

# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 6

#### MISCELLANEOUS

#### CHAPTER 2

#### SUPPORT FOR VULNERABLE PERSONS

#### 98      **Meaning of appropriate adult support**

- (1) For the purposes of this Chapter, “appropriate adult support” means—
- (a) support of the sort mentioned in subsection (3) of section 42 that is provided to a person about whom intimation has been sent under subsection (2) of that section, and
  - (b) such other support for vulnerable persons in connection with a criminal investigation or criminal proceedings as the Scottish Ministers specify by regulations.
- (2) In regulations under subsection (1)(b), the Scottish Ministers may, in particular, specify support by reference to—
- (a) the purpose it is to serve,
  - (b) the description of vulnerable persons to whom it is to be available, and
  - (c) the circumstances in which it is to be available.
- (3) For the purposes of this section—
- “vulnerable person” means a person who, owing to mental disorder, is—
- (a) unable to understand sufficiently what is happening, or
  - (b) communicate effectively,
- in the context of a criminal investigation or criminal proceedings,  
“mental disorder” has the meaning given by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2016, CHAPTER 2. (See end of Document for details)*

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- (4) The Scottish Ministers may by regulations amend the definitions of “vulnerable person” and “mental disorder” in subsection (3) for the purpose of making them consistent with (respectively) subsections (1)(c) and (5)(a) of section 42.

**Commencement Information**

**I1** S. 98 in force at 17.1.2017 by [S.S.I. 2016/426](#), art. 2, [sch.](#)

**99 Responsibility for ensuring availability of appropriate adults**

The Scottish Ministers may by regulations—

- (a) confer on a person the function of ensuring that people are available to provide appropriate adult support—
  - (i) throughout Scotland, or
  - (ii) in a particular part of Scotland, and
- (b) make provision about how that function may or must be discharged.

**Commencement Information**

**I2** S. 99 in force at 17.1.2017 by [S.S.I. 2016/426](#), art. 2, [sch.](#)

**100 Assessment of quality of appropriate adult support**

The Scottish Ministers may by regulations—

- (a) confer on a person the functions of—
  - (i) assessing the quality of whatever arrangements may be in place to ensure that people are available to provide appropriate adult support, and
  - (ii) assessing the quality of any appropriate adult support that is provided, and
- (b) make provision about how those functions may or must be discharged.

**Commencement Information**

**I3** S. 100 in force at 17.1.2017 by [S.S.I. 2016/426](#), art. 2, [sch.](#)

**101 Training for appropriate adults**

The Scottish Ministers may by regulations—

- (a) confer on a person the function of—
  - (i) giving to people who provide, or wish to provide, appropriate adult support training in how to provide that support,
  - (ii) giving to other people specified by the Scottish Ministers in the regulations training in how to deal with people who need appropriate adult support, and
- (b) make provision about how that function may or must be discharged.

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*Changes to legislation:* There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2016, CHAPTER 2. (See end of Document for details)

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**Commencement Information**

**I4** S. 101 in force at 17.1.2017 by S.S.I. 2016/426, art. 2, sch.

**102 Recommendations from quality assessor and training provider**

- (1) A person upon whom a function has been conferred by virtue of section 100 or 101 may—
  - (a) make to a provider of appropriate adult support recommendations about the way that appropriate adult support is provided,
  - (b) make to the Scottish Ministers recommendations about the exercise of their powers under section 61 and the provisions of this Chapter.
- (2) A provider of appropriate adult support must have regard to any recommendation made to it under subsection (1)(a).
- (3) The Scottish Ministers must have regard to any recommendation made under subsection (1)(b).
- (4) In this section, “a provider of appropriate adult support” means a person upon whom the function of ensuring that people are available to provide appropriate adult support has been conferred by virtue of section 99.

**Commencement Information**

**I5** S. 102 in force at 10.1.2020 by S.S.I. 2019/363, art. 3(b)

**103 Duty to ensure quality assessment takes place**

If, by virtue of regulations under section 99, a person has the function of ensuring that people are available to provide appropriate adult support, it is the Scottish Ministers' duty to ensure that there is a person discharging the functions mentioned in section 100(a).

**Commencement Information**

**I6** S. 103 in force at 10.1.2020 by S.S.I. 2019/363, art. 3(c)

**104 Elaboration of regulation-making powers under this Chapter**

- (1) A power under this Chapter to confer a function on a person by regulations may be exercised so as to confer the function, or aspects of the function, on more than one person.
- (2) A power under this Chapter to make provision by regulations about how a function may or must be discharged may, in particular, be exercised so as to—
  - (a) require or allow the person discharging the function to enter into a contract with another person,
  - (b) require the person discharging the function to have regard to any guidance about the discharge of the function issued by the Scottish Ministers.

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2016, CHAPTER 2. (See end of Document for details)*

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- (3) The powers under this Chapter to make regulations may be exercised so as to—
- (a) make such provision as the Scottish Ministers consider necessary or expedient in consequence of, or for the purpose of giving full effect to, any regulations made in exercise of a power under this Chapter,
  - (b) modify any enactment (including this Act),
  - (c) make different provision for different purposes.

**Commencement Information**

**17** [S. 104](#) in force at 17.1.2017 by [S.S.I. 2016/426](#), [art. 2](#), [sch.](#)

**105 Procedure for making regulations under this Chapter**

- (1) Regulations under this Chapter are subject to the affirmative procedure.
- (2) Prior to laying a draft Scottish statutory instrument containing regulations under this Chapter before the Scottish Parliament for approval by resolution, the Scottish Ministers must consult publicly.

**Commencement Information**

**18** [S. 105](#) in force at 17.1.2017 by [S.S.I. 2016/426](#), [art. 2](#), [sch.](#)

**106 Other powers of Ministers unaffected**

Nothing in this Chapter is to be taken to imply that the powers it gives to the Scottish Ministers to confer functions are the only powers that they have to confer those (or similar) functions.

**Commencement Information**

**19** [S. 106](#) in force at 17.1.2017 by [S.S.I. 2016/426](#), [art. 2](#), [sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2016,  
CHAPTER 2.