "the three members" there were substituted " the members ".

(7) The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 (S.S.I. 2013/194) apply in accordance with the modifications in sub-paragraphs (8) and (9).

(8) Rule 3(2) (selection of members of pre-hearing panel) has effect as if in sub-paragraph (a) there were inserted at the beginning "so far as practicable,".

(9) Each of the following rules has effect as if for "the three members" there were substituted " the members "

rule 25,
rule 26(4)(d),
rule 28(1) and (2),
rule 29(3)(e),
rule 30(3)(d),
rule 32(1),
rule 33(3)(e),

Status: *Point in time view as at 29/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 3. (See end of Document for details)*

rule 35(1),
rule 36(3)(e),
rule 39(3)(g),
rule 40(2)(h),
rule 41(3)(d),
rule 42(2)(h),
rule 43(3)(d),
rule 44(2)(d),
rule 45(2)(f),
rule 46(2)(d),
rule 46A(2)(d),
rule 52(2)(f),
rule 56(3)(a),
rule 71(2)(h),
rule 76(2)(d),
rule 94(3)(g).

Child assessment and child protection orders

2 (1) The Children's Hearings (Scotland) Act 2011 ("the 2011 Act") applies in accordance with the modifications in sub-paragraphs (2) to (6).

(2) Section 35(5) (period for which child assessment order has effect) has effect as if—
(a) in paragraph (a), for "24 hours" there were substituted " 48 hours ",
(b) in paragraph (b), for "3 days" there were substituted " 5 days ".

(3) The 2011 Act has effect as if sections 45 to 47 (review of child protection order at two working days) were repealed.

(4) Section 48(3) (period within which application for variation or termination of child protection order may be made) has effect as if for paragraphs (a) and (b) there were substituted "within the period beginning on the day on which the order is made and ending on the seventh working day after—
(a) where the child has been removed to a place of safety by virtue of an authorisation of the type mentioned in section 37(2)(b), the day on which the child was so removed,
(b) in any other case, the day on which the order was made.".

(5) Section 51 (determination of application under section 48) has effect as if—
(a) in subsection (3) after "determined" there were inserted " as soon as reasonably practicable and in any event ",
(b) subsection (4) were repealed.

(6) Section 53(4) (power of Principal Reporter to terminate or vary child protection order) has effect as if paragraph (a), and the word "or" immediately following that paragraph, were repealed.

(7) The modifications in sub-paragraphs (3) to (6) do not apply in relation to a child protection order (within the meaning of section 202 of the 2011 Act) made before the day on which those sub-paragraphs come into force.

Status: *Point in time view as at 29/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 3. (See end of Document for details)*

Maximum period for which compulsory supervision order has effect

3 (1) The Children's Hearings (Scotland) Act 2011 ("the 2011 Act") applies in accordance with the modifications in sub-paragraphs (2) and (3).

(2) Section 83 (meaning of "compulsory supervision order") has effect as if—

(a) in subsection (7), after paragraph (b) there were inserted—

"(c) where the order has, by virtue of subsection (7A), not ceased to have effect under paragraph (a)(i) or (b)(i), whichever of the following first occurs—

(i) the day 6 months after the day on which the order would, but for subsection (7A), have ceased to have effect,

(ii) the day on which the child attains the age of 18 years.",

(b) after that subsection there were inserted—

"(7A) An order is not to cease to have effect under subsection (7)(a)(i) or, as the case may be, (b)(i) if, at the time when the order would (but for this subsection) cease to have effect, a children's hearing to review the order—

(a) has not been arranged under section 137(2), or

(b) has been arranged under that section but a children's hearing has not yet made a decision under section 138(3) in relation to the review.".

(3) Section 133 (Principal Reporter's duty to initiate review) has effect as if—

(a) the existing text were subsection (1),

(b) in that subsection—

(i) in paragraph (a), for "the order will expire within" there were substituted " the original expiry date of the order falls within the next ",

(ii) in paragraph (b), for "it expires" there were substituted " the original expiry date ",

(c) after that subsection there were inserted—

"(2) Where a compulsory supervision order would, but for section 83(7A), cease to have effect on the original expiry date, the Principal Reporter must initiate a review of the order as soon as practicable after the original expiry date (unless the order will otherwise be reviewed before the order ceases to have effect under section 83(7)(c)).

(3) In this section, the "original expiry date" is the date on which the compulsory supervision order would, but for section 83(7A), cease to have effect.".

(4) The modifications in sub-paragraphs (2) and (3) apply in relation to—

(a) a compulsory supervision order which is in effect on the day before this paragraph comes into force, and

(b) a compulsory supervision order made on or after the day on which this paragraph comes into force.

Status: *Point in time view as at 29/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 3. (See end of Document for details)*

(5) In sub-paragraph (4), "compulsory supervision order" has the meaning given by section 202 of the 2011 Act.

Maximum period for which interim compulsory supervision order or interim variation of compulsory supervision order has effect

4 (1) The Children's Hearings (Scotland) Act 2011 ("the 2011 Act") applies in accordance with the modifications in sub-paragraphs (2) and (3).

(2) Section 86(3) (period for which interim compulsory supervision order has effect) has effect as if—

(a) in paragraph (d), for the words from "the period" to the end there were substituted "whichever is the longer of—

(i) the period of 44 days beginning on the day on which the order is made, or

(ii) where the order is made by a sheriff, such other period of days beginning on that day as the sheriff may specify,",

(b) in paragraph (e), for the words from "the period" to the end there were substituted "whichever is the longer of—

(i) the period of 44 days beginning on the day on which the order is extended, or

(ii) such other period of days beginning on that day as the sheriff may specify.".

(3) Section 140(4) (period for which interim variation of compulsory supervision order has effect) has effect as if in paragraph (d) for the words from "the period" to the end there were substituted "whichever is the longer of—

(i) the period of 44 days beginning on the day on which the order is varied, or

(ii) where the order is made by a sheriff, such other period of days beginning on that day as the sheriff may specify.".

(4) The—

(a) modifications in sub-paragraph (2)—

(i) do not apply in relation to interim compulsory supervision orders made or extended (or extended and varied) before the day on which that sub-paragraph comes into force,

(ii) do apply in relation to interim compulsory supervision orders made before that day but extended (or extended or varied) on or after that day,

(b) modification in sub-paragraph (3) does not apply in relation to interim variations of compulsory supervision orders where the variations were made before the day on which that sub-paragraph comes into force.

(5) In sub-paragraph (4), "compulsory supervision order", "interim compulsory supervision order" and "interim variation" have the meanings given by section 202 of the 2011 Act.

Period within which children's hearing must be held in certain cases

5 (1) The Children's Hearings (Scotland) Act 2011 ("the 2011 Act") applies in accordance with the modifications in sub-paragraphs (2) and (3).

(2) Section 109(7) (period within which children's hearing must take place following making of interim compulsory supervision order specifying child reside at place of safety) has effect as if for "third day" there were substituted " seventh day ".

(3) Section 137(3) (period within which children's hearing must take place following transfer of child in case of urgent necessity) has effect as if for "3 working days" there were substituted " 7 working days ".

(4) The modification in—

(a) sub-paragraph (2) does not apply in relation to an interim compulsory supervision order made under section 109(3) or (5) of the 2011 Act before the day on which that sub-paragraph comes into force,

(b) sub-paragraph (3) does not apply in relation to a transfer of a child under section 143 of that Act which occurred before the day on which that sub-paragraph comes into force.

(5) In sub-paragraph (4), "interim compulsory supervision order" has the meaning given by section 202 of the 2011 Act.

Children in secure accommodation

F1 6 . . . . . .

Textual Amendments

F1 Sch. 3 para. 6 expires (29.9.2020) by virtue of The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020 (S.S.I. 2020/249), regs. 1, **2(a)(i)**

Modification of certain time limits for making and determination of appeals etc.

7 (1) The Children's Hearings (Scotland) Act 2011 applies in accordance with the modifications in sub-paragraphs (2) to (8).

(2) Section 154(5) (period for making appeal to sheriff against decision of children's hearing) has effect as if for "21 days" there were substituted " 42 days ".

(3) Section 157 (time limits for disposal of appeals) has effect as if—

(a) in subsection (2), for "3 days" there were substituted " 7 days ",

(b) subsection (3) were repealed.

(4) Section 160(6) (periods for making and determination of appeal to sheriff against relevant person determination) has effect as if—

(a) in paragraph (a), for "7 days" there were substituted " 21 days ",

(b) in paragraph (b), for "3 days" there were substituted " 7 days ".

(5) Section 161(6) (periods for making and determination of appeal to sheriff against decision affecting contact or permanence order) has effect as if—

(a) in paragraph (a), for "21 days" there were substituted " 42 days ",

(b) in paragraph (b), for "3 days" there were substituted " 7 days ".

(6) Section 163(8) (period for making children's hearings appeals to sheriff principal and Court of Session) has effect as if for "28 days" there were substituted " 56 days ".

(7) Section 164(4) (period for making relevant person appeals to sheriff principal and Court of Session) has effect as if for "28 days" there were substituted " 56 days ".

(8) Section 165(4) (period for making contact and permanence order appeals to sheriff principal and Court of Session) has effect as if for "28 days" there were substituted " 56 days ".

(9) The Act of Sederunt (Child Care and Maintenance Rules) 1997 (S.I. 1997/291) applies in accordance with the modification in sub-paragraph (10).

(10) Rule 3.45(1) (period for Principal Reporter to make certain applications to sheriff) has effect as if for "7 days" there were substituted " 14 days ".

(11) The Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013/205) apply in accordance with the modification in sub-paragraph (12).

(12) Regulation 11A(2)(b) (period for disposal of appeal against decision to detain child in secure accommodation) has effect as if for "3 days" there were substituted " 7 days ".

(13) The Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 (S.S.I. 2013/212) apply in accordance with the modification in sub-paragraph (14).

(14) Regulation 11(2) (period for making and determination of appeal against decision of chief social worker) has effect as if—

(a) in sub-paragraph (a), for "21 days" there were substituted " 42 days ",

(b) in sub-paragraph (b), for "3 days" there were substituted " 7 days ".

(15) The modifications in sub-paragraphs (2) to (8), (12) and (14) do not apply in relation to appeals against decisions or determinations made before the day on which this paragraph comes into force.

Attendance at children's hearing

8 (1) The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 (S.S.I. 2013/194) apply in accordance with the modifications in this paragraph.

(2) Rule 19 (further provision in relation to the attendance of the child and relevant person at a children's hearing or pre-hearing panel) has effect as if—

(a) after paragraph (1) there were inserted—

"(1A) Paragraph (2) applies where the Reporter has been advised that—

(a) a person (other than a person mentioned in paragraph (1))—

(i) mentioned in section 78(1) of the Act wishes to attend a pre-hearing panel or children's hearing or part of a children's hearing, or

(ii) is due to attend a pre-hearing panel or children's hearing or part of a children's hearing by virtue of section 78(2) of the Act, and

(b) the person is unable to attend because of a reason relating to coronavirus.",

(b) in paragraph (2), after "the individual in question,", in each place where it occurs, there were inserted " or person mentioned in paragraph (1A) ",

(c) after paragraph (2) there were inserted—

"(3) In paragraph (1A)(b), "coronavirus" has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.".

Authentication of children's hearings documents

9 (1) The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 (S.S.I. 2013/194) apply in accordance with the modification in this paragraph.

(2) Rule 98(1) (signature of chairing member to be sufficient authentication) has effect as if at the end there were inserted "or by the Reporter".

Looked after children

10 (1) The Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210) ("the 2009 Regulations") apply in accordance with the modifications in sub-paragraphs (2) to (9).

(2) Regulation 20(2)(c) (functions of the fostering panel) has effect as if the words ", subject to the placement limit set out in regulation 27A" were repealed.

(3) Regulation 22(5)(d) (approval of foster carers) has effect as if the words ", subject to the placement limit set out in regulation 27A" were repealed.

(4) Regulation 27 (placement of child with foster carer) has effect as if—

(a) paragraph (1)(c) were repealed,

(b) after paragraph (2) there were inserted—

"(2A) But a local authority may place a child with a foster carer where the terms of the foster carer's approval regarding the number of children the foster carer may have in their care at any one time are not consistent with the placement, if the authority—

(a) considers that it is necessary to do so for a reason relating to coronavirus, and

(b) is otherwise satisfied as to the matters mentioned in paragraph (2).",

(c) after paragraph (4) there were inserted—

"(5) In paragraph (2A), "coronavirus" has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.".

(5) The 2009 Regulations have effect as if regulation 27A (foster carer placement limit) were repealed.

(6) Regulation 36(1) (emergency placement with carer) has effect as if for "3" there were substituted " 5 ".

(7) Regulation 38 (review of emergency placement) has effect as if—

(a) in paragraph (2), for "3" there were substituted " 5 ",

(b) after paragraph (3) there were inserted—

"(3A) A local authority need not carry out a review under paragraph (2) within the period of days mentioned in that paragraph if the authority's Chief Social Work Officer is satisfied that—

(a) placement is in the best interests of the child,

(b) placement of the child with that carer is in the best interests of the child, and

(c) it is not reasonably practicable for the authority to carry out the review within that period.

(3B) Where a local authority, in reliance on paragraph (3A), does not carry out a review under paragraph (2) within the period of days mentioned in paragraph (2), the authority must carry out the review as soon as reasonably practicable after the end of that period.

(3C) In paragraph (3A), "the Chief Social Work Officer", in relation to a local authority, means the official appointed by the authority under section 3(1) of the Social Work (Scotland) Act 1968.".

(8) Regulation 39 (extension of emergency placement) has effect as if—

(a) in paragraph (1), for "12" there were substituted " 24 ",

(b) in paragraph (2), for "12" there were substituted " 24 ",

(c) in paragraph (3), for "6" there were substituted " 12 ".

(9) Regulation 45 (review of child's case) has effect as if—

(a) in paragraph (2), after "paragraphs" there were inserted " (2A), ",

(b) after that paragraph there were inserted—

"(2A) Where the child has been placed with a kinship carer in accordance with regulation 11, the local authority must, by complying with the requirements in paragraph (5), carry out the following reviews of the child's case—

(a) a first review within 3 months of the placement,

(b) thereafter subsequent reviews within 6 months from the date of the previous review.",

(c) in paragraph (4), after "(2)" there were inserted " , (2A) ".

(10) The modifications in—

(a) sub-paragraphs (6), (7) and (8) do not apply in relation to a child placed under regulation 36(1) of the 2009 Regulations before the day on which this paragraph comes into force,

(b) sub-paragraph (9) do not apply in relation to a child placed under regulation 11 of those Regulations before the day on which this paragraph comes into force.

PART 2

VULNERABLE ADULTS

Care of adults with incapacity

11 [F2](1) . . . . . .

(2) The Criminal Procedure (Scotland) Act 1995 has effect as if section 58A (application of Adults with Incapacity (Scotland) Act 2000 to guardianship orders) were modified by the insertion, after subsection (5), of the following—

"(5A) The period mentioned in subsection (5) does not, unless it is an indefinite period, run during any period for which this subsection has effect.

(5B) The guardianship order continues to have effect during any period for which subsection (5A) has effect.

(5C) Nothing in subsection (5B) affects any other ground on which the order may cease to have effect.".

(3) The Adults with Incapacity (Scotland) Act 2000 has effect as if it were modified as follows—

(a) in section 47 (authority of persons responsible for medical treatment) after subsection (2) there were inserted—

"(2ZA) The period mentioned in subsection (2) does not run during any period for which this subsection has effect.

(2ZB) The certificate continues to have effect during any period for which subsection (2ZA) has effect.

(2ZC) Nothing in subsection (2ZB) affects any other ground on which the certificate may cease to have effect.",

(b) in section 58 (disposal of application for guardianship order) after subsection (4) there were inserted—

"(4A) The period mentioned in subsection (4) does not, unless it is an indefinite period, run during any period for which this subsection has effect.

(4B) The order continues to have effect during any period for which subsection (4A) has effect.

(4C) Nothing in subsection (4B) affects any other ground on which the order may cease to have effect.",

(c) in section 60 (renewal of guardianship order by sheriff) after subsection (4) there were inserted—

"(4ZA) The period mentioned in section 58(4), as substituted by subsection (4)(b), does not, unless it is an indefinite period, run during any period for which this subsection has effect.

(4ZB) The order continues to have effect during any period for which subsection (4ZA) has effect.

(4ZC) Nothing in subsection (4ZB) affects any other ground on which the order may cease to have effect.".

Textual Amendments

F2 Sch. 3 para. 11(1) expires (29.9.2020) by virtue of The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020 (S.S.I. 2020/249), regs. 1, **2(a)(ii)**

Status: *Point in time view as at 29/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 3. (See end of Document for details)*

Commencement Information

I1 Sch. 3 para. 11(2)(3) in force 7.4.2020, see s. 17(1)(2)

Status:
Point in time view as at 29/09/2020.

Changes to legislation:
There are currently no known outstanding effects for the Coronavirus (Scotland) Act 2020, SCHEDULE 3.