

**Changes to legislation:** Children's Hearings (Scotland) Act 2011 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 1

(introduced by section 3)

### CHILDREN'S HEARINGS SCOTLAND

#### *Status*

- 1 (1) CHS—
- (a) is not a servant or agent of the Crown, and
  - (b) does not enjoy any status, immunity or privilege of the Crown.
- (2) CHS's property is not property of, or property held on behalf of, the Crown.

#### **Commencement Information**

**II** Sch. 1 para. 1 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Membership*

- 2 (1) The members of CHS are to be appointed by the Scottish Ministers.
- (2) There are to be no fewer than five and no more than eight members.
- (3) The Scottish Ministers may by order amend sub-paragraph (2) so as to substitute for the numbers of members for the time being specified there different numbers of members.
- (4) A member holds and vacates office on terms and conditions determined by the Scottish Ministers.
- (5) The Scottish Ministers may appoint a person to be a member only if satisfied that the person has knowledge and experience relevant to the functions of CHS and the National Convener.
- (6) The Scottish Ministers may appoint a person to be a member only if satisfied that the person, after appointment, will have no financial or other interest that is likely to prejudicially affect the performance of the person's functions as a member of CHS.
- (7) The Scottish Ministers may reappoint as a member a person who has ceased to be a member.

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Persons disqualified from membership*

- 3 A person is disqualified from appointment, and from holding office, as a member if the person is or becomes—
- (a) a member of the House of Commons,
  - (b) a member of the Scottish Parliament, or
  - (c) a member of the European Parliament.

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#### Commencement Information

**I3** [Sch. 1 para. 3](#) in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, [Sch.](#)

#### *Resignation of members*

- 4 A member of CHS may resign office by giving notice in writing to the Scottish Ministers.

#### Commencement Information

**I4** [Sch. 1 para. 4](#) in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, [Sch.](#)

#### *Removal of members*

- 5 (1) The Scottish Ministers may revoke the appointment of a member of CHS if—
- (a) the member becomes insolvent,
  - (b) the member is incapacitated by physical or mental illness,
  - (c) the member has been absent from meetings of CHS for a period longer than 3 months without the permission of CHS,
  - (d) the member is otherwise unfit to be a member or unable for any reason to discharge the functions of a member.
- (2) For the purposes of sub-paragraph (1)(a) a member becomes insolvent when—
- (a) a voluntary arrangement proposed by the member is approved,
  - (b) the member is adjudged bankrupt,
  - (c) the member's estate is sequestrated,
  - (d) the member's application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), or
  - (e) the member grants a trust deed for creditors.

#### Commencement Information

**I5** [Sch. 1 para. 5](#) in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, [Sch.](#)

#### *Remuneration, allowances etc.*

- 6 (1) CHS must pay to its members—
- (a) such remuneration as the Scottish Ministers may determine, and
  - (b) such allowances in respect of expenses properly incurred by members in the performance of their functions as may be so determined.
- (2) CHS must—
- (a) pay to or in respect of any person who is or has been a member of CHS such pension, allowances or gratuities as the Scottish Ministers may determine, or

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- (b) make such payments as the Scottish Ministers may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- (3) Sub-paragraph (4) applies where—
  - (a) a person ceases to be a member otherwise than on the expiry of the person's term of office, and
  - (b) it appears to the Scottish Ministers that there are circumstances which make it right for the person to receive compensation.
- (4) CHS must make a payment to the person of such amount as the Scottish Ministers may determine.

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Chairing meetings*

- 7
- (1) The Scottish Ministers must appoint one of the members of CHS to chair meetings of CHS (the “chairing member”).
  - (2) The chairing member holds and vacates that office on terms and conditions determined by the Scottish Ministers.
  - (3) If a person is appointed as the chairing member for a period that extends beyond the period of the person's appointment as a member, the person's appointment as a member is taken to have been extended so that it ends on the same day as the period of appointment as chairing member ends.
  - (4) The chairing member may resign that office by giving notice in writing to the Scottish Ministers.
  - (5) If the chairing member is for any reason unable to chair a meeting of members, a majority of the members present at the meeting may elect one of those members to chair the meeting.

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *The National Convener*

- 8
- (1) CHS is, with the approval of the Scottish Ministers, to appoint a person as the National Convener (other than the first National Convener).
  - (2) CHS may, with the approval of the Scottish Ministers, reappoint a person as the National Convener.
  - (3) CHS must take reasonable steps to involve persons who are under 21 years of age in the process for selection of a person for appointment or reappointment under this paragraph.

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- (4) The period for which a person is appointed or reappointed under this paragraph is 5 years.
- (5) A person appointed or reappointed under this paragraph holds and vacates office on terms and conditions determined by CHS and approved by the Scottish Ministers.
- (6) The Scottish Ministers may by regulations prescribe qualifications that must be held by the National Convener.
- (7) A person is disqualified from appointment, and from holding office, as the National Convener if the person is or becomes—
  - (a) a member of the House of Commons,
  - (b) a member of the Scottish Parliament, or
  - (c) a member of the European Parliament.
- (8) The National Convener may appeal to the Scottish Ministers against dismissal by CHS.
- (9) CHS is the respondent in an appeal under sub-paragraph (8).
- (10) The Scottish Ministers may by regulations make provision about—
  - (a) the procedure to be followed in appeals under sub-paragraph (8),
  - (b) the effect of making such an appeal,
  - (c) the powers of the Scottish Ministers for disposing of such appeals (including powers to make directions about liability for expenses),
  - (d) the effect of the exercise of those powers.

#### Commencement Information

**I8** Sch. 1 para. 8(1)-(6) in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, Sch.

**I9** Sch. 1 para. 8(7) in force at 19.1.2011 by [S.S.I. 2011/8](#), **art. 2(b)**

**I10** Sch. 1 para. 8(8)-(10) in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, Sch.

#### *Supplementary powers of National Convener*

- 9 The National Convener may do anything that the National Convener considers appropriate for the purposes of or in connection with the functions conferred on the National Convener by virtue of this Act or any other enactment.

#### Commencement Information

**I11** [Sch. 1 para. 9](#) in force at 18.4.2011 by [S.S.I. 2011/111](#), art. 2, **Sch.**

#### *Delegation of National Convener's functions*

- 10 (1) The functions of the National Convener conferred by virtue of this Act or any other enactment (other than the functions mentioned in sub-paragraph (2)) may be carried out on the National Convener's behalf by a person who is—
  - (a) authorised (whether specially or generally) by the National Convener for the purpose, or

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- (b) a person of a class of person authorised (whether specially or generally) by the National Convener for the purpose.
- (2) The functions are—
  - (a) the function conferred by paragraph 24,
  - (b) functions conferred by paragraph 1(2) to (6) of schedule 2.
- (3) The National Convener may not under sub-paragraph (1) authorise the Principal Reporter, SCRA or a local authority to carry out a function on behalf of the National Convener.
- (4) The National Convener may not under sub-paragraph (1) authorise a person employed by SCRA or a local authority to carry out the function conferred on the National Convener by section 8.
- (5) If under sub-paragraph (1) the National Convener delegates the function conferred on the National Convener by section 8, the National Convener may not delegate any other function to the same person under that sub-paragraph.
- (6) Nothing in sub-paragraph (1) prevents the National Convener from carrying out any function delegated under that sub-paragraph.
- (7) The Scottish Ministers may by regulations prescribe the qualifications to be held by a person to whom a function, or a function of a class, specified in the regulations is delegated.
- (8) A person to whom a function is delegated under sub-paragraph (1) must comply with a direction given to the person by the National Convener about the carrying out of the function.
- (9) CHS may pay to a person to whom a function is delegated under sub-paragraph (1) such expenses and allowances as the Scottish Ministers may determine.

#### Commencement Information

- I12** Sch. 1 para. 10(1)(3)(6) in force at 19.9.2012 by [S.S.I. 2012/246](#), art. 2, [Sch.](#)
- I13** Sch. 1 para. 10(2)(a) in force at 19.9.2012 by [S.S.I. 2012/252](#), art. 2
- I14** Sch. 1 para. 10(2)(b)(4)(5)(7)-(9) in force at 31.3.2013 by [S.S.I. 2013/98](#), art. 2, [Sch.](#)

#### Staff

- 11 (1) CHS may employ any staff necessary to ensure the carrying out of CHS's functions.
- (2) Staff are employed on terms and conditions determined by CHS and approved by the Scottish Ministers.
- (3) CHS may—
  - (a) pay a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person,
  - (b) make payments towards the provision of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person,

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- (c) provide and maintain schemes (whether contributory or not) for the payment of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person.
- (4) CHS may, with the approval of the Scottish Ministers, determine—
  - (a) who, of the persons who are or have ceased to be employees of CHS, are to be eligible persons, and
  - (b) the amount that may be paid or provided for.
- (5) Sub-paragraphs (6) and (7) apply where—
  - (a) a person employed by CHS becomes a member of CHS, and
  - (b) the person was (because the person was an employee of CHS) a participant in a pension scheme established and administered by CHS for the benefit of its employees.
- (6) CHS may determine that the person's service as a member of CHS is to be treated for the purposes of the scheme as service as an employee of CHS whether or not any benefits are to be payable to or in respect of the person under paragraph 6.
- (7) Any discretion which the scheme confers on CHS as to the benefits payable to or in respect of the person is to be exercised only with the approval of the Scottish Ministers.

#### Commencement Information

**I15** Sch. 1 para. 11 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Area support teams: establishment and membership*

- 12 (1) The National Convener must establish <sup>F1</sup>... a committee (to be known as an area support team) for each area that the National Convener designates for the purposes of this paragraph.
- (2) An area designated under sub-paragraph (1) is to consist of one or more local authority areas.
- [<sup>F2</sup>(3) The National Convener—
- (a) must keep the designation of areas under sub-paragraph (1) under review, and
  - (b) may at any time revoke a designation or make a new one.
- (3A) In exercising the powers to make and revoke designations, the National Convener must ensure that at all times each local authority area falls within an area designated under sub-paragraph (1).
- (3B) Revocation of a designation under sub-paragraph (1) has the effect of dissolving the area support team established in consequence of the designation.
- (3C) Before deciding to make or revoke a designation under sub-paragraph (1), the National Convener must consult each affected local authority.
- (3D) In sub-paragraph (3C), “affected local authority” means—
- (a) in the case of making a designation, each local authority whose area falls within the area proposed to be designated,

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- (b) in the case of revoking a designation, each constituent authority for the area support team established in consequence of the designation.
- (3E) On making or revoking a designation under sub-paragraph (1), the National Convener must notify each local authority which was consulted under sub-paragraph (3C) in relation to the decision to make or revoke the designation.]
- (4) The National Convener must appoint as members of an area support team—
  - (a) one person nominated by each constituent authority (if the authority chooses to make a nomination),
  - (b) such other persons nominated by constituent authorities as the National Convener considers appropriate,
  - (c) a member of the Children's Panel who lives or works in the area of the area support team, and
  - (d) sufficient other persons so that the number of members nominated by a local authority is no more than one third of the total number of members.
- (5) An area support team may not include the Principal Reporter or a member or employee of SCRA.
- (6) An area support team may establish sub-committees consisting of persons who are members of the area support team.
- (7) In this paragraph and paragraphs 13 and 14 “constituent authority”, in relation to an area support team (or a proposed area support team), means a local authority whose area falls within the area of the area support team.

#### Textual Amendments

- F1** Words in [Sch. 1 para. 12\(1\)](#) omitted (26.1.2015) by virtue of [Children and Young People \(Scotland\) Act 2014](#) (asp 8), [ss. 88\(2\)\(a\)\(i\)](#), 102(3); [S.S.I. 2014/353](#), [art. 2\(2\)\(3\)](#), [Sch.](#)
- F2** [Sch. 1 para. 12\(3\)-\(3E\)](#) substituted for [Sch. 1 para. 12\(3\)](#) (26.1.2015) by [Children and Young People \(Scotland\) Act 2014](#) (asp 8), [ss. 88\(2\)\(a\)\(ii\)](#), 102(3); [S.S.I. 2014/353](#), [art. 2\(2\)\(3\)](#), [Sch.](#)

#### Commencement Information

- I16** [Sch. 1 para. 12\(1\)-\(3\)\(7\)](#) in force at 19.9.2012 by [S.S.I. 2012/246](#), [art. 2](#), [Sch.](#)
- I17** [Sch. 1 para. 12\(4\)-\(6\)](#) in force at 31.3.2013 by [S.S.I. 2013/98](#), [art. 2](#), [Sch.](#)

#### *Transfer of members from CPACs*

- 13 (1) This paragraph applies where
  - [<sup>F3</sup>(a)] the National Convener establishes an area support team under paragraph 12(1)[<sup>F4</sup>, and
  - (b) the area of the area support team consists of or includes a new area.]
- (2) The National Convener must notify each relevant CPAC member of the National Convener's intention to transfer the member to the area support team.
- (3) A notice under sub-paragraph (2) must state that the relevant CPAC member will become a member of the area support team unless the member notifies the National Convener within 28 days of receiving the notice that the person does not wish to become a member of the area support team.



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- ( 4 ) A relevant CPAC member is a person who—
- (a) at the time of the establishment of the area support team, is a member of a Children's Panel Advisory Committee whose area falls wholly within the [<sup>F5</sup>new area concerned], and
  - (b) was nominated as such by the Scottish Ministers (or, as the case may be, by the Secretary of State) under paragraph 3 or 4(a) of Schedule 1 to the 1995 Act.
- ( 5 ) The National Convener must appoint each relevant CPAC member as a member of the area support team unless the member notifies the National Convener in accordance with sub-paragraph (3).
- ( 6 ) On appointment as a member of the area support team under sub-paragraph (5), a relevant CPAC member ceases to be a member of the Children's Panel Advisory Committee.
- ( 7 ) In this paragraph—
- “ area ”, in relation to a Children's Panel Advisory Committee, means the area of the local authority (or authorities) which formed the Children's Panel Advisory Committee,
  - “ Children's Panel Advisory Committee ” includes a joint advisory committee within the meaning of paragraph 8 of Schedule 1 to the 1995 Act.
  - [<sup>F6</sup>“ new area ” means an area which has never previously been the area (or part of the area) of an area support team.]

#### Textual Amendments

- F3** Words in Sch. 1 para. 13(1) renumbered as Sch. 1 para. 13(1)(a) (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#) , [ss. 88\(2\)\(b\)\(i\)](#) , 102(3) ; [S.S.I. 2014/353](#) , art. 2(2)(3) , Sch.
- F4** Sch. 1 para. 13(1)(b) and preceding word "and" inserted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#) , [ss. 88\(2\)\(b\)\(ii\)](#) , 102(3) ; [S.S.I. 2014/353](#) , art. 2(2)(3) , Sch.
- F5** Words in Sch. 1 para. 13(4)(a) substituted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#) , [ss. 88\(2\)\(b\)\(iii\)](#) , 102(3) ; [S.S.I. 2014/353](#) , art. 2(2)(3) , Sch.
- F6** Words in Sch. 1 para. 13(7) inserted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#) , [ss. 88\(2\)\(b\)\(iv\)](#) , 102(3) ; [S.S.I. 2014/353](#) , art. 2(2)(3) , Sch.

#### Commencement Information

- I18** Sch. 1 para. 13(1)-(4)(7) in force at 19.9.2012 by [S.S.I. 2012/246](#) , art. 2 , [Sch.](#)
- I19** Sch. 1 para. 13(5)(6) in force at 24.6.2013 by [S.S.I. 2013/195](#) , [arts. 2](#) , 3

#### *Area support teams: functions*

- 14 (1) An area support team is to carry out for its area the functions conferred on the National Convener by section 6.
- (2) The National Convener may delegate to an area support team to carry out for its area—
- (a) a function conferred on the National Convener by paragraph 1(1) of schedule 2,
  - (b) other functions of the National Convener specified for the purpose by the National Convener.



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- (3) The National Convener may not specify for the purpose of sub-paragraph (2)(b) the functions conferred on the National Convener by section 8.
- (4) Before delegating a function under sub-paragraph (2) to be carried out by an area support team the National Convener must consult each constituent authority.
- (5) A function to be carried out by an area support team by virtue of sub-paragraph (1) or (2) may not be delegated by the area support team to a person who is not a member of the area support team.
- (6) Nothing in sub-paragraph (1) or (2) prevents the National Convener from carrying out any function mentioned in those sub-paragraphs.
- (7) An area support team must comply with a direction given to it by the National Convener about—
  - (a) the carrying out of the functions mentioned in sub-paragraph (1),
  - (b) the carrying out of a function delegated to it under sub-paragraph (2).
- (8) Before giving a direction to an area support team as mentioned in sub-paragraph (7) the National Convener must consult each constituent authority.
- [<sup>F7</sup>(9) A constituent authority must provide an area support team with such administrative support as the National Convener considers appropriate.
- (10) In sub-paragraph (9), “administrative support” means staff, property or other services which the National Convener considers are required to facilitate the carrying out by an area support team of its functions.]

#### Textual Amendments

**F7** Sch. 1 para. 14(9)(10) inserted (26.1.2015) by Children and Young People (Scotland) Act 2014 (asp 8), ss. 89(2), 102(3); S.S.I. 2014/353, art. 2(2)(3), Sch.

#### Commencement Information

**I20** Sch. 1 para. 14(1)(3)-(5) in force at 31.3.2013 by S.S.I. 2013/98, art. 2, Sch.

**I21** Sch. 1 para. 14(2)(6)-(8) in force at 19.9.2012 by S.S.I. 2012/246, art. 2, Sch.

### Committees

- 15
- (1) CHS may establish committees.
  - (2) The members of committees may include persons who are not members of CHS.
  - (3) A committee must not consist entirely of persons who are not members of CHS.
  - (4) CHS must pay to a person who is not a member of CHS and who is appointed to a committee such remuneration and allowances as CHS may, with the approval of the Scottish Ministers, determine.
  - (5) A committee must comply with any directions given to it by CHS.
  - (6) In this paragraph, only sub-paragraph (4) applies in relation to area support teams.

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#### Commencement Information

**I22** Sch. 1 para. 15(1)-(5) in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

**I23** Sch. 1 para. 15(6) in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *CHS's supplementary powers*

- 16 (1) CHS may do anything that it considers appropriate for the purposes of or in connection with its functions.
- (2) CHS may in particular—
- (a) acquire and dispose of land and other property,
  - (b) enter into contracts,
  - (c) carry out research relating to the functions conferred on it by virtue of this Act or any other enactment,
  - (d) publish, or assist in the publication of, materials relating to those functions,
  - (e) promote, or assist in the promotion of, publicity relating to those functions.

#### Commencement Information

**I24** Sch. 1 para. 16 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Procedure*

- 17 (1) CHS may determine—
- (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of any of its committees.
- (2) An area support team may determine—
- (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of any of its sub-committees.

#### Commencement Information

**I25** Sch. 1 para. 17(1) in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

**I26** Sch. 1 para. 17(2) in force at 31.3.2013 by S.S.I. 2013/98, art. 2, Sch.

#### *Delegation of CHS's functions*

- 18 (1) Any function of CHS (whether conferred by virtue of this Act or any other enactment) may be carried out on its behalf by—
- (a) a member of CHS,
  - (b) a committee of CHS, or
  - (c) a person employed by CHS.
- (2) Nothing in sub-paragraph (1) prevents CHS from carrying out any function delegated under that sub-paragraph.

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#### Commencement Information

**I27** Sch. 1 para. 18 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Financial interests*

- 19 (1) The Scottish Ministers must from time to time satisfy themselves that the members of CHS have no financial or other interest that is likely to prejudicially affect the performance of their functions as members of CHS.
- (2) A member must comply with a requirement of the Scottish Ministers to give them any information that the Scottish Ministers consider necessary to enable them to comply with sub-paragraph (1).

#### Commencement Information

**I28** Sch. 1 para. 19 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Grants*

- 20 (1) The Scottish Ministers may make grants to CHS of amounts that they determine.
- (2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

#### Commencement Information

**I29** Sch. 1 para. 20 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Accounts*

- 21 (1) CHS must—
- (a) keep proper accounts and accounting records,
  - (b) prepare for each financial year a statement of accounts, and
  - (c) send a copy of each statement of accounts to the Scottish Ministers by such time as they may direct.
- (2) Each statement of accounts must comply with any directions given by the Scottish Ministers as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information is to be presented,
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General for Scotland for auditing.
- (4) In this paragraph, “financial year” means—
- (a) the period beginning on the date on which CHS is established and ending—
    - (i) on 31 March next occurring, or

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- (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
- (b) each subsequent period of a year ending on 31 March.

#### Commencement Information

**I30** Sch. 1 para. 21 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Provision of accounts and other information to Scottish Ministers*

- 22 (1) The Scottish Ministers may direct CHS to give them accounts or other information specified in the direction relating to CHS's property and activities or proposed activities.
- (2) CHS must—
- (a) give the Scottish Ministers accounts or any other information that it is directed to give under sub-paragraph (1),
  - (b) give the Scottish Ministers facilities for the verification of the information given,
  - (c) permit any person authorised by the Scottish Ministers to inspect and make copies of accounts and any other documents of CHS for the purposes of verifying the information given, and
  - (d) give the person an explanation, reasonably required by the person, of anything that the person is entitled to inspect.

#### Commencement Information

**I31** Sch. 1 para. 22 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *CHS's annual report*

- 23 (1) CHS must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to the Scottish Ministers a report on the carrying out of its functions during the year.
- (2) The report must include a copy of so much of the report made to CHS by the National Convener as relates to the year.
- (3) CHS may include in the report any other information that it considers appropriate.
- (4) The Scottish Ministers must lay before the Scottish Parliament each report submitted to them.
- (5) In this paragraph, “financial year” means—
- (a) the period beginning on the date on which CHS is established and ending—
    - (i) on 31 March next occurring, or
    - (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
  - (b) each subsequent period of a year ending on 31 March.

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#### Commencement Information

**I32** Sch. 1 para. 23 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *National Convener's annual report*

- 24 (1) The National Convener must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to CHS a report on the carrying out during the year of the functions conferred on the National Convener by virtue of this Act or any other enactment.
- (2) The National Convener may include in the report any other information that the National Convener considers appropriate.
- (3) In this paragraph, “financial year” means—
- (a) the period beginning with the appointment of the first National Convener and ending—
    - (i) on 31 March next occurring, or
    - (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
  - (b) each subsequent period of a year ending on 31 March.

#### Commencement Information

**I33** Sch. 1 para. 24 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

#### *Validity of proceedings and actions*

- 25 The validity of proceedings or actions of CHS (including proceedings or actions of any of its committees) is not affected by—
- (a) any vacancy in the membership of CHS or any of its committees,
  - (b) any defect in the appointment of a member of CHS or any of its committees, or
  - (c) the disqualification of a person as a member of CHS after appointment.

#### Commencement Information

**I34** Sch. 1 para. 25 in force at 18.4.2011 by S.S.I. 2011/111, art. 2, Sch.

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## SCHEDULE 2

*(introduced by section 4)*

### THE CHILDREN'S PANEL

#### *Recruitment and tenure of panel members*

- 1 (1) The National Convener may make arrangements for the recruitment of persons as members of the Children's Panel (a person appointed as a member being referred to in this schedule as a “panel member”).
- (2) It is for the National Convener to appoint persons as panel members from those recruited under sub-paragraph (1).
- (3) The National Convener must reappoint as a panel member a person whose appointment has ceased unless—
  - (a) the person declines to be reappointed, or
  - (b) the National Convener is satisfied that sub-paragraph (4) applies.
- (4) This sub-paragraph applies if the person is unfit to be a panel member by reason of—
  - (a) inability,
  - (b) conduct, or
  - (c) failure without reasonable excuse to comply with any training requirements imposed by the National Convener.
- (5) The period for which a person is appointed or reappointed as a panel member is 3 years.
- (6) The National Convener may, with the consent of the Lord President of the Court of Session, remove a panel member during the period mentioned in sub-paragraph (5) if satisfied that sub-paragraph (4) applies.

#### **Commencement Information**

**I35** Sch. 2 para. 1(1) in force at 19.9.2012 by S.S.I. 2012/246, art. 2, Sch.

**I36** Sch. 2 para. 1(2)-(6) in force at 31.3.2013 by S.S.I. 2013/98, art. 2, Sch.

#### *List of panel members*

- 2 (1) The National Convener must publish a list setting out in relation to each panel member—
  - (a) the member's name,
  - (b) the local authority area in which the member resides, and
  - (c) if the member works, the local authority area in which the member works.
- (2) The National Convener must make the list available for public inspection.

#### **Commencement Information**

**I37** Sch. 2 para. 2 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

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### *Training*

- 3
- (1) The National Convener may train, or make arrangements for the training of, panel members and potential panel members.
  - (2) The National Convener must take reasonable steps to involve persons who are under 25 years of age and in respect of whom a children's hearing has been held in the development and delivery of training under sub-paragraph (1).
  - (3) The National Convener must, in training (or making arrangements for the training of) panel members under sub-paragraph (1), have regard to the need to provide training on how panel members may best elicit the views of a child to whom a children's hearing relates.
  - (4) The National Convener may monitor the performance of panel members.

#### **Commencement Information**

**I38** Sch. 2 para. 3 in force at 31.3.2013 by S.S.I. 2013/98, art. 2, Sch.

### *Allowances*

- 4
- (1) The National Convener may, with the approval of the Scottish Ministers, determine the allowances to be paid to—
    - (a) panel members,
    - (b) potential panel members.
  - (2) Different determinations may be made for different cases or different classes of case.
  - (3) The National Convener may pay to panel members and potential panel members allowances determined under sub-paragraph (1).

#### **Commencement Information**

**I39** Sch. 2 para. 4 in force at 19.9.2012 by S.S.I. 2012/246, art. 2, Sch.

## **SCHEDULE 3**

*(introduced by section 16)*

### **THE SCOTTISH CHILDREN'S REPORTER ADMINISTRATION**

### *Status*

- 1
- (1) SCRA—
    - (a) is not a servant or agent of the Crown, and
    - (b) does not enjoy any status, immunity or privilege of the Crown.
  - (2) SCRA's property is not property of, or property held on behalf of, the Crown.



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#### Commencement Information

**I40** Sch. 3 para. 1 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Membership*

- 2
- (1) The members of SCRA are to be appointed by the Scottish Ministers.
  - (2) There are to be no fewer than five and no more than eight members.
  - (3) The Scottish Ministers may by order amend sub-paragraph (2) so as to substitute for the numbers of members for the time being specified there different numbers of members.
  - (4) A member holds and vacates office on terms and conditions determined by the Scottish Ministers.
  - (5) The Scottish Ministers may appoint a person to be a member only if satisfied that the person has knowledge or experience relevant to the functions of SCRA and the Principal Reporter.
  - (6) The Scottish Ministers may appoint a person to be a member only if satisfied that the person, after appointment, will have no financial or other interest that is likely to prejudicially affect the performance of the person's functions as a member of SCRA.
  - (7) The Scottish Ministers may reappoint as a member a person who has ceased to be a member.

#### Commencement Information

**I41** Sch. 3 para. 2 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Persons disqualified from membership*

- 3
- A person is disqualified from appointment, and from holding office, as a member if the person is or becomes—
- (a) a member of the House of Commons,
  - (b) a member of the Scottish Parliament, or
  - (c) a member of the European Parliament.

#### Commencement Information

**I42** Sch. 3 para. 3 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Resignation of members*

- 4
- A member of SCRA may resign office by giving notice in writing to the Scottish Ministers.

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#### Commencement Information

**I43** Sch. 3 para. 4 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Removal of members*

- 5 (1) The Scottish Ministers may revoke the appointment of a member of SCRA if—
- (a) the member becomes insolvent,
  - (b) the member is incapacitated by physical or mental illness,
  - (c) the member has been absent from meetings of SCRA for a period longer than 3 months without the permission of SCRA,
  - (d) the member is otherwise unfit to be a member or unable for any reason to discharge the functions of a member.
- (2) For the purposes of sub-paragraph (1)(a) a member becomes insolvent when—
- (a) a voluntary arrangement proposed by the member is approved,
  - (b) the member is adjudged bankrupt,
  - (c) the member's estate is sequestrated,
  - (d) the member's application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), or
  - (e) the member grants a trust deed for creditors.

#### Commencement Information

**I44** Sch. 3 para. 5 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Remuneration, allowances etc.*

- 6 (1) SCRA must pay to its members—
- (a) such remuneration as the Scottish Ministers may determine, and
  - (b) such allowances in respect of expenses properly incurred by members in the performance of their functions as may be so determined.
- (2) SCRA must—
- (a) pay to or in respect of any person who is or has been a member of SCRA such pension, allowances or gratuities as the Scottish Ministers may determine, or
  - (b) make such payments as the Scottish Ministers may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- (3) Sub-paragraph (4) applies where—
- (a) a person ceases to be a member otherwise than on the expiry of the person's term of office, and
  - (b) it appears to the Scottish Ministers that there are circumstances which make it right for the person to receive compensation.
- (4) SCRA must make a payment to the person of such amount as the Scottish Ministers may determine.

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#### Commencement Information

**I45** Sch. 3 para. 6 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Chairing meetings*

- 7
- (1) The Scottish Ministers must appoint one of the members of SCRA to chair meetings of SCRA (the “chairing member”).
  - (2) The chairing member holds and vacates that office on terms and conditions determined by the Scottish Ministers.
  - (3) If a person is appointed as the chairing member for a period that extends beyond the period of the person's appointment as a member, the person's appointment as a member is taken to have been extended so that it ends on the same day as the period of appointment as chairing member ends.
  - (4) The chairing member may resign that office by giving notice in writing to the Scottish Ministers.
  - (5) If the chairing member is for any reason unable to chair a meeting of members, a majority of the members present at the meeting may elect one of those members to chair the meeting.

#### Commencement Information

**I46** Sch. 3 para. 7 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *The Principal Reporter*

- 8
- (1) The Principal Reporter is to be appointed by SCRA with the approval of the Scottish Ministers.
  - (2) SCRA must take reasonable steps to involve persons who are under 21 years of age in the process for selection of a person for appointment under sub-paragraph (1).
  - (3) The Principal Reporter holds and vacates that office on terms and conditions determined by SCRA and approved by the Scottish Ministers.
  - (4) The Scottish Ministers may by regulations prescribe qualifications that must be held by the Principal Reporter.
  - (5) A person is disqualified from appointment, and from holding office, as the Principal Reporter if the person is or becomes—
    - (a) a member of the House of Commons,
    - (b) a member of the Scottish Parliament, or
    - (c) a member of the European Parliament.
  - (6) The Principal Reporter may appeal to the Scottish Ministers against dismissal by SCRA.
  - (7) SCRA is the respondent in an appeal under sub-paragraph (6).
  - (8) The Scottish Ministers may by regulations make provision about—

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- (a) the procedure to be followed in appeals under sub-paragraph (6),
  - (b) the effect of making such an appeal,
  - (c) the powers of the Scottish Ministers for disposing of such appeals (including powers to make directions about liability for expenses),
  - (d) the effect of the exercise of those powers.
- (9) Nothing in this paragraph affects any appointment in force on the commencement of this paragraph.

**Commencement Information**

**I47** Sch. 3 para. 8 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Supplementary powers of Principal Reporter*

- 9 The Principal Reporter may do anything that the Principal Reporter considers appropriate for the purposes of or in connection with the functions conferred on the Principal Reporter by virtue of this Act or any other enactment.

**Commencement Information**

**I48** Sch. 3 para. 9 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Delegation of Principal Reporter's functions*

- 10 (1) The functions of the Principal Reporter conferred by virtue of this Act or any other enactment (other than the duty imposed by paragraph 22) may be carried out on the Principal Reporter's behalf by a person employed by SCRA who is—
- (a) authorised (whether specially or generally) by the Principal Reporter for the purpose, or
  - (b) a member of a class of person authorised (whether specially or generally) by the Principal Reporter for the purpose.
- (2) Nothing in sub-paragraph (1) prevents the Principal Reporter from carrying out any function delegated under that sub-paragraph.
- (3) The Scottish Ministers may by regulations prescribe the qualifications to be held by a person employed by SCRA to whom a function, or a function of a class, specified in the regulations is delegated.
- (4) A function of the Principal Reporter may not be delegated to a person who is employed by both SCRA and a local authority unless SCRA consents to the delegation.
- (5) The Principal Reporter may give directions about the carrying out of a delegated function.
- (6) The persons to whom the function is delegated must comply with the direction.

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#### Commencement Information

**I49** Sch. 3 para. 10 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Staff*

- 11 (1) SCRA may employ any staff necessary to ensure the carrying out of SCRA's functions.
- (2) Staff are employed on terms and conditions determined by SCRA and approved by the Scottish Ministers.
- (3) SCRA may—
- (a) pay a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person,
  - (b) make payments towards the provision of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person,
  - (c) provide and maintain schemes (whether contributory or not) for the payment of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person.
- (4) SCRA may, with the approval of the Scottish Ministers, determine—
- (a) who, of the persons who are or have ceased to be employees of SCRA, are to be eligible persons, and
  - (b) the amount that may be paid or provided for.
- (5) Sub-paragraphs (6) and (7) apply where—
- (a) a person employed by SCRA becomes a member of SCRA, and
  - (b) the person was (because the person was an employee of SCRA) a participant in a pension scheme established and administered by SCRA for the benefit of its employees.
- (6) SCRA may determine that the person's service as a member of SCRA is to be treated for the purposes of the scheme as service as an employee of SCRA whether or not any benefits are to be payable to or in respect of the person under paragraph 6.
- (7) Any discretion which the scheme confers on SCRA as to the benefits payable to or in respect of the person is to be exercised only with the approval of the Scottish Ministers.

#### Commencement Information

**I50** Sch. 3 para. 11 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Appeals against dismissal*

- 12 (1) A person employed by SCRA who is of a description or class specified in regulations made by the Scottish Ministers may appeal to the Scottish Ministers against dismissal by SCRA.
- (2) SCRA is the respondent in an appeal under this paragraph.

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- (3) Regulations under sub-paragraph (1) may make provision about—
- (a) the procedure for appeals under this paragraph,
  - (b) the effect of making such an appeal,
  - (c) the powers of the Scottish Ministers to dispose of such appeals (including powers to make directions about liability for expenses),
  - (d) the effect of the exercise of those powers.

**Commencement Information**

**I51** Sch. 3 para. 12 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Committees*

- 13 (1) SCRA may establish committees.
- (2) The members of committees may include persons who are not members of SCRA.
- (3) A committee must not consist entirely of persons who are not members of SCRA.
- (4) SCRA must pay to a person who is not a member of SCRA and who is appointed to a committee such remuneration and allowances as SCRA may, with the approval of the Scottish Ministers, determine.
- (5) A committee must comply with any directions given to it by SCRA.

**Commencement Information**

**I52** Sch. 3 para. 13 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*SCRA's supplementary powers*

- 14 (1) SCRA may do anything that it considers appropriate for the purposes of or in connection with its functions.
- (2) SCRA may in particular—
- (a) acquire and dispose of land and other property,
  - (b) enter into contracts,
  - (c) carry out research relating to the functions conferred on it by virtue of this Act or any other enactment,
  - (d) publish, or assist in the publication of, materials relating to those functions,
  - (e) promote, or assist in the promotion of, publicity relating to those functions.

**Commencement Information**

**I53** Sch. 3 para. 14 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Procedure*

- 15 SCRA may determine—
- (a) its own procedure (including quorum), and

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- (b) the procedure (including quorum) of any of its committees.

**Commencement Information**

**I54** Sch. 3 para. 15 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Delegation of SCRA's functions*

- 16 (1) Any function of SCRA (whether conferred by virtue of this Act or any other enactment) may be carried out on its behalf by—
- (a) a member of SCRA,
  - (b) a committee of SCRA,
  - (c) a person employed by SCRA,
  - (d) any other person authorised (whether specially or generally) by it for the purpose.
- (2) Nothing in sub-paragraph (1) prevents SCRA from carrying out any function delegated under that sub-paragraph.

**Commencement Information**

**I55** Sch. 3 para. 16 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Financial interests*

- 17 (1) The Scottish Ministers must from time to time satisfy themselves that the members of SCRA have no financial or other interest that is likely to prejudicially affect the performance of their functions as members of SCRA.
- (2) A member must comply with a requirement of the Scottish Ministers to give them any information that the Scottish Ministers consider necessary to enable them to comply with sub-paragraph (1).

**Commencement Information**

**I56** Sch. 3 para. 17 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

*Grants*

- 18 (1) The Scottish Ministers may make grants to SCRA of amounts that they determine.
- (2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

**Commencement Information**

**I57** Sch. 3 para. 18 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3



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### *Accounts*

- 19 (1) SCRA must—
- (a) keep proper accounts and accounting records,
  - (b) prepare for each financial year a statement of accounts, and
  - (c) send a copy of each statement of accounts to the Scottish Ministers by such time as they may direct.
- (2) Each statement of accounts must comply with any directions given by the Scottish Ministers as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information is to be presented,
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General for Scotland for auditing.
- (4) In this paragraph, “financial year” means each period of a year ending on 31 March.

#### **Commencement Information**

**I58** Sch. 3 para. 19 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

### *Provision of accounts and other information to Scottish Ministers*

- 20 (1) The Scottish Ministers may direct SCRA to give them accounts or other information specified in the direction relating to SCRA's property and activities or proposed activities.
- (2) SCRA must—
- (a) give the Scottish Ministers accounts or any other information that it is directed to give under sub-paragraph (1),
  - (b) give the Scottish Ministers facilities for the verification of the information given,
  - (c) permit any person authorised by the Scottish Ministers to inspect and make copies of accounts and any other documents of SCRA for the purposes of verifying the information given, and
  - (d) give the person an explanation, reasonably required by the person, of anything that the person is entitled to inspect.

#### **Commencement Information**

**I59** Sch. 3 para. 20 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

### *SCRA's annual report*

- 21 (1) SCRA must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to the Scottish Ministers a report on the carrying out of its functions during the year.

*Changes to legislation: Children's Hearings (Scotland) Act 2011 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (2) The report must include a copy of so much of the report made to SCRA by the Principal Reporter as relates to the year.
- (3) SCRA may include in the report any other information that it considers appropriate.
- (4) The Scottish Ministers must lay before the Scottish Parliament each report submitted to them.
- (5) In this section, “financial year” means each period of a year ending on 31 March.

#### Commencement Information

**I60** Sch. 3 para. 21 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Principal Reporter's annual report*

- 22
- (1) The Principal Reporter must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to SCRA a report on the carrying out during the year of the functions conferred on the Principal Reporter by virtue of this Act or any other enactment.
  - (2) The Principal Reporter may include in the report any other information that the Principal Reporter considers appropriate.
  - (3) In this paragraph, “financial year” means each period of a year ending on 31 March.

#### Commencement Information

**I61** Sch. 3 para. 22 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Validity of proceedings and actions*

- 23
- The validity of proceedings or actions of SCRA (including proceedings or actions of any of its committees) is not affected by—
- (a) any vacancy in the membership of SCRA or any of its committees,
  - (b) any defect in the appointment of a member of SCRA or any of its committees,
  - or
  - (c) the disqualification of a person as a member of SCRA after appointment.

#### Commencement Information

**I62** Sch. 3 para. 23 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

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## SCHEDULE 4

(introduced by section 24)

### TRANSFER OF STAFF AND PROPERTY TO CHS

#### *Interpretation*

- 1 In this schedule—
- “recognised” has the meaning given by section 178(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52),
  - “trade union” has the meaning given by section 1 of that Act, and
  - “transfer day”, in relation to a person, means the day on which a staff transfer order comes into force in relation to the person.

#### **Commencement Information**

**I63** Sch. 4 para. 1 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Staff transfer orders*

- 2 (1) The Scottish Ministers may by order (a “staff transfer order”) make provision for or in connection with—
- (a) the transfer of persons employed by SCRA to CHS,
  - (b) the transfer of persons employed by local authorities from authorities to CHS.
- (2) A staff transfer order may in particular—
- (a) prescribe rules by which the transfer of persons, or classes of person, specified in the order can be determined,
  - (b) require—
    - (i) in relation to persons employed by SCRA, SCRA and CHS acting jointly, or
    - (ii) in relation to persons employed by a local authority specified in the order, the local authority and CHS acting jointly,to make a scheme in relation to the transfer of the persons to whom the order relates.
- (3) Sub-paragraphs (4) and (5) apply where—
- (a) an order includes a requirement of the sort mentioned in sub-paragraph (2)(b)(i) and SCRA and CHS are unable to comply with the requirement, or
  - (b) an order includes a requirement of the sort mentioned in sub-paragraph (2)(b)(ii) and the local authority and CHS are unable to comply with the requirement.
- (4) The Scottish Ministers may determine the content of the scheme.
- (5) The scheme is to be treated as if made in accordance with the requirement imposed by the order.

**Changes to legislation:** *Children's Hearings (Scotland) Act 2011 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### **Commencement Information**

**I64** [Sch. 4 para. 2](#) in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

#### *Schemes for transfer of staff: consultation*

- 3
- (1) Sub-paragraph (2) applies where a staff transfer order includes a requirement of the type mentioned in paragraph 2(2)(b)(i).
  - (2) SCRA must consult the persons mentioned in sub-paragraph (3) about the content of the scheme.
  - (3) Those persons are—
    - (a) persons employed by SCRA,
    - (b) the Principal Reporter,
    - (c) representatives of any trade union recognised by SCRA.
  - (4) Sub-paragraph (5) applies where a staff transfer order includes a requirement of the type mentioned in paragraph 2(2)(b)(ii).
  - (5) The local authority must consult the persons mentioned in sub-paragraph (6) about the content of the scheme.
  - (6) Those persons are—
    - (a) persons employed by the local authority,
    - (b) representatives of any trade union recognised by the local authority.

#### **Commencement Information**

**I65** [Sch. 4 para. 3](#) in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

#### *Effect on existing contracts of employment*

- 4
- (1) This paragraph applies where—
    - (a) a person is to be transferred by virtue of a staff transfer order, and
    - (b) immediately before the transfer day the person has a contract of employment with the relevant employer.
  - (2) On and after the transfer day the contract of employment has effect as if originally made between the person and CHS.
  - (3) On the transfer day the rights, powers, duties and liabilities of the relevant employer under or in connection with the contract of employment of the person are transferred to CHS.
  - (4) Anything done before the transfer day by or in relation to the relevant employer in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to CHS.
  - (5) If, before the transfer day, the person gives notice to CHS or the relevant employer that the person objects to becoming a member of staff of CHS—

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- (a) the contract of employment with the relevant employer is, on the day immediately preceding the day that would, but for the objection, have been the transfer day, terminated, and
  - (b) the person is not to be treated (whether for the purpose of any enactment or otherwise) as having been dismissed by virtue of the giving of such notice.
- (6) Nothing in this schedule prejudices any right of the person to terminate the contract of employment if a substantial detrimental change in the person's working conditions is made.
- (7) The person has the right to terminate the contract of employment if—
  - (a) the identity of the relevant employer changes by virtue of the making of the staff transfer order, and
  - (b) it is shown that, in all the circumstances, the change is significant and detrimental to the person.
- (8) In this paragraph “relevant employer”, in relation to a person, means—
  - (a) where the person has a contract of employment with SCRA, SCRA,
  - (b) where the person has a contract of employment with a local authority, the local authority.

#### Commencement Information

**I66** Sch. 4 para. 4 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

#### *Transfer of property etc. to CHS*

- 5
- (1) The Scottish Ministers may make a transfer scheme.
  - (2) A transfer scheme is a scheme making provision for or in connection with the transfer to CHS of property, rights, liabilities and obligations of any of the following—
    - (a) SCRA,
    - (b) a local authority,
    - (c) the Scottish Ministers.
  - (3) A transfer scheme must specify a date (the “transfer date”) on which the transfer is to take effect.
  - (4) A transfer scheme may—
    - (a) specify different dates in relation to different property, rights, liabilities and obligations,
    - (b) make different provision in relation to different cases or classes of case.
  - (5) On the transfer date—
    - (a) any property or rights to which a transfer scheme applies transfer to and vest in CHS,
    - (b) any liabilities or obligations to which such a scheme applies become liabilities or obligations of CHS.
  - (6) A transfer scheme may make provision for the creation of rights, or the imposition of liabilities, in relation to the property, rights, liabilities or obligations transferred by virtue of the scheme.

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- (7) A certificate issued by the Scottish Ministers that any property, right, liability or obligation has, or has not, been transferred by virtue of a transfer scheme is conclusive evidence of the transfer or the fact that there has not been a transfer.
- (8) A transfer scheme may in particular make provision about the continuation of legal proceedings.
- (9) A transfer scheme may make provision for CHS to make any payment which—
  - (a) before a day specified in the scheme could have been made by a person specified in sub-paragraph (2)(a) or (b), but
  - (b) is not a liability which can become a liability of CHS by virtue of a transfer scheme.
- (10) A transfer scheme may make provision for the payment by CHS of compensation in respect of property and rights transferred by virtue of the scheme.
- (11) Before making a transfer scheme, the Scottish Ministers must consult—
  - (a) CHS,
  - (b) the person mentioned in sub-paragraph (2)(a) or (b) whose property, rights, liabilities and obligations (or any of them) are to be transferred by virtue of the scheme, and
  - (c) any other person with an interest in the property, rights, liabilities or obligations which are to be so transferred.

#### Commencement Information

**I67** Sch. 4 para. 5 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

## SCHEDULE 5

*(introduced by section 203(1))*

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Legal Aid (Scotland) Act 1986 (c.47)*

- 1 (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 4 (Scottish Legal Aid Fund)—
  - (a) in subsection (2)—
    - (i) in paragraph (aza), after sub-paragraph (ii) insert—  
“*(ia) children's legal assistance;*”, and
    - (ii) after paragraph (aza) insert—  
“*(azb) any sums payable by the Board under contracts made by virtue of section 33B;*”, and
  - (b) in subsection (3), after paragraph (cb) insert—  
“*(cc) any contribution payable to the Board by any person in pursuance of section 28K of this Act;*”.
- (3) In section 4A (Scottish Legal Aid Board's power to make grants in respect of provision of civil legal aid etc.)—

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- (a) in subsection (2)—
    - (i) in paragraph (a) for the words from “aid” to “matters” substitute “aid, advice and assistance in relation to civil matters or children's legal assistance ”,
    - (ii) in paragraph (b) after “matters” insert “ or children's matters ”, and
    - (iii) in paragraph (c) at the end add “ or children's matters ”,
  - (b) in subsection (13)—
    - (i) for the words “aid or advice and assistance” substitute “ aid, advice and assistance or children's legal aid ”, and
    - (ii) at the end add “ or children's legal aid ”, and
  - (c) in subsection (14), at the end add “and  
“children's matters” means matters relating to children's hearings, pre-hearing panels (as defined in section 79(2)(a) of the 2011 Act) or proceedings under Part 10 or 15 of the 2011 Act”.
- (4) In subsection (1A) of section 31 (selection of solicitors and counsel)—
- (a) after paragraph (a), insert—  
“(aa) section 28M(3),”,
  - (b) after paragraph (d), insert—  
“(da) regulations made under section 33B(4),”, and
  - (c) in the full-out, after “assistance” insert “ or children's legal assistance ”.
- (5) In section 35A (Board's powers to obtain information from solicitors in certain cases) —
- (a) after subsection (1) insert—  
“(1A) The Board may, for the purpose of determining whether—
    - (a) a solicitor, an employee of the solicitor or an employee of the solicitor's firm may be committing a criminal offence in connection with children's legal assistance,
    - (b) a solicitor may be seeking, in relation to children's legal assistance, to recover from the Fund money to which the solicitor is not entitled, as, for example, by performing unnecessary work, or
    - (c) a solicitor or firm whose name appears on the register maintained under section 28M(1) is or may not be complying with the code of practice under section 28N for the time being in force,require the solicitor or firm to produce such information and documents relating wholly or partly to the provision of children's legal assistance as it may specify, at such time and place as it may specify.”, and
  - (b) in subsection (2), after “(1)” insert “ or (1A) ”.
- (6) In section 35B (Board's powers of entry)—
- (a) in subsection (1), after paragraph (c) insert “or
    - (ca) a solicitor whose name appears on the register maintained under section 28M(1) may not be complying with the code of practice under section 28N for the time being in force;”,
  - (b) in subsection (2)—



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- (i) in paragraph (b), at the beginning insert “ in the case mentioned in subsection (2A), ”, and
  - (ii) after paragraph (b) insert—
    - “(ba) in the case mentioned in subsection (2B), take possession of any documents which appear to him to relate, wholly or partly, to any children's legal assistance provided in or from those premises,”, and
- (c) after subsection (2) insert—
  - “(2A) The case mentioned in subsection (2)(b) is where the warrant is issued in pursuance of—
    - (a) paragraph (a), (b) or (c) of subsection (1), or
    - (b) paragraph (d) of subsection (1) where the requirement to produce the documents was made under subsection (1) of section 35A.
  - (2B) The case mentioned in subsection (2)(ba) is where the warrant is issued in pursuance of—
    - (a) paragraph (ca) of subsection (1), or
    - (b) paragraph (d) of subsection (1) where the requirement to produce the documents was made under subsection (1A) of section 35A.”.
- (7) In section 37(2) (regulations under Act which require to be laid in draft and approved by the Scottish Parliament before being made), after “24(4)” insert “ , 28C(3), 28K(2), 28L(1) or (8), ”.
- (8) In section 41 (interpretation)—
  - (a) after “requires—” insert—
    - ““the 2011 Act” means the Children's Hearings (Scotland) Act 2011 (asp 1);”,
  - (b) after the definition of “the Board” insert—
    - ““children's legal aid” has the meaning given to it in section 28B(2) of this Act;
    - “children's legal assistance” means—
      - (a) children's legal aid, and
      - (b) advice and assistance in relation to children's hearings, pre-hearing panels (as defined in section 79(2)(a) of the 2011 Act) or proceedings under Part 10 or 15 of the 2011 Act;”,
      - and
  - (c) in the definition of “legal aid”—
    - (i) after “aid,”, where it third occurs, insert “ children's legal aid ”, and
    - (ii) the words from “or”, where it second occurs, to the end of the definition are repealed.
- (9) In section 42 (disposable income and disposable capital: regulations), after subsection (3) insert—
  - “(4) Regulations under this section may make different provision for—

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- (a) children's legal aid and legal aid other than children's legal aid,
- (b) advice and assistance in relation to children's matters and advice and assistance other than advice and assistance in relation to children's matters.

(5) In subsection (4)(b), “children's matters” has the meaning given by section 4A(14).”.

#### Commencement Information

**I68** Sch. 5 para. 1(1)-(7)(8)(c)(9) in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)

**I69** Sch. 5 para. 1(8)(a)(b) in force at 31.1.2012 by [S.S.I. 2012/1](#), [art. 2\(2\)](#)

#### *Children (Scotland) Act 1995 (c.36)*

- 2 (1) The Children (Scotland) Act 1995 is amended as follows.
- (2) In section 12 (restrictions on certain decrees)—
- (a) in subsection (1), for “or 54 of this Act” substitute “ of this Act or section 62 of the Children's Hearings (Scotland) Act 2011 ”,
  - (b) in subsection (2)(a), for “or 54 of this Act” substitute “ of this Act or section 62 of the Children's Hearings (Scotland) Act 2011 ”.
- (3) In section 16 (welfare of child and consideration of views)—
- (a) in subsection (1)—
    - (i) the words “a children's hearing decide, or” are repealed,
    - (ii) the words “their or” are repealed,
  - (b) in subsection (2), the words “a children's hearing or as the case may be” are repealed,
  - (c) in subsection (3)—
    - (i) for “(4)(a)(i) or (ii) or (b)” substitute “ (4) ”,
    - (ii) the words “requirement or”, in both places where they occur, are repealed,
    - (iii) the words “the children's hearing consider, or as the case may be” are repealed,
  - (d) for subsection (4) substitute—

“(4) The circumstances to which subsection (2) refers are that the sheriff is considering whether to make, vary or discharge an exclusion order.”,
  - (e) in subsection (5)—
    - (i) paragraph (a) is repealed,
    - (ii) in paragraph (b), for “Chapters 1 to 3” substitute “ Chapter 1 or 3 ”.
- (4) In section 17 (duty of local authority to child looked after by them)—
- (a) in subsection (6), for paragraph (b) substitute—

“(b) who is subject to a compulsory supervision order or an interim compulsory supervision order and in respect of whom they are the implementation authority (within the meaning of the Children's Hearings (Scotland) Act 2011);”,

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- (b) subsection (6)(c) is repealed,
  - (c) in subsection (6)(d), for “such responsibilities” substitute “ responsibilities as respects the child ”.
- (5) In section 19 (local authority plans for services for children)—
  - (a) in subsection (2), after paragraph (a) insert—
    - “(aa) the Children's Hearings (Scotland) Act 2011;”,
  - (b) in subsection (5)—
    - (i) in paragraph (c), the words “appointed under section 127 of the Local Government etc. (Scotland) Act 1994” are repealed,
    - (ii) for paragraph (d) substitute—
      - “(d) the National Convener of Children's Hearings Scotland;”.
- (6) In section 33 (effect of orders etc. made in different parts of the United Kingdom)—
  - (a) in subsection (1)—
    - (i) the words “or to a supervision requirement” are repealed,
    - (ii) the words “or, as the case may be, as if it were a supervision requirement” are repealed,
  - (b) in subsection (2)—
    - (i) paragraph (b) is repealed,
    - (ii) in the full-out, the words “or requirement” are repealed,
  - (c) subsection (4) is repealed,
  - (d) in subsection (5)(b), the words “or to a supervision requirement” are repealed,
  - (e) in subsection (5)(c), the words “or to a supervision requirement” are repealed.
- (7) In section 38(4) (limited disapplication of certain enactments while child being provided with refuge), for “section 83 of this Act” substitute “ section 171 of the Children's Hearings (Scotland) Act 2011 ”.
- (8) In section 75 (powers in relation to secure accommodation)—
  - (a) in subsection (1)(b), for “supervision requirement” substitute “ compulsory supervision order, interim compulsory supervision order, medical examination order or warrant to secure attendance (all within the meaning of the Children's Hearings (Scotland) Act 2011) ”,
  - (b) after subsection (2) insert—
    - “(2A) In subsection (2), “relevant person” has the meaning given by section 200 of the Children's Hearings (Scotland) Act 2011 and includes a person deemed to be a relevant person by virtue of section 81(3), 160(4)(b) or 164(6) of that Act.”, and
  - (c) for subsection (4) substitute—
    - “(4) A child may not be kept in secure accommodation by virtue of regulations made under this section for a period exceeding 66 days from the day when the child was first taken to the secure accommodation.”.
- (9) In section 76(8) (making of child protection order instead of exclusion order)—

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- (a) in paragraph (b), for “section 57 of this Act” substitute “ Part 5 of the Children's Hearings (Scotland) Act 2011 ”,
- (b) in the full-out—
  - (i) for “an order under that section” substitute “ a child protection order ”,
  - (ii) after “that” insert “ Part ”.
- (10) In section 93(1) (interpretation), in the definition of “children's hearing”, for “section 39(3); but does not include a business meeting arranged under section 64, of this Act” substitute “ section 5 of the Children's Hearings (Scotland) Act 2011 ”.
- (11) In section 93(2)(b) (meaning of “child”), for the definition of “child” substitute—
  - ““child” means—
    - (i) in relation to section 75, a person under the age of 18 years,
    - (ii) in relation to any other section, a person under the age of 16 years;”.

#### Commencement Information

- I70** Sch. 5 para. 2(1)-(7)(9)(11) in force at 24.6.2013 by [S.S.I. 2013/195](#), [arts. 2, 3](#)
- I71** Sch. 5 para. 2(8) in force at 12.6.2013 for specified purposes by [S.S.I. 2013/190](#), [art. 2](#)
- I72** Sch. 5 para. 2(8) in force at 24.6.2013 in so far as not already in force by [S.S.I. 2013/195](#), [arts. 2, 3](#)
- I73** Sch. 5 para. 2(10) in force at 24.6.2013 for specified purposes by [S.S.I. 2013/195](#), [arts. 2, 3](#)

#### *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*

- 3 In section 12 of the Antisocial Behaviour etc. (Scotland) Act 2004 (sheriff's power to refer child to children's hearing where antisocial behaviour order made etc.), for subsection (1) substitute—
  - “(1) This section applies where—
    - (a) the sheriff makes an antisocial behaviour order or an interim order in respect of a child, and
    - (b) the sheriff considers that a section 67 ground (other than the ground mentioned in section 67(2)(j)) applies in relation to the child.
  - (1A) The sheriff may require the Principal Reporter to arrange a children's hearing.
  - (1B) The sheriff must give the Principal Reporter a section 12 statement if—
    - (a) the sheriff makes a requirement under subsection (1A), and
    - (b) a compulsory supervision order is not in force in relation to the child.
  - (1C) A section 12 statement is a statement—
    - (a) specifying which of the section 67 grounds the sheriff considers applies in relation to the child,
    - (b) setting out the reasons why the sheriff considers the ground applies, and
    - (c) setting out any other information about the child which appears to the sheriff to be relevant.
  - (1D) In this section—

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“compulsory supervision order” has the meaning given by section 83 of the Children's Hearings (Scotland) Act 2011,  
“section 67 ground” means a ground mentioned in section 67(2) of that Act.”.

#### Commencement Information

**I74** Sch. 5 para. 3 in force at 24.6.2013 by S.S.I. 2013/195, arts. 2, 3

### SCHEDULE 6

(introduced by section 203(2))

#### REPEALS

#### Commencement Information

**I75** Sch. 6 in force at 24.6.2013 for specified purposes by S.S.I. 2013/195, arts. 2, 3

<i>Enactment</i>	<i>Extent of repeal</i>
Rehabilitation of Offenders Act 1974 (c.53)	Section 3. In section 5, in subsection (3), paragraph (b) and the word “and” immediately preceding it; in subsection (5), paragraph (f); and, in subsection (10), the words “, or a supervision requirement under the Children (Scotland) Act 1995,”.
Legal Aid (Scotland) Act 1986 (c.47)	Section 29.
Tribunals and Inquiries Act 1992 (c.53)	In Part 2 of Schedule 1, paragraph 61(a) and the title (“Social work”) relating to it.
Local Government etc. (Scotland) Act 1994 (c.39)	Sections 127 to 138. Schedule 12.
Children (Scotland) Act 1995 (c.36)	Sections 39 to 74 <sup>F8</sup> , except section 44]. In section 75(1), paragraph (a) and the word “or” immediately following it. Section 75(5). Sections 75A and 75B. Sections 81 to 85. Section 90. Section 91(3)(a) to (c). Section 92. In section 93, in subsection (1), the definitions of “chief social work officer”, “child assessment order”, “child protection order”, “compulsory measures of supervision”, “education authority”, “local government area”, “place of safety”,

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	<p>“the Principal Reporter”, “relevant local authority”, “supervision requirement” and “working day”; and, in subsection (2)(b), the definition of “relevant person”.</p> <p>In section 101(1), in paragraph (a), the words “or under section 87(4) of this Act”; and paragraph (c) and the word “and” immediately preceding it.</p> <p>Section 101(4).</p> <p>In section 105, in subsection (8), the words “<sup>F9</sup>... 70(4), 74, 82, 83”; and subsection (10).</p> <p>Schedule 1.</p> <p>In Schedule 4, paragraph 23(2) and (3).</p>
Vulnerable Witnesses (Scotland) Act 2004 (asp 3)	Section 23.
Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)	Section 12(2) to (5).
Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5)	Section 72(4) to (6).

#### Textual Amendments

- F8** Words in Sch. 6 inserted (30.9.2015) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **Sch. 5 para. 12(10)(a)**; S.S.I. 2015/317, art. 2, Sch.
- F9** Word in Sch. 6 omitted (30.9.2015) by virtue of Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **Sch. 5 para. 12(10)(b)**; S.S.I. 2015/317, art. 2, Sch.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 163 cross-heading substituted by [2020 asp 16 s. 27\(2\)](#)
- s. 62(5) word repealed by [2020 asp 9 s. 8\(2\)\(a\)](#)
- s. 163 title substituted by [2020 asp 16 s. 27\(3\)\(g\)](#)
- s. 163(1) words substituted by [2020 asp 16 s. 27\(3\)\(a\)](#)
- s. 163(4)(b) words substituted by [2020 asp 16 s. 27\(3\)\(c\)](#)
- s. 163(6)(b) words substituted by [2020 asp 16 s. 27\(3\)\(d\)](#)
- s. 163(10) words substituted by [2020 asp 16 s. 27\(3\)\(e\)](#)
- s. 163(11) words repealed by [2020 asp 16 s. 27\(3\)\(f\)](#)
- s. 164 title substituted by [2020 asp 16 s. 27\(4\)\(e\)](#)
- s. 164(1) words substituted by [2020 asp 16 s. 27\(4\)\(a\)](#)
- s. 164(6) words substituted by [2020 asp 16 s. 27\(4\)\(c\)](#)
- s. 164(7) words repealed by [2020 asp 16 s. 27\(4\)\(d\)](#)
- s. 165 title substituted by [2020 asp 16 s. 27\(5\)\(e\)](#)
- s. 165(1) words substituted by [2020 asp 16 s. 27\(5\)\(a\)](#)
- s. 165(6) words substituted by [2020 asp 16 s. 27\(5\)\(c\)](#)
- s. 165(7) words repealed by [2020 asp 16 s. 27\(5\)\(d\)](#)
- s. 167 title substituted by [2020 asp 16 s. 27\(6\)\(d\)](#)
- s. 167(1) words substituted by [2020 asp 16 s. 27\(6\)\(a\)](#)
- s. 167(2) words substituted by [2020 asp 16 s. 27\(6\)\(b\)](#)
- s. 167(6) words substituted by [2020 asp 16 s. 27\(6\)\(c\)](#)
- s. 182(9) words substituted by [2020 asp 16 s. 27\(7\)](#)
- s. 187 repealed by [2020 asp 13 sch. 5 para. 13\(a\)](#)
- s. 188 repealed by [2020 asp 13 sch. 5 para. 13\(b\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17A inserted by [2020 asp 16 s. 6\(2\)](#)
- s. 25(3) inserted by [2020 asp 16 s. 30\(7\)](#)
- s. 27(3)-(4A) substituted for s. 27(3)(4) by [2020 asp 16 s. 3\(2\)](#)
- s. 62(5)(q)-(u) inserted by [2020 asp 9 s. 8\(2\)\(b\)](#)
- s. 163(2)-(2B) substituted for s. 163(2) by [2020 asp 16 s. 27\(3\)\(b\)](#)
- s. 164(2)-(2B) substituted for s. 164(2) by [2020 asp 16 s. 27\(4\)\(b\)](#)
- s. 165(2)-(2B) substituted for s. 165(2) by [2020 asp 16 s. 27\(5\)\(b\)](#)