

Status: Point in time view as at 27/04/2017.

Changes to legislation: There are currently no known outstanding effects for the Children and Social Work Act 2017, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 10

PLACING CHILDREN IN SECURE ACCOMMODATION ELSEWHERE IN GREAT BRITAIN

Children Act 1989

- 1 The Children Act 1989 is amended as follows.
- 2 (1) Section 25 (use of accommodation in England for restricting liberty of children looked after by English and Welsh local authorities)—
 - (a) is to extend also to Scotland, and
 - (b) is amended as follows.
- (2) In subsection (1)—
 - (a) for “or local authority in Wales” substitute “ in England or Wales ”;
 - (b) after “accommodation in England” insert “ or Scotland ”.
- (3) In subsection (2)—
 - (a) in paragraphs (a)(i) and (ii) and (b), after “secure accommodation in England” insert “ or Scotland ”;
 - (b) in paragraph (c), for “or local authorities in Wales” substitute “ in England or Wales ”.
- (4) After subsection (5) insert—

“(5A) Where a local authority in England or Wales are authorised under this section to keep a child in secure accommodation in Scotland, the person in charge of the accommodation may restrict the child's liberty to the extent that the person considers appropriate, having regard to the terms of any order made by a court under this section.”
- (5) In subsection (7)—
 - (a) in paragraph (c), after “secure accommodation in England” insert “ or Scotland ”;
 - (b) after that paragraph, insert—
 - “(d) a child may only be placed in secure accommodation that is of a description specified in the regulations (and the description may in particular be framed by reference to whether the accommodation, or the person providing it, has been approved by the Secretary of State or the Scottish Ministers).”
- (6) After subsection (8) insert—

“(8A) Sections 168 and 169(1) to (4) of the Children's Hearings (Scotland) Act 2011 (asp 1) (enforcement and absconding) apply in relation to an order

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under subsection (4) above as they apply in relation to the orders mentioned in section 168(3) or 169(1)(a) of that Act.”

- 3 In paragraph 19(9) of Schedule 2 (restrictions on arrangements for children to live abroad), after “does not apply” insert “—
- (a) to a local authority placing a child in secure accommodation in Scotland under section 25, or
 - (b)”.

Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505)

- 4 The Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505) are amended as follows.

- 5 In regulation 1—
- (a) in the heading, for “and commencement” substitute “, commencement and extent”;
 - (b) the existing text becomes paragraph (1);
 - (c) after that paragraph insert—

“(2) This Regulation and Regulations 10 to 13 extend to England and Wales and Scotland.

(3) Except as provided by paragraph (2), these Regulations extend to England and Wales.”

- 6 In regulation 2(1) (interpretation), in the definition of “children's home”, for the words from “means” to the end, substitute “means—
- (a) a private children's home, a community home or a voluntary home in England, or
 - (b) an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) which provides residential accommodation for children for the purposes of the Children's Hearings (Scotland) Act 2011, the Children (Scotland) Act 1995 or the Social Work (Scotland) Act 1968”.

- 7 For regulation 3 substitute—

Approval by Secretary of State of secure accommodation in a children's home

“3 (1) Accommodation in a children's home shall not be used as secure accommodation unless —

- (a) in the case of accommodation in England, it has been approved by the Secretary of State for that use;
- (b) in the case of accommodation in Scotland, it is provided by a service which has been approved by the Scottish Ministers under paragraph 6(b) of Schedule 12 to the Public Services Reform (Scotland) Act 2010.

(2) Approval by the Secretary of State under paragraph (1) may be given subject to any terms and conditions that the Secretary of State thinks fit.”

- 8 In regulation 17 (records), in the words before paragraph (a), after “children's home” insert “ in England ”.

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Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013 No. 205)

- 9 The Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013 No. 205) are amended as follows.
- 10 In regulation 5 (maximum period in secure accommodation), after paragraph (2) insert—
- “(3) This regulation does not apply in relation to a child placed in secure accommodation in Scotland under section 25 of the Children Act 1989 (which allows accommodation in Scotland to be used for restricting the liberty of children looked after by English and Welsh local authorities).”
- 11 In regulation 15 (records to be kept by managers of secure accommodation in Scotland), after paragraph (2) insert—
- “(3) The managers must provide the Secretary of State or Welsh Ministers, on request, with copies of any records kept under this regulation that relate to a child placed in secure accommodation under section 25 of the Children Act 1989 (which allows local authorities in England or Wales to place children in secure accommodation in Scotland).”

Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013 No. 1465)

- 12 In Article 7 of the Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013 No. 1465) (compulsory supervision orders and interim compulsory supervision orders), after paragraph (2) insert—
- “(3) Where—
- (a) a compulsory supervision order or interim compulsory supervision order contains a requirement of the type mentioned in section 83(2) (a) of the 2011 Act and a secure accommodation authorisation (as defined in section 85 of that Act),
 - (b) the place at which the child is required to reside in accordance with the order is a place in England or Wales, and
 - (c) by virtue of a decision to consent to the placement of the child in secure accommodation made under article 16, the child is to be placed in secure accommodation within that place,
- the order is authority for the child to be placed and kept in secure accommodation within that place.”

Social Services and Well-being (Wales) Act 2014 (anaw 4)

- 13 In section 124(9) of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (restrictions on arrangements for children to live outside England and Wales), after “does not apply” insert “—
- (a) to a local authority placing a child in secure accommodation in Scotland under section 25 of the Children Act 1989, or
 - (b)”.

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Saving for existing powers

- 14 The amendments made by this Schedule to provisions of subordinate legislation do not affect the power to make further subordinate legislation amending or revoking the amended provisions.

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