THE PROMISE DRAFT DOCUMENT (output 1)

National legislation, connected regulations and policies

Name and brief explanation	Relevant provisions	Note inc. duties ; Guidance
Children and Young Persons (Scotland) Act 1937	Inc cruelty to persons under 16, causing or allowing children 16 be used for begging, Section 12 makes provision for cruelty to persons under 16. The section is in the following terms:- (1) If any person who has attained the age of sixteen years and who has parental responsibilities in relation to a child or to a young person under that age or has charge or care of a child or such a young person, wilfully ill-treats, neglects, abandons, or exposes him, or causes or procures him to be ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence, and shall be liable— (a) on conviction on indictment, to a fine, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding ten years; (b) on summary conviction, to a fine not exceeding the prescribed sum, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding six months. (2) For the purposes of this section—	Neglect and ill-treatment provisions A review of section 12 of the 1937 Act (and section 42 of the Sexual Offences (Scotland) Act 2009) opened on 22 August 2018, and closed on 14 November 2018. The Scottish Government are considering the consultation responses. The Scottish Government asked for views on proposals to modernise the criminal offence of child cruelty, set out in section 12 of the Children and Young Persons (Scotland) Act 1937, including whether emotional and psychological harm should be included within the scope of the offence. And views on whether the definition of a 'position of trust' in section 42-45 of the Sexual Offences (Scotland) Act 2009 should be extended to cover other positions in which a person is in a position of power, responsibility or influence over a child. The majority of respondents were largely supportive of our proposals to modernise

	(a) a parent or other person legally liable to maintain a child or young person or the legal guardian of a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under the enactments applicable in that behalf ; (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed, under the influence of drink, be deemed to have neglected the child in a manner likely to cause injury to his health. (3) A person may be convicted of an offence under this section— (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person; (b) notwithstanding the death of the child or young person in question. (4) Where any person who has attained the age of sixteen years is tried on indictment for the culpable homicide of a child or young person under the age of sixteen years and he had parental responsibilities in relation to, or charge or care of, that child or young person, it shall be lawful for the jury, if they are satisfied that he is	section 12, with 93% agreeing that the offence would benefit from reform and 95% agreeing children should have clear legislative protection from emotional harm. However, respondents also raised a number of potential issues with the proposals, suggesting further engagement with stakeholders on the complexities highlighted in responses would be of value. The Scottish Government are considering the consultation responses.

	guilty of an offence under this section, to find him guilty of that offence. Also Children and Young Persons Act 1933, the Children and Young Persons Act 1969,	
Police (Scotland) Act 1967		This act has been repealed - in large part by the Police and Fire Reform (Scotland) Act 2012
Children and Young Persons Act 1963	Placed duties on local authorities to provide advice, guidance, and assistance to reduce the need to take children into care, including monetary assistance.	Limited provisions still relevant - employment of children
Social Work (Scotland) Act 1968 **The Social Work (Scotland) Act 1968 included provision for the promotion of social welfare in Scotland; established the Social Work Committee and Director of Social Work in each local authority; set out local authority duties to children in need; established Children's Hearing system for children in need of compulsory measures of care; and made provision for residential and other establishments. While many of the original provisions have been superseded over subsequent years, it still provides a relevant starting place in respect of social work intervention.**	**Imposes duties on LA to enforce Part 2 of the CSA 1995 Act, number of parts of the CHS 2011 act;** **1.— Local authorities for the administration of the Act.** **(1) It shall be the duty of a local authority to enforce and execute within their area the provisions of this Act, Part 2 of the Children (Scotland) Act 1995 (c.36) or Parts 5, 6, 9 to 11, 13 to 16, and 18 of the Children's Hearings (Scotland) Act 2011 (asp 1)] 1 with respect to which the duty is not expressly, or by necessary implication, imposed on some other authority.** **(2) The local authorities for the purposes of this Act shall be councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994** **(4) The functions of local health authorities in respect of their areas under the following enactments— (a)** **(b) the [Mental Health (Care and Treatment) (Scotland) Act 2003**	Note: When consider the original SW act - consider is it similar to the Welsh Care Act? the SWSA 1968 relates to adults and children Note : that England appear to have 3 overarching Acts for children :- Children Act 1989, Children Act 2004, Children and Social Work Act 2017 Relevant guidance for this Act includes the Recovery of Expenditure on accommodation and services under section 86 of the Social Work (Scotland) Act 1968 - this guidance is regarding issues of ordinary residence and which local authority has responsibility for costs of accommodation and services; there is

	(c) [... **are hereby transferred to the local authorities of those areas.** **(5) On the date of the commencement of Part III of this Act the functions of education authorities in relation to the establishments which immediately before that date were approved schools and the children resident therein shall be transferred to the local authorities in whose areas the said children are ordinarily resident or, in the case of children who have no ordinary residence in Scotland, such local authorities as the Secretary of State may determine.** **3.— Chief social work officer.** **(1) For the purposes of their functions under this Act and the enactments mentioned in section 5(1B) of this Act, a local authority shall appoint an officer to be known as the chief social work officer.** **(2) The qualifications of the chief social work officer shall be such as may be prescribed by the Secretary of State.** **4. Provisions relating to performance of functions by local authorities.** **Where a function is assigned to a local authority under this Act [or [section 25 (provision of care and support services for persons who have or have had a mental disorder), 26 (provision of services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)]2 ,]1 [or Part II of the Children (Scotland) Act 1995]3 [or any of Parts 5, 6, 9 to 11, 13 to 16, and 18 of the Children's Hearings (Scotland) Act 2011 (asp 1)] 4 [or Part 2, 3, 4, 5 or 6 of the Carers (Scotland) Act 2016] 5 and a voluntary organisation or other person, including another local authority, is able to assist in the**	particular relevance to this guidance especially when children are moving to adulthood ad may have ongoing support needs; and also when the young person is deemed to lack capacity See especially paragraphs 28-30 child to adult transition resent provisions still in force in the Social Work (Scotland) Act 1968 are the following: section 1 overarching imposes a duty on local authorities to enforce various and execute various Acts, including Part 2 of the CSA 1995 and parts of the CHSA 2011. The Act also appoints at section 3 the Chief Social Work who has certain statutory duties set out in other acts, including secure accommodation authorisation; Section 4 allows local authority to arrange for organisations or other persons to perform any local authority function; confirms that the LA have to perform their functions under CSA 1995 and CHS2011 under the general guidance of the Sec. of State. Section 12 imposes a duty on LAs to promote social welfare by making available, guidance and assistance, and to secure felicities, including residential

	performance of that function, the local authority may make arrangements with such an organisation or other person for the provision of such assistance as aforesaid. **5.— Powers of Secretary of State.** ***Central Authority*** **(1) Local authorities shall perform their functions under this Act [, Part 2 of the Children (Scotland) Act 1995 [,] 2 the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)] 1 [, [Part 6 (in so far as it applies to looked after children) and Parts 12 and 13 of the Children and Young People (Scotland) Act 2014 (asp 8),] 4 Parts 5, 6, 9 to 11, 13 to 16, and 18 of the Children's Hearings (Scotland) Act 2011 (asp 1)] 3 [and the Carers (Scotland) Act 2016] 5 under the general guidance of the Secretary of State.** **[(1A) Without prejudice to subsection (1) above, the Secretary of State may issue directions to local authorities, either individually or collectively, as to the manner in which they are to exercise any of their functions under this Act or any of the enactments mentioned in [subsection (1B) below] 7 ; and a local authority shall comply with any direction made under this subsection.] 6** **…** **6B.— Local authority inquiries into matters affecting children.** **(1) Without prejudice to section 6A(1) of this Act, a local authority may cause an inquiry to be held into their functions under this Act, or any of the enactments mentioned in section 5(1B) of this Act, in so far as those functions relate to children** **PART II** **PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES**	establishments and such assistance be given in cash or kind to any relevant person (a relevant person is a person not less than 18 years of age and in need of assistance in kind or cash). Section 12A imposes a duty on LAs to assess the needs of a person where it appears to a LA that any person may be in need of community care services. Section 29 gives the local authority the power to assist parents, relatives and other connected persons with travelling expenses to see a child in the care of the local authority. Section 59 provides that local authorities have duties to provide residential and other establishments for their statutory functions including those under part 2 of the CSA1995, and CHSA 2011. Section 78 imposes a duty on a person with parental rights and responsibilities to contribute to the maintenance of their children, if the children are in the care of local authority. Section 86 deals with adjustments between authorities for the costs and expenses incurred by one authority in relation to a person, including a child, ordinarily resident in another area.

	General **12.— General social welfare services of local authorities.** **12.— General social welfare services of local authorities.** **(1) It shall be the duty of every local authority to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for their area, and in that behalf to make arrangements and to provide or secure the provision of such facilities (including the provision or arranging for the provision of residential and other establishments) as they may consider suitable and adequate, and such assistance may [, subject to subsections (3) to (5) of this section, be given in kind or in cash to, or in respect of, any relevant person.] 1** **(2) [A person is a relevant person for the purposes of this section if, not being less than eighteen years of age, he is in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash, where the giving of assistance in either form would avoid the local authority being caused greater expense in the giving of assistance in another form, or where probable aggravation of the person's need would cause greater expense to the local authority on a later occasion.] 1** **[(2A) A person to whom section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) applies is not to receive assistance under subsection (1) of this section (whether by way of residential accommodation or otherwise) if his need for assistance has arisen solely—** **(3) If, while they are carrying out their duty under subsection (1) of this section, it appears to a local authority that there may be a need for the provision to any person to whom that subsection applies—** **(a) of any services under the National Health Service (Scotland) Act 1978 by the Health Board—**	

	(i) in whose area he is ordinarily resident; or **(ii) in whose area the services to be supplied by the local authority are, or are likely, to be provided; or** **(b) of any services which fall within the functions of a housing authority (within the meaning of section 130 (housing) of the Local Government (Scotland) Act 1973) which is not the local authority carrying out the assessment,** **the local authority shall so notify that Health Board or housing authority, and shall request information from them as to what services are likely to be made available to that person by that Health Board or housing authority; and, thereafter, in carrying out their said duty, the local authority shall take into account any information received by them in response to that request.** **(3A) [...]8 (3B)-(3C) [...]8** **(4) Where a local authority are making an assessment under this section and it appears to them that the person concerned is a disabled person, they shall—** **(a) proceed to make such a decision as to the services he requires as is mentioned in section 4 of the Disabled Persons (Services, Consultation and Representation) Act 1986 without his requesting them to do so under that section; and** **(b) inform him that they will be doing so and of his rights under that Act.** **(5) Nothing in this section shall prevent a local authority from providing or arranging for the provision of community care services for any person without carrying out a prior assessment of his needs in accordance with the preceding provisions of this section if, in the opinion of the authority, the condition of that person is such that he requires those services as a matter of urgency.** **(6) If, by virtue of subsection (5) of this section, community care services have been provided for any person as a matter of urgency, then, as soon as practicable thereafter, an assessment of his needs**	

	shall be made in accordance with the preceding provisions of this section. **(7) This section is without prejudice to section 3 of the said Act of 1986.** **(8) In this section—** **[12A.— Duty of local authority to assess needs.** **(1) Subject to the provisions of this section, where it appears to a local authority that any person for whom they are under a duty or have a power to provide, or to secure the provision of, community care services may be in need of any such services, the authority—** **(a) shall make an assessment of the needs of that person for those services; and** **[(b) shall then decide, having regard to the results of that assessment, and taking account— [(i) if an adult carer provides, or intends to provide, care for that person, of the care provided by that carer,** **(ia) if a young carer provides, or intends to provide, care for that person, of the care provided by that carer, and] 3** **(ii) in so far as it is reasonable and practicable to do so, [...]4 of the views of the person whose needs are being assessed [...]5 (provided that [...]6 there is a wish, or as the case may be a capacity, to express a view),** **whether the needs of the person being assessed call for the provision of any such services.** **]2** **[(1A) In subsection (1)(b)(i) and (ia), the reference to the care provided by a carer means—** **(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,** **(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.**	

	(1B) In— **(a) assessing the needs of a person for services under subsection (1)(a),** **(b) deciding under subsection (1)(b) whether those needs call for the provision of any services, and** **(c) deciding how any such services are to be provided,** **a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.** **]7** **(2) Before deciding, under subsection (1)(b) of this section, that the needs of any person call for the provision of nursing care, a local authority shall consult a medical practitioner.** **13ZA Provision of services to incapable adults** **(1) Where—** **(a) a local authority have decided under section 12A of this Act that an adult's needs call for the provision of a community care service; and** **(b) it appears to the local authority that the adult is incapable in relation to decisions about the service,** **the local authority may take any steps which they consider would help the adult to benefit from the service.** **(2) Without prejudice to the generality of subsection (1) above, steps that may be taken by the local authority include moving the adult to residential accommodation provided in pursuance of this Part.** **(3) The principles set out in subsection (2) to (4) of section 1 of the 2000 Act apply in relation to any steps taken under subsection (1) above as they apply to interventions in the affairs of an adult under or in pursuance of that Act.** **(4) Subsection (1) does not authorise a local authority to take steps if they are aware that—** **(a) there is a guardian or welfare attorney with powers relating to the proposed steps;**	

	(b) an intervention order has been granted relating to the proposed steps; or **(c) an application has been made (but not yet determined) for an intervention order or guardianship order under Part 6 of the 2000 Act relating to the proposed steps.** **(5) In this section—** **(a) "the 2000 Act" means the Adults with Incapacity (Scotland) Act 2000 (asp 4);** **(b) "adult" has the meaning given in section 1(6) of the 2000 Act;** **(c) "community care service" has the meaning given in section 5A of this Act;** **(d) "incapable" has the meaning given in section 1(6) of the 2000 Act;** **(e) "intervention order" is to be construed in accordance with section 53 of the 2000 Act; (f) the reference to a guardian includes a reference to—** **(i) a guardian appointed under the 2000 Act; and** **(ii) a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during his incapacity, if the guardianship is recognised by the law of Scotland;** **(g) the reference to a welfare attorney includes a reference to—** **(i) a welfare attorney within the meaning of section 16 of the 2000 Act; and** **(ii) a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter's personal welfare and having effect during the granter's incapacity.**	

	29.— Power of local authority to defray [certain travelling expenses] 1 . **[(1) A local authority may make payments to any parent, relative or other person connected with** **-** **(a) a person, other than a child, in the care of the authority or receiving assistance from the authority; or** **(b) a child who is being looked after by the authority, in respect** **of travelling, subsistence or other expenses incurred by the parent, relative or other person in visiting the person [or child] 3 , if it appears to the authority that the parent, relative or other person would not otherwise be able to visit [him] 4 without undue hardship and that the circumstances warrant the making of the payments.** **(1A) In subsection (1), "child" has the meaning given by section 93(2)(a) of the Children (Scotland)** **Act 1995.** **(1B) In subsection (1), the reference to a child who is "looked after" by a local authority is to be** **construed in accordance with section 17(6) of that Act of 1995.] 5** **PART IV** **RESIDENTIAL AND OTHER ESTABLISHMENTS** ***Provision of residential and other establishments*** **59.— Provision of residential and other establishments by local authorities, and maximum period for repayment of sums borrowed for such provision.** **(1) [[Without prejudice to their duties under] 2 [sections 12 and 13A] 3 of this Act; it] 1 shall be the duty of a local authority to provide and maintain such residential and other establishments as**	

	may be required for their functions conferred under or by virtue of this Act, sections 25 and 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) , Part 2 of the Children (Scotland) Act 1995 (c.36)[, the Criminal Procedure (Scotland) Act 1995]7 or the Children's Hearings (Scotland) Act 2011 (asp 1) or arrange for the provision of such establishments. **(2) For the purpose of discharging their duty under the foregoing subsection a local authority may— (a) themselves provide such establishments as aforesaid; or** **(b) join with another local authority in providing those establishments; or** **(c) secure the provision of such establishments by voluntary organisations or other persons including other local authorities.** **(3) The maximum period for the repayment of sums borrowed by a local authority for the purposes of this section shall be such period not exceeding sixty years as may be sanctioned by the Secretary of State; and accordingly in Schedule 6 to the Local Government (Scotland) Act 1947, at the end, there shall be added the following entry, that is to say—** **Section 59 of the Social Work Such period not exceeding sixty years as may be sanctioned by the Secretary (Scotland) Act 1968 of State.** **59A.— Grants in respect of secure accommodation for children.** **(1) The Secretary of State may make to a local authority grants of such amount and subject to such conditions as he may with the consent of the Treasury determine in respect of expenditure incurred by the authority in—** **(a) providing; …** **78.— Duty to make contributions in respect of children in care etc.**	

	(1) Where a child [is being looked after by a local authority] 1 or a [compulsory supervision order] 2 to which this Part of this Act applies has been made in respect of him, contributions in respect of the child (hereinafter in this Part of this Act referred to as the "maintainable child") shall be payable— **(a) while the maintainable child is under sixteen years of age, by [any natural person who has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him] 3 ;** **(b) if he is over sixteen years of age [...]4 , by the maintainable child himself.** **(2) This Part of this Act applies to any [compulsory supervision order which requires the child concerned to reside in a place or places other than his own home.** **(2A) No contributions shall be payable under subsection (1)(a) of this section by a contributor during a period when he is in receipt [of [universal credit under Part 1 of the Welfare Reform Act2012,]9 income support an income based job seeker's allowance (payable under the Job seekers Act 1995), an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)] 11 or family credit.** **(a) ... (b) …** **(3) In this Part of this Act "contributor" means a person liable to make contributions by virtue of subsection (1) of this section in respect of a maintainable child.** **86.— Adjustments between authority providing accommodation etc., and authority of area of residence.**	

	(1) Any expenditure which apart from this [subsection]1 would fall to be borne by a local authority— **(a) in the provision under this Act [, or under section 25 of the Children (Scotland) Act 1995,] 2 of accommodation for a person ordinarily resident in the area of another local authority, or** **(b) in the provision under Part II of this Act [, or under or by virtue of Part II of the said Act of 1995 [or under or by virtue of the Children's Hearings (Scotland) Act 2011] 4 , of services and facilities for a person ordinarily so resident (including, in the case of a child, any expenses incurred after he has ceased to be a child, and, in the event of another local authority taking over, under section 25(4) of [the Act of 1995]5 , the provision of accommodation for him,] 3 including also any travelling or other expenses incurred in connection with the taking over), or** **[(ba) inmakinga[directpaymentundertheSocialCare(Self-directedSupport)(Scotland) Act 2013 for the purpose of arranging for the provision of support within the meaning of section 5 or 8 of that Act] 6 for a person ordinarily so resident; or] 1** **(c) for the conveyance of a person ordinarily resident as aforesaid, or** **(d) in administering a [compulsory supervision order or interim compulsory supervision order] 7 in respect of a person ordinarily resident as aforesaid, [or] 8** **(e) …** **shall be recoverable from the other local authority, and in this subsection any reference to another local authority includes a reference to a local authority in England or Wales [and to a Health and Social Care trust in Northern Ireland] 10 .** **(2) Any question arising under this section as to the ordinary residence of a person shall [, in a case where there is a dispute about the application of any of paragraphs 1 to 4 of Schedule 1 to the Care Act 2014 (cross-border placements), be determined in accordance with paragraph 5 of that Schedule; and in any other case, the**	

	question shall] 11 be determined by the Secretary of State, and the Secretary of State may determine that a person has no ordinary residence. **(3) In determining for the purposes of subsection (1) of this section the ordinary residence of any person or child, [any period during which he is provided with accommodation under this Act or under sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13),] 1 any period during which he was a patient in a [health service hospital (within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 (c.29))] 1 [or in a hospital managed by a National Health Service trust established under [the National Health Service Act 2006, the National Health Service (Wales) Act 2006] 13 or section 12A of the National Health Service (Scotland) Act 1978] 12 or, in the case of a child, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a [compulsory supervision order or interim compulsory supervision order] 14 , supervision order [, community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995] 15 [, youth rehabilitation order] 16 or probation order or the conditions of a recognizance, or while boarded out under this Act or under [...]17 the Children and Young Persons (Scotland) Act 1937 by a local authority or education authority [or placed with local authority foster parents under the Children Act 1989] 18 [or provided with accommodation under paragraph (a) of, or by virtue of paragraph (c) of, section 26(1) of the Children (Scotland) Act 1995] 19 shall be disregarded.** **(4) This subsection applies where a local authority ("the responsible authority") performs a function under—** **(a) this Act;** **(b) Part II of the Children (Scotland) Act 1995 (c.36) ; [...]20** **(c) section 25 to 27 of the Mental Health (Care and Treatment)**	

	(Scotland) Act 2003 (asp 13)[; or]21 **(d) the Children's Hearings (Scotland) Act 2011,] 21** **by making arrangements with a person ("the provider") in terms of which the provider undertakes to accommodate, or to secure accommodation for, another person.** **(5) Where subsection (4) applies—** **(a) any expenditure incurred under the arrangements by a provider which is a local authority is recoverable from the responsible authority; and** **(b) any period during which the person is accommodated under the arrangements is to be disregarded in determining the person's ordinary residence for the purposes of subsection (1) of this section.** **(6) The Scottish Ministers may make regulations specifying circumstances in which a local authority ("the providing authority") may recover from another local authority ("the other authority") expenditure which the providing authority incurs in the provision of services or facilities under** **arrangements made with the other authority for the purpose of enabling that other authority to perform a function under—** **(a) this Act;** **(b) Part II of the Children (Scotland) Act 1995 (c.36) ; [...]22** **(c) section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)[; or]23** **(d) the Children's Hearings (Scotland) Act 2011.] 23** **(7) The Scottish Ministers may make regulations specifying circumstances which must be taken into account, or disregarded, when determining a person's ordinary residence for the purposes of subsection (1) of this section (and such regulations may modify subsection (2), (3) and (5)(b) of this section).**	

	(8) Regulations made under subsection (6) or (7) of this section may— **(a) make different provision for different cases and for different persons;** **(b) include such supplementary, incidental, consequential and transitional provisions and savings as the Scottish Ministers think fit.** **(9) Despite section 90(2) of this Act, no statutory instrument containing regulations made under subsection (7) of this section which includes provisions which modify this section may be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.** **(10) References in subsections (4) to (6) of this section to a local authority which is providing accommodation, service or facilities include references to a local authority in England or Wales [and to a Health and Social Care trust in Northern Ireland] 10 .] 1** **(10A) A person who, as a result of Schedule 1 to the Care Act 2014 (crossborder placements), is treated as ordinarily resident in an area in England, Wales or Northern Ireland (as the case may be) is to be treated as ordinarily resident in that area for the purposes of this section.** **(10B) A person who, as a result of that Schedule, is not treated as ordinarily resident anywhere in England or Wales (as the case may be) is not to be treated as ordinarily resident there for the purposes of this section.** **(11) In this section—** **"compulsory supervision order" has the meaning given by section 83 of the Children's** **Hearings (Scotland) Act 2011; and**	

	"interim compulsory supervision order" has the meaning given by section 86 of that Act. **SCHEDULE 3 CHILDREN'S PANELS** ***Appointment*** **Section 33** **..**	
Age of Majority (Scotland) Act 1969 An Act to reduce the age of majority to 18 years of age.	Section 1.— Reduction of Age of Majority to 18. (1) As from the date on which this Act comes into force a person shall attain majority on attaining the age of eighteen instead of on attaining the age of twenty-one; and a person shall attain majority on that date if he has then already attained the age of eighteen but not the age of twenty-one. (2) The foregoing subsection applies for the purposes of any rule of law, and, in the absence of a definition or of any indication of a contrary intention, for the construction of "major", "majority", "full age", "perfect age", "complete age", "lawful age", "minor", "minority", "under age", "less age" and similar expressions in— (a) any statutory provision, whether passed or made before, on or after the date on which this Act comes into force; and (b) any deed executed on or after that date other than a deed made in the exercise of a special power of appointment where the deed creating the power was executed before that date. (3) In the statutory provisions specified in Schedule 1 to this Act, for any reference to the age of twenty-one years or twenty-five years there shall be substituted a reference to the age of eighteen years. …	reducing the age of majority to 18 years of age.

Local Government (Scotland) Act 1973	centralised social work and education policy in 9 regional councils, whereas housing and recreation policy was placed with 53 smaller district councils.	Constitution of committees; appointment of staff; finance ; legal proceedings
Children Act 1975	Deals with custodianship orders	
Adoption (Scotland) Act 1978 [Part IV] substantive piece of legislation affecting a child's status was the Adoption (Scotland) Act 1978 bringing into force the adoption of children. Much of that Act has since been repealed and superseded, but it still contains relevant provisions setting out the meaning of *adoption order*, and the status such orders confer on an adopted child; together also with rules regarding a child's entitlement to pension; insurance; and rights of succession.	PART IV STATUS OF ADOPTED CHILDREN Still in force partial: 38.— Meaning of "adoption order" 39.— Status conferred by adoption. 39.— Status conferred by parental order 42. Pensions. Section 39(1) does not affect entitlement to a pension which is payable to or for the benefit of a child and is in payment at the time of his adoption. 43. Insurance. Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial insurance company for the payment on the death of the child of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption be transferred to the adoptive parents	Only part IV still in force

	who shall for the purposes of the enactments relating to such societies and companies be treated as the person who took out the policy. 44. Effect of s. 39 on succession and inter vivos deed. Section 39 (status conferred by adoption) does not affect the existing law relating to adopted persons in respect of— (a) the succession to a deceased person (whether testate or intestate), and (b) the disposal of property by virtue of any inter vivos deed.	
Education (Scotland) Act 1980 Sets out obligations on education authorities to secure adequate and efficient provision of education to children of school age. There are provisions setting out what duties they have towards pre-school and further education provision. Section 31 defines school age as between 5 and 16 years.	Includes provision of education by education authorities, rights and duties of parents and functions of educational authorities in relation to individual pupils, PROVISION OF EDUCATION BY EDUCATION AUTHORITIES *School education and further education* 1.— Duty of education authorities to secure provision of education. (1) Subject to [subsections [(1A)] 2 and (2A)] 1 below, it shall be the duty of every education authority to secure that there is made for their area adequate and efficient provision of school education and further education. (1A) The duty imposed on education authorities by subsection (1) above shall, in relation to children who are under school age, be exercisable only to the extent required by section 47(1) of the Children and Young People (Scotland) Act 2014] 4 . (1B) [...]5	This is an act which imposes duties on education authorities to provide education School age. Is defined as between five years and has not attained the age of sixteen years.

	(1C) An education authority shall have power in relation to pre-school children to secure for their area the provision of such school education, other than that which they are required by subsection (1) above to secure, as they think fit.] 3 (2) [...]6 (2A) The duty imposed on an education authority by subsection (1) above shall not include the provision of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, but an education authority shall have power to provide such further education for their area. (2B) An education authority must, at least once every two years— (a) consult such persons as appear to be representative of parents of pre-school children within their area about whether and if so how they should provide school education for such children under subsection (1C) above; and (b) after having had regard to the views expressed, prepare and publish their plans in relation to the provision of such education for such children under that subsection. (2C) The Scottish Ministers may by order modify subsection (2B) above so as to vary the regularity within which an education authority must consult and plan in pursuance of that subsection. (2D) An order made under subsection (2C) above is subject to the negative procedure.] 8 (3) Every education authority (a) [Shall] 9 have power to secure for their area, and (b) [...]10 be under a duty to secure for pupils in attendance at schools in their area,	

	the provision of adequate facilities for social, cultural and recreative activities and for physical education and training. (4) The facilities for further education that may be provided by an education authority shall include facilities for vocational and industrial training. (4A) [...]5 (4B) In this section “pre-school children” means– (a) children who are under school age and have not commenced attendance at a primary school (other than a nursery class in such a school); and (b) children who have attained school age but have not commenced attendance at such a school. (5) In this Act— (a) “school education” means progressive education appropriate to the requirements of pupils, regardbeinghadtotheage,abilityandaptitudeofsuchpupils,andincludes— (i) early learning and childcare; (ii) (iii) the teaching of Gaelic in Gaelic-speaking areas; (b) further education includes— (i) (ii) voluntary part-time and full-time courses of instruction for persons over school age; (iii) social, cultural and recreative activities and physical education and training, either as [voluntary organised activities designed to promote the educational development of persons taking part therein or as part of a course of instruction;	

	31. School age. Subject to sections 32(3) and 33(2) and (4) of this Act, a person is of school age if he has attained the age of five years and has not attained the age of sixteen years.	
Foster Children (Scotland) Act 1984 The Act defines a foster child and sets out the responsibilities local authorities have towards the inspection of foster placements and duties towards foster children. This Act remains in force, interestingly Section 2 states that *"a child is not a foster child while he is being looked after by a local authority".* It is unclear what, in practical terms, that exception means given that it is a local authority who will arrange for the registration and inspection of foster carers; and who places a looked after children in foster placements.	An act to regulate foster care 1. Foster children. Subject to section 2 , a child is a foster child for the purposes of this Act if [...]1 (a) [he is] 1 below the upper limit of the compulsory school age, and (b) his care is undertaken [...]2 by a person who is not a relative or guardian of his. 2.— Exceptions to section 1. (1) A child is not a foster child while he is [being looked after by a local authority] or is boarded out by an education authority. (2) A child is not a foster child while he is in the care of any person— (a) in premises in which any parent, adult relative or guardian of his is for the time being residing; (b) in any residential establishment; (c) in any school within the meaning of the Education (Scotland) Act 1980; (d) in any hospital or in any [accommodation provided by a care home service registered under [Part 5 of the Public Services Reform (Scotland) Act 2010] 3] 2 ; (e) in any home or institution not specified in this section but maintained by a public or local authority; or [(f) if he has been in that person's care for a period of less than 28	strange act in as much a child is not a foster child when the child is LAAC? A foster child is a child below 16 Defines a foster carer - Importantly confirms a foster carer is not a looked after child Duties on a LA in section 3 to ensure well being and to visit foster children It is difficult to understand which children will be foster children, where they are not LACC children Appears to cover a private carer situation, there are notification provisions to LAs It includes powers on LAs to inspect premises section 8

	days and that person does not intend to undertake his care for any longer period.] 4 (3) A child is not a foster child while he is in the care of any person in compliance with a supervision order within the meaning of the Children and Young Persons Act 1969 or a supervision requirement [...]5 or a [community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46)] 6 . (4) A child is not a foster child while he is liable to be detained [under the Mental Health (Care and Treatment) (Scotland) Act 2003] 7 . (5) A child is not a foster child— (a) while he is placed in the care [...]8 of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of section 1 of the Adoption Act 1976 or [section 119(1) of the Adoption and Children (Scotland) Act 2007 (asp 4)] 9 [...]5 (b) [...]5 [(6) The reference in subsection (1) above to a child being looked after by a local authority shall be construed as if it were a reference to which section 17(6) of the Children (Scotland) Act 1995 applies.] 10 3.— Local authorities to ensure well-being of and to visit foster children. (1) It shall be the duty of every local authority to secure the welfare of children within their area who are foster children. (2) Every local authority shall cause such children to be visited by officers of the authority in accordance with regulations made under subsection (3), who shall give such advice as to the care and maintenance of the children as may appear to be necessary. (3) The Secretary of State may make regulations requiring foster children in a local authority's area to be visited by an officer of the local authority on specified occasions or within specified periods of time. (4) Subsections (1) and (2) are without prejudice to the provisions of [Part II of the Children (Scotland) Act 1995] 1 .	Section 9 LA may impose requirements on a foster carer in relation to caring for children Section 10 LA can prohibit the keeping of foster children

Child Abduction and Custody Act 1985	International child production provisions	
Law Reform (Parent and Child) (Scotland) Act 1986	Includes the abolition of illegitimacy; presumptions as to parentage; determination by blood sample; actions for declarator	
Children Act 1989	An Act to reform the law relating to children; to provide for local authority services for children in need and others; to amend the law with respect to children's homes, community homes, voluntary homes and voluntary organisations; to make provision with respect to fostering, child minding and day care for young children and adoption; and for connected purposes. The Act includes provisions on Welfare of the child Parental responsibility for the child Appointment of guardians Welfare reporters Part II deals it order for children in family proceedings Part III support for children and families provided in local authorities in England It includes provisions of service for children and families provision of accommodation	Principal English come provisions have Scottish application Section 47 is their child protection provision Statutory guidance on child protection Working Together to Safeguard Children 2023 A guide to multi-agency working to help, protect and promote the welfare of children This document should be complied with unless exceptional circumstances arise. The guidance is issued under: • section 7 of the Local Authority Social Services Act 1970, which requires local authorities in their social services functions to act

	Duties of local authorities in relation to looked after children Advice and assistance for certain children Secure accommodati0n Part IV Care and supervision Includes care orders Care plans Supervisions orders Powers of the court Representation of children Part V Protection of children Child assessment orders Orders for emergency protection children e Section 47 - local authorities duty to investigate Community Homes, Voluntary Homes and Registered Children's Homes, Private arrangements end Fostering Secretary of states supervisory functions and responsibilities (11) The following provisions of this Act extend to Scotland— • [...]1 • section 25(8); • section 50(13); • [...]1 • section 88; • section 104 (so far as necessary); • section 105 (so far as necessary); • subsections (1) to (3), (8) and (9) and this subsection;	under the general guidance of the Secretary of State • section 10(8) of the Children Act 2004, which requires each person or organisation to which the section 10 duty applies to have regard to any guidance given to them by the Secretary of State • section 11(4) of the Children Act 2004 which requires each person or organisation to which the section 11 duty applies to have regard to any guidance given to them by the Secretary of State • section 16B(7) of the Children Act 2004, as amended by the Children and Social Work Act 2017, which states that the Child Safeguarding Practice Review Panel must have regard to any guidance given by the Secretary of State in connection with its functions • section 16C(2) of the Children Act 2004, as amended by the Children and Social Work Act 2017, which states that local authorities must have regard to any guidance given by the Secretary of State in connection with their functions relating to notifications • section 16K of the Children Act 2004, as amended by the Children and Social Work Act 2017, which

	• in Schedule 2, paragraph 24; • in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44; • in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71; • in Schedule 14, paragraphs 1, 33 and 34; • in Schedule 15, the entries relating to— ○ (a) the Custody of Children Act 1891; ○ (b) the Nurseries and Child Minders Regulation Act 1948; ○ (c) section 53(3) of the Children and Young Persons Act 1963; ○ (d) section 60 of the Health Services and Public Health Act 1968; ○ (e) the Social Work (Scotland) Act 1968; ○ (f) the Adoption (Scotland) Act 1978; ○ (g) the Child Care Act 1980; ○ (h) the Foster Children (Scotland) Act 1984; ○ (i) the Child Abduction and Custody Act 1985; and ○ (j) the Family Law Act 1986. Section 47 is in the following terms 47.— Local authority's duty to investigate. (1) Where a local authority— (a) are informed that a child who lives, or is found, in their area— (i) is the subject of an emergency protection order; or (ii) is in police protection; or(iii) [...]1 (b) have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm, the authority shall make, or cause to be made, such enquiries as they	states that safeguarding partners and relevant agencies for a local authority area in England must have regard to any guidance given by the Secretary of State in connection with their functions under sections 16E to 16J of the Act 9 • section 16Q of the Children Act 2004, as amended by the Children and Social Work Act 2017, which states that the child death review partners for a local authority area in England must have regard to any guidance given by the Secretary of State in connection with their functions under sections 16M to 16P of the Act • section 175(4) of the Education Act 2002, which states that governing bodies of maintained schools (including maintained nursery schools), further education institutions and management committees of pupil referral units must have regard to any guidance given by the Secretary of State • paragraph 7(b) of the Schedule to the Education (Independent School Standards) Regulations 2014, made under sections 94(1) and (2) of the Education and Skills

	consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare. [...]2 (2) Where a local authority have obtained an emergency protection order with respect to a child, they shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide what action they should take to safeguard or promote the child's welfare. (3) The enquiries shall, in particular, be directed towards establishing— [(a) whether the authority should— (i) make any application to court under this Act; (ii) exercise any of their other powers under this Act; (iii) exercise any of their powers under section 11 of the Crime and Disorder Act 1998 (child safety orders); or (iv) (where the authority is a local authority in Wales) exercise any of their powers under the Social Services and Well-being (Wales) Act 2014; with respect to the child; (b) whether, in the case of a child— (i) with respect to whom an emergency protection order has been made; and (ii) who is not in accommodation provided by or on behalf of the authority, it would be in the child's best interests (while an emergency protection order remains in force) for him to be in such accommodation; and (c) whether, in the case of a child who has been taken into police protection, it would be in the child's best interests for the authority to ask for an application to be made under section 46(7). (4) Where enquiries are being made under subsection (1) with respect to a child, the local authority concerned shall (with a view to enabling	Act 2008, which states that the arrangements to safeguard or promote the welfare of pupils made by the proprietors of independent schools (including academies or free schools) or alternative provision academies must have regard to any guidance given by the Secretary of State • paragraph 3 of the Schedule to the Non-Maintained Special Schools (England) Regulations 2015, made under section 342 of the Education Act 1996, which requires arrangements for safeguarding and promoting the health, safety, and welfare of pupils in non-maintained special schools to have regard to any guidance published on such issues

	them to determine what action, if any, to take with respect to him) take such steps as are reasonably practicable— (a) to obtain access to him; or (b) to ensure that access to him is obtained, on their behalf, by a person authorised by them for the purpose, unless they are satisfied that they already have sufficient information with respect to him. (5) Where, as a result of any such enquiries, it appears to the authority that there are matters connected with the child's education which should be investigated, they shall consult [the local authority (as defined in section 579(1) of the Education 1996), if different, specified in subsection (5ZA)] 4 . (5ZA) The local authority referred to in subsection (5) is— (a) the local authority who — (i) maintain any school at which the child is a pupil, or (i) make arrangements for the provision of education for the child otherwise than at school pursuant to [section 19 or 19A of the Education Act 1996] 5 , or (b) in a case where the child is a pupil at a school which is not maintained by a local authority, the local authority in whose area the school is situated. (5A) For the purposes of making a determination under this section as to the action to be taken with respect to a child, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare– (a) ascertain the child's wishes and feelings regarding the action to be taken with respect to him; and (b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.	

	(6) Where, in the course of enquiries made under this section— (a) any officer of the local authority concerned; or (b) any person authorised by the authority to act on their behalf in connection with those enquiries— (i) is refused access to the child concerned; or (ii) is denied information as to his whereabouts, the authority shall apply for an emergency protection order, a child assessment order, a care order or a supervision order with respect to the child unless they are satisfied that his welfare can be satisfactorily safeguarded without their doing so. (7) If, on the conclusion of any enquiries or review made under this section, the authority decide not to apply for an emergency protection order, a child assessment order, a care order or a supervision order they shall— (a) consider whether it would be appropriate to review the case at a later date; and (b) if they decide that it would be, determine the date on which that review is to begin. (8) Where, as a result of complying with this section, a local authority conclude that they should take action to safeguard or promote the child's welfare they shall take that action (so far as it is both within their power and reasonably practicable for them to do so). (9) Where a local authority are conducting enquiries under this section, it shall be the duty of any person mentioned in subsection (11) to assist them with those enquiries (in particular by providing relevant information and advice) if called upon by the authority to do so.	

	(10) Subsection (9) does not oblige any person to assist a local authority where doing so would be unreasonable in all the circumstances of the case. (11) The persons are— (a) any local authority; (b) [...]7 (c) any local housing authority; (ca) [NHS England]9 ;]8 (d) any [integrated care board,] 10 [[Local Health Board] 12] 11 [...]13 [, National Health Service trust or NHS foundation trust] 14 ; and (e) any person authorised by the Secretary of State for the purposes of this section. (12) Where a local authority are making enquiries under this section with respect to a child who appears to them to be ordinarily resident within the area of another authority, they shall consult that other authority, who may undertake the necessary enquiries in their place.	
United Nations Convention on the Rights of the Child (UNCRC) 1989		
National Health Service and Community Care Act 1990	Set up NHS Trusts in Scotland Community Care services in Scotland Sections 52 made charges to SWSA 1968 5A, 12A Introduced local authority plans for community care services “community care services” means services, other than services for children, which a local authority are under a duty or have a power to	

	provide, or to secure the provision of, under Part II of this Act or section 7 (functions of local authorities), 8 (provision of after-care services) or 11 (training and occupation of the mentally handicapped) of the Mental Health (Scotland) Act 1984; and "private carer" means a person who is not employed to provide the care in question by any body in the exercise of its functions under any enactment.	
Access to Health Records Act 1990	Arguably not relevant as relevant provisions repealed by the DPA 1998	
Age of Legal Capacity (Scotland) Act 1991 In 1991 the Age of Capacity (Scotland) Act 1991 came into force making provision as to the legal capacity of persons under the age of 18 years to enter into transactions. Relevant provisions include the general provision in subsection 1 (a) a person under the age of 16 years shall subject to subsection 2 have no legal capacity to enter into any transaction and the person over the age of 16 shall have legal capacity. Section 2 sets out exceptions to the general rule which include that a person over 12 has testamentary capacity; has legal capacity to consent to the	An Act to make provision in the law of Scotland as to the legal capacity of persons under the age of 18 years to enter into transactions, as to the setting aside and ratification by the court of transactions entered into by such persons and as to guardians of persons under the age of 16 years; to make provision in the law of Scotland relating to the time and date at which a person shall be taken to attain a particular age; and for connected purposes. 1.— Age of legal capacity. (1) As from the commencement of this Act— (a) a person under the age of 16 years shall, subject to section 2 below, have no legal capacity to enter into any transaction; (b) a person of or over the age of 16 years shall have legal capacity to enter into any transaction. … 2.— Exceptions to general rule. (1) A person under the age of 16 years shall have legal capacity to enter into a transaction— (a) of a kind commonly entered into by	Sets out the age of legal capacity for children General rule that a person 16 and over legal capacity Some exceptions for persons 12 and over Consider the new changes coming in with the CSA 2020 Act regarding the seeking of views of children

making of an adoption order; a person under 16 has capacity to consent to his or her own surgical medical or dental procedure if that person is capable of understanding the nature and consequences; the ability to consent to the storage of gametes; and to instruct a solicitor.	persons of his age and circumstances, and (b) on terms which are not unreasonable. (2) A person of or over the age of 12 years shall have testamentary capacity, including legal capacity to exercise by testamentary writing any power of appointment. (3) A person of or over the age of 12 years shall have legal capacity to consent to the making of an adoption order in relation to him [...]1 (a) [...]1 (b) for section 18(8) (freeing child for adoption) of that Act there shall be substituted the following subsection— "(8) An order under this section shall not be made in relation to a child of or over the age of 12 years unless with the child's consent; except that where the court is satisfied that the child is incapable of giving his consent to the making of the order, it may dispense with that consent." (4) A person under the age of 16 years shall have legal capacity to consent on his own behalf to any surgical, medical or dental procedure or treatment where, in the opinion of a qualified medical practitioner attending him, he is capable of understanding the nature and possible consequences of the procedure or treatment. (4ZA) For the purposes of subsection (4), the storage of gametes in accordance with the Human Fertilisation and Embryology Act 1990 is to be treated as a medical procedure. (4ZB) A person under the age of 16 years shall have legal capacity to consent to the use of the person's human cells in accordance with Schedule 3 to the Human Fertilisation and Embryology Act 1990 for the purposes of a project of research where the person is capable of	

	understanding the nature of the research; and in this subsection "human cells" has the same meaning as in that Schedule.] 2 (4A) A person under the age of sixteen years shall have legal capacity to instruct a solicitor, in connection with any civil matter, where that person has a general understanding of what it means to do so; and without prejudice to the generality of this subsection a person twelve years of age or more shall be presumed to be of sufficient age and maturity to have such understanding. (4B) A person who by virtue of subsection (4A) above has legal capacity to instruct a solicitor shall also have legal capacity to sue, or to defend, in any civil proceedings. (4C) Subsections (4A) and (4B) above are without prejudice to any question of legal capacity arising in connection with any criminal matter.] 3 (5) Any transaction— (a) which a person under the age of 16 years purports to enter into after the commencement of this Act, and (b) in relation to which that person does not have legal capacity by virtue of this section, shall be void.	
Local Government etc. (Scotland) Act 1994 1994 saw further local authority reorganisation in the Local Government (Scotland) Act 1994,	LA reorganisation Also established of the Scottish Children's Reporter Administration (SCRA) by - those sections are now repealed	

which Act established the Scottish Children's Reporter Administration, although those provisions have now been repealed.		
Hague Convention 1993	The Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (HCCH 1993 Adoption Convention) protects children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad.	
Children (Scotland) Act 1995 **This piece of legislation covers both private and public law issues. It regulates in private law, the rights of parents and other relevant third parties in relation to the rights and responsibilities for children.** **In Part 1 Sections 1 and 2 define parental rights and parental responsibilities in detail. Part 1 of the Act, requires the views of children to be sought when decisions are made for children.** **Section 11 is an important provision setting out what court orders can be sought to regulate parental rights and responsibilities over children.**	**Original intention was an Act to reform the law of Scotland relating to children, to the adoption of children and to young persons who as children have been looked after by a local authority; to make new provision as respects the relationship between parent and child and guardian and child in the law of Scotland; to make provision as respects residential establishments for children and certain other residential establishments; and for connected purposes.** **Part I** **PARENTS, CHILDREN AND GUARDIANS** ***Parental responsibilities and parental rights*** ***1.— Parental responsibilities*** **2.— Parental rights.** **3.— Provisions relating both to parental responsibilities and to parental rights.** **…** **5.— Care or control of child by person without parental responsibilities or parental rights.** **6.— Views of children.**	At present the terms of the statute detailing the taking of views is not the same in all acts 4 volumes of Regulations and Guidance published for the 1995 Act Vol 1: support and protection for children and their families Inc. Promoting the welfare of children and families Planning children's services Providing information about services Providing accommodation Day care services Children and disability Protecting children Short term refugees

Section 15 provides that a child for the purposes of Part 1 is a person under the age of 18 years. **It is relevant to that almost all parental rights responsibilities cease to exist for a child at the age of 16, except for the parental responsibility to provide guidance to a child, which subsists until the child is 18 years of age. All other parental responsibilities and parental rights exist until the child is 16.**[1] **In relation to the legislative framework surrounding the care system, Part 2 of the 1995 Act remains an important piece of legislation.** **Part 2 deals with the promotion of children's welfare by local authorities. Important provisions include : Section 16 making provision for the welfare of a child, the principle of minimum intervention and the requirement to consider child's views. Section 17 deals with the duty of the local authority to children looked after by them. Section 17A stipulates that**	**11.— Court orders relating to parental responsibilities etc.** **…** **15.— Interpretation of Part I.** ***Interpretation*** **(1) In this Part of this Act— "child" means, where the expression is not otherwise defined, a person under the age of eighteen years;** **PART II** **PROMOTION OF CHILDREN'S WELFARE BY LOCAL AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.** **CHAPTER 1** **SUPPORT FOR CHILDREN AND THEIR FAMILIES** **16.— Welfare of child and consideration of his views.** **17.— Duty of local authority to child looked after by them.** **[17A Detained children to be treated as looked after children** **…** **22.— Promotion of welfare of children in need.** **23.— Children affected by disability.** **23A Sections 17, 22 and 26A: consideration of wellbeing** **25.— Provision of accommodation for children, etc.** **26.— Manner of provision of accommodation to child looked after by local authority.** **26A Provision of continuing care: looked after children** **(1) This section applies where an eligible person ceases to be looked after by a local authority.**	Vol 2 : covered children looked after by local authorities, Inc. LA's duties to LACC children Home supervision Fostering service Residential care Residential schools Secure accommodation Throughcare and aftercare Vol 3: covered adoption and parental responsibility orders To a large extent this guidance has been superseded - but it s still useful and further it is also referred to when still considering application of the existing section even though they have changed Guidance needed to be updated in line with changed legislation

[1] The recent case of SAC held that a PO could not be granted for a child who was over the age of 16 years, even if the child is under the age of 18 years.

detained children shall be treated as looked after children. Section 22 deals with the promotion of welfare of children in need. Section 23A sets out that in sections 17, 22 and 26A there is now a requirement to consider well-being. Section 25 deals with the provision of accommodation for children and section 26 sets out the manner of provision of accommodation to a child looked after by the local authority. Section 26A brings in important new provisions dealing with *continuing care* for looked after children as they progress towards adulthood. Section 29 similarly deals with aftercare. Section 30 makes provision for financial assistance towards expenses of education or training. With section 31 dealing with review of the cases of children looked after by the local authority. Section 33 deals with the effect of orders made in different parts of the UK. **Provisions dealing with the children needing compulsory measures of case and the children's hearing system were updated and brought into force in the 1995 Act. Those provisions have been subsequently**	**(2) An "eligible person" is a person who—** **(a) is at least sixteen years of age, and** **(b) is not yet such higher age as may be specified.** **(3) Subject to subsection (5) below, the local authority must provide the person with continuing care.** **(4) "Continuing care" means the same accommodation and other assistance as was being provided for the person by the authority, in pursuance of this Chapter of this Part, immediately before the person ceased to be looked after.** **…** **27.— Day care for pre-school and other children.** **…** **29.— After-care.** **30.— Financial assistance towards expenses of education or training and removal of power to guarantee indentures etc.** **31.— Review of case of child looked after by local authority.** **32.— Removal of child from residential establishment.** **33.— Effect of orders etc. made in different parts of the United Kingdom.** **33A Regulation of cross-border placements** **35. Welfare of children in accommodation provided for purposes of school attendance.** **After section 125 of the Education (Scotland) Act 1980 there shall be inserted— "Children and young persons in accommodation** **125A. Welfare of children and young persons in accommodation provided for purposes of school attendance. Where, for the purposes of his b** **…**	

repealed and enacted in the Children's Hearing (Scotland) Act 2011. However, there does remain a couple of relevant provisions in the 1995 Act, namely section 44 which prohibits the publication of proceedings at children's hearings; section 75 which gives powers to the Secretary of State to deal with secure accommodation; and sections 76 and subsequent sections which deal with exclusion orders. **Section 93 contain the interpretation provisions.[2]**	**44.— Prohibition of publication of proceedings at children's hearing.** **75.— Powers of Secretary of State with respect to secure accommodation.** **76.— Exclusion orders.** **Section 93 includes** **"school age" shall be construed in accordance with section 31 of the Education (Scotland) Act 1980;** **(2) For the purposes of— (a)Chapter1 and this Chapter (except this section) of this Part [and section 44 ,"child" means a person under the age of eighteen years; and** **(b) [Chapter 2 (except section 44) and Chapter 3] 9 [...]10 of this Part—** **"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;** **]11** **(a)-(c) [...]2** **(3) Where, in the course of any proceedings under Chapter 2 or 3 of this Part, a child ceases to be a child within the meaning of subsection (2) above, the provisions of those Chapters of this Part and of any statutory instrument made under those provisions shall continue to apply to him as if he had not so ceased to be a child.**	

[2] Guidance was also introduced to accompany this piece of legislation, in the form of 4 separate volumes of guidance.

	(4) Any reference in this Part of this Act to a child— **(a) being "in need", is to his being in need of care and attention because—** **(i) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development unless there are provided for him, under or by virtue of this Part, services by a local authority;** **(ii) his health or development is likely significantly to be impaired, or further impaired, unless such services are so provided;** **(iii) he is disabled; or** **(iv) he is affected adversely by the disability of any other person in his family; (b) who is "looked after" by a local authority, shall be construed in accordance with section 17(6) of this Act.** **The Children (Scotland) Act 1995 constitutes the primary piece of legislation in respect of the care and welfare of children and young people in Scotland. Part 1 defines parental responsibilities and parental rights, and sets out provisions for the rights of children in a range of circumstances (such as in parental divorce, or where a guardian is appointed). Part 2 is focused on the promotion of children's welfare and wellbeing by local authorities and Children's Hearings. Local authorities' duties towards looked after children are set out in section 17.** **These include** **Section 22 of the 1995 Act places local authorities under a duty to safeguard and promote the welfare of children in their area who are in need ('children in need'), through the provision of a range of services appropriate to meet the needs of those children. And, "so far as is consistent with that duty" to safeguard and promote the**	

	welfare of children, the local authority must seek to secure the upbringing of such children by their families. **Section 25 sets out the conditions under which a local authority must provide accommodation for a child residing, or found, within their area. These conditions include the child being lost or abandoned, or where the person caring for a child is being prevented from doing so (e.g. due to sickness or incarceration). This section also gives local authorities the power to provide accommodation to any child in their area if they consider that to do so would safeguard or promote the child's welfare.** **Section 29 describes the duties of local authorities towards young people who cease to be looked after and are eligible for aftercare services (i.e. 'care leavers'). These duties consist of providing advice, guidance and assistance, which may include, in some specific circumstances, financial assistance where UK welfare benefits are not available, or to cover expenses related to education or training.**	
Criminal Procedure (Scotland) Act 1995 A consolidating act. Included in that is that the Scottish Government are responsible for children under the age of 16 and young people aged 16 to 18 on compulsory supervision orders who are sentenced under solemn procedures and placed in secure care (see sections 205 and 208).	Scottish Ministers are responsible for children under the age of 16, and young people aged 16-18 on Compulsory Supervision Orders who are sentenced under solemn procedures and placed in secure care. The Criminal Procedure (Scotland) Act 1995 (sections 205 and 208) gives more information. Also now contained provisions where person convicted of murder is under 21 205.— Punishment for murder	

Section 205 deals with punishment for murder. Section 207 deals with detention of young offenders, persons between 18 to 21. Section 208 deals with detention of children convicted on indictment. That section provides that a child may be detained in such place and on such condition as the Secretary of State directs. New provisions have been brought which deal with detention of children under sections 205 and 208, they confirm that the Scottish Ministers may not direct under section 205 orders or as the case may be section 208, that a child would be detained in a prison or young offenders institution. The Scottish ministers may direct that a child be detained in secure accommodation..	(1) Subject to subsections (2) and (3) [and section 205D] 1 below, a person convicted of murder shall be sentenced to imprisonment for life. (2) Where a person convicted of murder is a child he shall not be sentenced to imprisonment for life but to be detained without limit of time and shall be liable to be detained in such place [(in any part of the United Kingdom)] 3 , and under such conditions, as the Secretary of State may [, subject to section 208A,] 4 direct. (3) Where a person convicted of murder has attained the age of 18 years but is under the age of 21 years he shall not be sentenced to imprisonment for life but to be detained in a young offenders institution and shall be liable to be detained for life. 207.— Detention of young offenders. (1) It shall not be competent to impose imprisonment on a person under 21 years of age. (2) Subject to [sections 205(2) and (3), 205ZA(6), 205ZC(4) and 205B(2)(b)] 1 of this Act and to subsections (3) and (4) below, a court may impose detention (whether by way of sentence or otherwise) on a person, who is not less than [18] 2 but under 21 years of age, where but for subsection (1) above the court would have power to impose a period of imprisonment; and a period of detention imposed under this section on any person shall not [be less than the minimum nor more than] 3 the maximum period of imprisonment which might otherwise have been imposed. (3) The court shall not under subsection (2) above impose detention on an offender unless it is of the opinion that no	

	other method of dealing with him is appropriate; and the court shall state its reasons for that opinion, and, except in the case of the High Court, those reasons shall be entered in the record of proceedings. (3A) Subsections (2) and (3) above are subject to– (a) section 51A(2) of the Firearms Act 1968 (minimum sentences for certain firearms offences); and (b) section 29(8) of the Violent Crime Reduction Act 2006 (minimum sentence of detention for certain offences relating to dangerous weapons). (4) To enable the court to form an opinion under subsection (3) above, it shall obtain from an officer of a local authority or otherwise such information as it can about the offender's circumstances; and it shall also take into account any information before it concerning the offender's character and physical and mental condition. (4A) In forming an opinion under subsection (3) above the court shall take into account its power to make a hospital direction in addition to imposing a period of detention.] 5 (4B) Subsections (4) and (4A) above apply to the forming of an opinion under the enactments mentioned in subsection (3A) above as they apply to the forming of an opinion under subsection (3) above.] 6 (5) A sentence of detention imposed under this section shall be a sentence of detention in a young offenders institution. 208. Detention of children convicted on indictment.	

	(1) Subject to [sections 205 and 205ZC(5)] 2 of this Act [and subsection (3) below] 3 , where a child is convicted on indictment and the court is of the opinion that no other method of dealing with him is appropriate, it may sentence him to be detained for a period which it shall specify in the sentence; and the child shall during that period be liable to be detained in such place [(in any part of the United Kingdom)] 4 and on such conditions as the Secretary of State may [, subject to section 208A,] 5 direct. 1A) Where the court imposes a sentence of detention on a child, the court must— (a) state its reasons for the opinion that no other method of dealing with the child is appropriate, and (b) have those reasons entered in the record of the proceedings. (2) [Subsections (1) and (1A) above are] 8 subject to– (a) section 51A(2) of the Firearms Act 1968 (minimum sentences for certain firearms offences); and (b) section 29(9) of the Violent Crime Reduction Act 2006 (minimum sentence of detention for certain offences relating to dangerous weapons). (3) If the child is under the age of 16 years, the power conferred by subsection (1) above shall not be exercisable in respect of a conviction for an offence under section 9(1) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) or that section as applied by section 234AA(11) of this Act.] 208A Detention of children under sections 205(2) and 208(1)>	

	(1) This section applies where a child is sentenced— (a) to be detained without limit of time under section 205(2), or (2) (b) to be detained under section 208(1). (3) (2) The Scottish Ministers may not direct under section 205(2) or, as the case may be, 208 (1) that a child be detained in a prison or a young offenders institution. (4) (3) The Scottish Ministers may direct that a child be detained in secure accommodation. (5) (4) The Scottish Ministers may by regulations make provision about the detention in secure accommodation of children to whom this section applies. (6) (5) Regulations under subsection (4) may, in particular, make provision about the circumstances in which such children may remain in secure accommodation despite attaining the age of 18 years (provided that no person may remain in such accommodation after attaining the age of 19 years). (7) (6) Regulations under subsection (4) are subject to the affirmative procedure. (8) (7) In this section, "secure accommodation" has the meaning given by section 202(1) of the Children's Hearings (Scotland) Act 2011. (9)	
Disability Discrimination Act 1995	Repealed by Equality Act 2010	
Community Care (Direct Payments) Act 1996	Mainly repealed by by Social Care (Self-directed Support) (Scotland) Act 2013	

Residential Establishments – Child Care (Scotland) Regulations 1996 In terms of secondary legislation important provisions were introduced in 1996 regarding residential establishments, in the Residential Establishments Child Care (Scotland) Regulations 1996. These regulations arise from provisions in the Social Work (Scotland) Act 1968. The regulations deal with provisions for the management of residential establishments where a child who is looked after by a local authority may be placed. Part II of the Regulations deals with the conduct of residential establishments, they are required to be run in a way which is conducive to the best interests of the children resident there. Each establishment is required to prepare a statement of their functions and objectives, setting out the responsibilities of managers. It makes provisions for minimum health and safety, education and recording requirements.	Regulations made from the provisions of sections 5(2) and 60 (1) of the Social Work (Scotland) Act 1968 make provision with respect to residential establishments in which a child who is looked after by a local authority under the Children (Scotland) Act 1995 may be placed. Part II of the Regulations deals with the conduct of residential establishments and requires them to be conducted in a way which is conducive to the best interests of the children resident in them (regulation 4). Each establishment is required to prepare a statement of functions and objectives setting out the responsibilities of managers (regulation 5 and the Schedule). Minimum requirements are specified regarding fire precautions, sanctions, log books, records, education and health care (regulations 9–15). Part III of the Regulations prescribes the information to be supplied to persons in respect of each child placed in a residential establishment.	National Guidance for the External Management of Residential Child Care Establishments in Scotland published 2013

Data Protection Act 1998.	Almost all provisions of the act are repealed by Data Protection Act 2018	
Human Rights Act 1998	Human Rights Act 1998 (incorporating the European Convention on Human Rights) An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights; to make provision with respect to holders of certain judicial offices who become judges of the European Court of Human Rights; and for connected purposes.	
Children (Leaving Care) Act 2020	6.— Exclusion from benefits. (1) No person is entitled to income-based jobseekers allowance under the Jobseekers Act 1995, or to income support or housing benefit under the Social Security Contributions and Benefits Act 1992, while he is a person to whom this section applies. (2) Subject to subsection (3), this section applies to … (4) The Secretary of State may make regulations prescribing descriptions of person who do not fall within subsection (2)(a) or (b) but who— (a) have been looked after by a local authority in Scotland (within the meaning of section 17(6) of the Children (Scotland) Act 1995); and (b) otherwise correspond (whether or not exactly) to eligible or relevant children. …	

	NB mainly an act dealing with provisions relating to the Children Act 1989	
Adults with Incapacity (Scotland) Act 2000 While it is an act dealing with incapacity of adults, the statutory definition of adult within that act is a person who has attained the age of 16 years.	An Act of the Scottish Parliament to make provision as to the property, financial affairs and personal welfare of adults who are incapable by reason of mental disorder or inability to communicate; and for connected purposes. (6) For the purposes of this Act, and unless the context otherwise requires– "adult" means a person who has attained the age of 16 years; incapable" means incapable of– (a) acting; or (b) making decisions; or (c) communicating decisions; or (d) understanding decisions; or (e) retaining the memory of decisions, as mentioned in any provision of this Act, by reason of mental disorder or of inability to communicate because of physical disability; but a person shall not fall within this definition by reason only of a lack or deficiency in a faculty of communication if that lack or deficiency can be made good by human or mechanical aid (whether of an interpretative nature or otherwise); and "incapacity" shall be construed accordingly.	Adult in this context is anyone over 16 years
Standards in Scotland's Schools etc Act 2000	Explanatory notes advise that The Act is directed at raising standards in Scotland's schools. It will do this primarily by establishing new	Statutory guidance published March 2017

This Act brought in provisions aimed at raising standards in Scotland's schools. It established new duties and rights in respect of education, including, in Section 1 the right of a child to a school education (this corresponded with the duty set out in the Education (Scotland) Act 1980 on Education Authorities to provide education). The establishment of the right to education reflects the domestic law of Scotland and is enshrined in ECHR and in the UN Convention on the Rights of the Child. School age is defined, in section 31 of the Education (Scotland) Act 1980 as a person has attained age of five years and not attained the age of 16 years. Section 2 imposes a duty on education authorities, in providing school education the aim is to make school education develop the personality, talents etc of the child or young person. This is to be central to the direction of a school education.	duties and rights in respect of education and a new framework for improvement. Sections 1 to 13 cover this. Section 1— Right of child to school education In terms of section 1 of the Education (Scotland) Act 1980, education authorities are under a duty to provide education in their area. Section 1 of the Act establishes a complementary statutory right in favour of every child to have a "school education". The establishment of the statutory right to education reflects in the domestic law of Scotland the right to education which is enshrined in the European Convention on Human Rights and in the UN Convention on the Rights of the Child, the United Kingdom being a signatory to these 2 instruments. "School education" is defined in section 1(5)(a) of the Education (Scotland) Act 1980. "School age" is defined in section 31 of the Education (Scotland) Act 1980, broadly in terms of a person being of school age if he has attained the age of 5 years and has not attained the age of 16 years. These definitions in the Education (Scotland) Act 1980 apply to the Standards in Scotland's Schools etc. Act 2000 by virtue of section 58(2) of the Act. Section 2— Duty of education authority in providing school education The provision in section 2 adopts wording from Article 29(1)(a) of the UN Convention on the Rights of the Child. It describes a key aim towards which "school education" must be directed by the education authorities. The aim is to make the	Pupils experiencing inequalities of outcome; National Improvement Framework ; Planning and reporting Guidance notes that 1.10 Recognising that the delivery of education services represents a very significant part of children's services planning and delivery, it is important that this guidance is considered in conjunction with the statutory guidance issued under section 15 of the 2014 Act which relates to Part 3 (children's services planning)11, Part 6 (Early Learning and Childcare)12 and Part 9 (Corporate Parenting)13 of that Act. Education authorities will also wish to bear in mind their duties under the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) when considering this guidance. This guidance should also be considered in relation to section 20 (duty to provide information to Skills Development Scotland) of the Post-16 Education (Scotland) Act 2013 and the Young People's Involvement in Education and Training (Provision of Information) (Scotland) Order 2014 which concern the provision of information to support post-school participation in learning, training and work. Furthermore, awareness of the

Education authorities are to be under a duty to make provision of education for the development of the individual child. Education authorities are also to take account of the child's views when making decisions that would significantly affect them.	development of the personality, talents etc. of the child or young person central to the direction of school education. Section 1(1) of the Education (Scotland) Act 1980, which imposes a general duty on authorities to secure adequate and efficient provision of school education for their area, is left unamended. This new provision puts education authorities under a statutory duty to look beyond general provision to the development of the individual child. Authorities will also be required, in carrying out their duty under this provision, to take account of the child's views when making decisions that would significantly affect them. 34 Guidance to education authorities as respects discharge of certain functions The Scottish Ministers may from time to time give guidance to education authorities as respects the discharge by authorities of– (a) their functions under the 1980 Act [and Part 6 of the Children and Young People (Scotland) Act 2014]1 in relation to the provision of school education for pre-school children; (b) in so far as relating to the functions mentioned in paragraph (a) above, any other functions of education authorities under [those Acts] 2 ; and (c) the power conferred by section 33(2) of this Act; and education authorities shall, in discharging those functions and exercising that power, have regard to any such guidance.	local authority's responsibilities under the Requirements for Community Learning and Development (Scotland) Regulations 2013 may be helpful as other relevant work may already be underway within the authority which could contribute to the carrying out of the education authority's new duties. This could perhaps involve some of the same educational practitioner stakeholders, such as community learning and development workers including youth workers, for example.
Regulation of Care (Scotland) Act 2001	Part 3 still in force deals with the SSSC and registration of SW.ers Some miscell provisions	Much of this repealed by Public Services Reform (Scotland) Act 2010 asp 8

	In section 71 Amendment of Children Act 1975: maintenance payments to children In section 50 of the Children Act 1975 (c.72) (which empowers a local authority to make payments for or towards the maintenance of a child under sixteen who is residing with and being cared for, other than as a foster child, by a person other than the parent of the child), for the word "sixteen" there is substituted "eighteen".	Not clear what this payment is for??
Community Care and Health (Scotland) Act 2002	Mainly provisions dealing with community care	
Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 The Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 brought in provisions to require bodies responsible for schools to prepare and implement strategies relating to accessibility, for pupils with a disability, of school education, and to make provision in respect of educational records of school pupil.	An Act of the Scottish Parliament to require bodies responsible for schools to prepare and implement strategies relating to the accessibility, for pupils with a disability, of school education; and to make provision in respect of the educational records of school pupils.	

Local Government (Scotland) Act 2003 The Local Government (Scotland) Act 2003, introduced in Part 3 the power to advance well-being. This Act confirmed that a local authority has power to do anything which it considers likely to promote or improve the well-being of its area and persons within that area or either of those. The power includes the power to incur expenditure; give financial assistance to any person; enter into arrangements with any person; cooperate with or facilitate the activities of any person; exercise on behalf of any person any functions of that person; and provide staff, goods, materials, facilities, services or property to any person.	PART 3 POWER TO ADVANCE WELL-BEING Power to advance well-being (1) A local authority has power to do anything which it considers is likely to promote or improve the well-being of— (a) its area and persons within that area; or (b) either of those. (2) The power under subsection (1) above includes power to— (a) incur expenditure, (b) give financial assistance to any person, (c) enter into arrangements or agreements with any person, (d) co-operate with, or facilitate or co-ordinate the activities of, any person, (e) exercise on behalf of any person any functions of that person, and (f) provide staff, goods, materials, facilities, services or property to any person. (3) The power under subsection (1) above m ay be exercised in relation to, or for the benefit of— (a) the whole or any part of the area of the local authority; (b) all or some of the persons within that area. (4) The power under subsection (1) above includes power to do anything— (a) in relation to, or for the benefit of, any persons or place outwith the area of the local authority; or (b) in any such place, if the authority considers that doing so is likely to achieve the purpose set out in that subsection. …. 21 Guidance on exercise of power under section 20	

	(1) Before exercising the power under section 20 above, a local authority shall have regard to any guidance provided by the Scottish Ministers about the exercise of the power. (2) Before providing any such guidance, the Scottish Ministers shall consult such associations of local authorities and other persons as they think fit. 22 Limits on power under section 20 (1) The power under section 20 above does not enable a local authority to do anything which it is, by virtue of a limiting provision, unable to do. …	
Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 Secondary legislation to provide guidance on how to support young people moving into adulthood. It defines compulsorily supported person, meaning a young person to whom a local authority is obliged to provide advice guidance and assistance in terms of section 29 of the 1995 Act.	The Scottish Ministers, in exercise of the powers conferred by section 73(2)(a), (c) and (d) and (3) of the Regulation of Care (Scotland) Act 2001 and section 17(1) of the Children (Scotland) Act 19951 Interpretation extract “compulsorily supported person” means a young person to whom a local authority is obliged to provide advice, guidance and assistance in terms of section 29(1) of the 1995 Act [or, after a pathway assessment, in terms of section 29(5A)(a) of the 1995 Act ; “currently looked after person” means a person who is over school age, but is less than eighteen years of age and who is being looked after by a local authority; “discretionarily supported person” means a young person to whom [, after a pathway assessment,] 3 a local authority has agreed to	The Scottish Government published guidance on services for young people leaving care in March 2004 (one of the volumes referred to in 1995 Act above) The accompanying guidance for the regulations highlights local authorities powers and duties continue towards young persons until that young person is prepared and ready for the time when they are no longer looked after.

It also defines "currently looked after person" meaning a person who is over school age but is less than 18 years of age and who is being looked after by a local authority; and "discretionarily supported person" being a young person to whom, after a pathway assessment, a local authority has agreed to provide advice, guidance and assistance in terms of section 29 (5) of the 1995 Act or, a young person to whom the local authority has agreed to continue to provide advice, guidance and assistance after the person reaches the age of 26 in terms of section 29 (5) (B) all of the 1995 Act. The regulations deal with the involvement of a young person in the *pathways* process; the preparation for when a young person is no longer looked after by a local authority; and the pathways assessment; pathway plans; reviews of plans; and appeal provisions. The aim of the Regulations 2003 is to provide a set of rules for throughcare and aftercare services to young persons. It also seeks to reinforce the parenting responsibilities of local authorities for young persons who	provide advice, guidance and assistance in terms of section 29 (5A) (b) of the 1995 Act or a young person to whom a local authority has agreed to continue to provide advice, guidance and assistance after the person reaches the age of twenty-six in terms of section 29(5B) of the 1995 Act; "further education" has the meaning given to it in sections 1 and 6 of the Further and Higher Education (Scotland) Act 1992; "higher education" has the meaning given to it in section 38 of the Further and Higher Education (Scotland) Act 1992; Regulations include the 3.— Involvement of the young person 6. Preparation for when no longer looked after by a local authority 7.— Pathway assessment — general 8.— Pathway assessment — individual Cases 10.— Pathway plans 12.— Review of pathway plans 13.— Manner in which financial assistance is provided 14.— Assistance by way of accommodation Provides the main legislative structure for 'through-care' and 'after-care' services in Scotland. Their aim is to reinforce the parenting responsibilities of local authorities for young people who have been in their care, and to emphasise the importance and necessity of providing support through the transition to adulthood. The accompanying guidance highlights "local authorities' power and duty to continue to look after them [young people] until, normally,	

have been in their care and to emphasise the importance of providing support through the transition to adulthood.	they are 18; [and] to ensure that they are prepared and ready for the time when they are no longer looked after". The regulations introduce new duties in respect of the assessment of young people's needs, and the planning which must follow (called 'Pathways'). The regulations also seek to strengthen planning, as well as the relationship between young person and the local authority, through the provision of a Pathways Coordinator for young people. Regulations also cover how financial assistance and accommodation for care leavers should be provided, and recording keeping and an appeals process managed.	
Criminal Justice Act 2003	290 Power to sentence young offender to detention in respect of certain firearms offences: Scotland (1) The Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows. (2) In section 49(3) (children's hearing for purpose of obtaining advice as to treatment of child), at the end there is added "except that where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968 it shall itself dispose of the case". (3) In section 208 (detention of children convicted on indictment), the existing provisions become subsection (1); and after that subsection there is added—	

	"(2) Subsection (1) does not apply where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968.".	
Homelessness etc. (Scotland) Act 2003 introduced regulations specifying rules on the unsuitability of certain accommodation for homeless persons, with additional restrictions where those homeless persons had dependent children	Section 9: Suitability of accommodation for homeless persons Subsection (1) amends section 29 of the Housing (Scotland) Act 1987 Act to require local authorities to provide interim accommodation to a household whom they have assessed as homeless until such a point as they have discharged their duty to secure accommodation under section 31 of that Act. It also gives Ministers the powers to specify, by statutory instrument, accommodation which cannot be provided as such interim accommodation, but allows for this to be subject to conditions or exceptions. Subsection (2) amends section 32(8) of the 1987 Act in order to make clear that accommodation provided, in pursuance of section 31 or 32 of that Act, for a person in priority need who has dependent children must be suitable for occupation by such children.	There is an unsuitable accommodation order Statutory Guidance on Homelessness has been published
Protection of Children (Scotland) Act 2003	All provisions repealed except for section 16 which amends Criminal Pro (Sc) Act 1995 Repealed by Protection of Vulnerable Groups (Scotland) Act 2007	

Commissioner for Children and Young People (Scotland) Act 2003 This Act establishes and set out the functions of the Commissioner for Children and Young People in Scotland. The Commissioner's role includes carrying out investigations and reporting to the Scottish Government.	An Act of the Scottish Parliament to provide for the establishment and functions of a Commissioner for Children and Young People in Scotland; and for connected purposes. Appointment, investigations and reporting	
Children Act 2004 (England)	Establishes the Children's Commissioner Part 2 deals with children's services in England , including establishment Children's Trust Boards, Child Safeguarding Practice Review Panel, Local Authority Administration in estab9shing children and young peoples plans. Children' Services in Wales Private Fostering, Child minding and day care local authorities services	
Further and Higher Education (Scotland) Act 2005 The Act includes, provisions which set out duties in relation supporting access to further education. It defines "support needs", noting that the need for support is linked to a person's ability to access and participate in fundable further or	An Act of the Scottish Parliament to make provision establishing the Scottish Further and Higher Education Funding Council and provision as to its functions; to make provision as to support for further and higher education; to make provision relating to bodies which provide further and higher education; and for connected purposes Includes Section 8 *Support needs*	

higher education as compared with other people of the same age group.	This section defines the term 'support needs' for the purposes of the Act. The need for support is linked to a person's ability to access and participate in fundable further or fundable higher education, as compared with other people of the same age group. Students experience barriers in accessing and participating in learning for many reasons, and may therefore require support. Such a barrier may arise from factors relating to, for example, social, cognitive, emotional, psychological, linguistic, disability (physical or mental), ethnicity or family and care circumstances. These support needs may range from those needs that are relatively mild and temporary through to those that are complex and more enduring. But a support need may not arise solely due to the matters set out in subsection (3).	
Mental Health (Care and Treatment) Scotland Act 2003 An Act primarily making provision for the mental health of adults, it also make provision for services for patients under 18 years of age. Relevant sections include: section 23 Provision of services and accommodation for certain patients under 18; Section 29 Relationship between duties under sections 25 to 27 and duties under Social Work (Scotland) Act 1968 and Children (Scotland) Act 1995. Child in the Act is defined as a person who has not attained the age of 18 years.	Various provisions include 23 Provision of services and accommodation for certain patients under 18 24 [Services and accommodation for mothers] 1 29 Relationship between duties under sections 25 to 27 and duties under Social Work (Scotland) Act 1968 and Children (Scotland) Act 1995 31 Assistance from Health Boards and others 249 Interpretation of Part In this Part– "child" means a person who has not attained the age of 18 years; and	

	"child specialist" means a medical practitioner who has such qualifications or experience in relation to children as the Commission may determine from time to time.	
Education (Additional Support for Learning) (Scotland) Act 2004	Sets out duties on local authorities and other agencies to assess monitor and support any child who requires additional support in order to engage in education. Amendments made in the Education (Additional) Support for Learning (Scotland) Act 2009 clarified that all looked after children are automatically considered to have additional support for learning needs, and they must be assessed to determine whether or not they require a Coordinated Support Plan.	
Anti-social Behaviour etc. (Scotland) Act 2004 Section 4 of that Act makes provision for anti-social behaviour orders. There are specific conditions which have to exist before the sheriff will make an order, including that the specified person is at least 12 years of age. Where specified person is a child, before making an order, the sheriff has to seek advice from a Children's	4 Antisocial behaviour orders (1) On the application of a relevant authority, the sheriff may, if satisfied that the conditions mentioned in subsection (2) are met as respects the person to whom the application relates (the "specified person"), make an antisocial behaviour order. (2) Those conditions are– (a) that the specified person is at least 12 years of age; (b) that the specified person has engaged in antisocial behaviour towards a relevant person; and (c) that an antisocial behaviour order is necessary for the purpose of protecting relevant persons from further antisocial behaviour by the specified person.	Children (Care and Justice) (Scotland) Act 2024 Part 5 makes changes to the meaning of child in the Antisocial Behaviour etc. (Scotland) Act 2004, so that child is a person under 18, (except in the case of parenting orders where it remains under 16).

Hearing and in determining the matter, shall have regard to the advice. Section 12 also provides the sheriff with the power to refer cases to a Children's Hearing. Section 18 of the Act provides that a child for the purposes of Part 2 of the Act is a person who is under the age of 16 years.	(3) For the purpose of determining whether the condition mentioned in subsection (2)(b) is met, the sheriff shall disregard any act or conduct of the specified person which that person shows was reasonable in the circumstances. (4) Where the specified person is a child, the sheriff shall, before determining the application, require the Principal Reporter to arrange a children's hearing for the purpose of obtaining their advice as to whether the condition mentioned in subsection (2)(c) is met; and the sheriff shall, in determining whether that condition is met, have regard to that advice. (5) Subject to subsections (6) and (7), an antisocial behaviour order is an order which prohibits, indefinitely or for such period as may be specified in the order, the specified person from doing anything described in the order. (6) The prohibitions that may be imposed by an antisocial behaviour order are those necessary for the purpose of protecting relevant persons from further antisocial behaviour by the specified person. (7) If an antisocial behaviour order is made on the application of a local authority the order may, in addition to imposing prohibitions that are necessary for the purpose mentioned in subsection (6), impose such prohibitions as are necessary for the purpose of protecting other persons ("affected persons") from further antisocial behaviour by the specified person. (8) Before making an antisocial behaviour order, the sheriff shall, where the specified person is present in court, explain in ordinary language– (a) the effect of the order and the prohibitions proposed to be included in it;	

	(b) the consequences of failing to comply with the order; (c) the powers the sheriff has under sections 5 and 6; and (d) the entitlement of the specified person to appeal against the making of the order. (9) Failure to comply with subsection (8) shall not affect the validity of the order. (10) An application for an antisocial behaviour order shall be made by summary application to the sheriff within whose sheriffdom the specified person is alleged to have engaged in antisocial behaviour. (11) Before making an application under this section– (a) a relevant authority shall consult the relevant consultees; and (b) a registered social landlord shall– (i) in the case where the specified person is a child, consult the local authority within whose area the specified person resides or appears to reside about the proposed application; (ii) in the case where the specified person is not a child, notify that local authority of the proposed application. (12) Nothing in this section shall prevent a relevant authority from instituting any legal proceedings otherwise than under this section against any person in relation to any antisocial behaviour. (13) In this section, "relevant person" means– (a) in relation to an application by a local authority, a person within the area of the authority; and (b) in relation to an application by a registered social landlord– (i) a person residing in, or otherwise in or likely to be in, property provided or managed by that landlord; or (ii) a person in, or likely to be in, the vicinity of such property.	

	12 Sheriff's power to refer case to children's hearing (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— "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.	

	18 Interpretation of Part 2 *Interpretation* In this Part– "affected person" has the meaning given by section 4(7); "antisocial behaviour order" has the meaning given by section 4(5); "child" means a person who is under the age of 16 years; "interim order" has the meaning given by section 7(2)(c); "relevant authority" means–	
Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005	An Act to make it an offence to meet a child following certain preliminary contact and to make other provision for the purposes of protecting children from harm of a sexual nature, including provision for implementing in part Council Framework Decision 2004/68/JHA; and to make further provision about the prevention of sexual offences.	
Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006	REPEALED BY Public Services Reform (Scotland) Act 2010	
Scottish Schools (Parental Involvement) Act 2006	An Act to make further provision for the involvement of parents in their children's education and in school education generally; to provide for the establishment of councils to represent the parents of pupils attending public schools; to abolish School Boards; to make further provision as regards the appointment of teachers; to make	

	further provision as regards the content of the development plan for a school; and for connected purposes.	
Family Law (Scotland) Act 2006 Introduced legislation regarding the rights of unmarried fathers to obtain parental rights responsibilities for children. It amended the terms of Section 3 of the Children (Scotland) Act 1995 accordingly, a father whether or not married to the mother at the time, both at the child's birth or subsequently if the father is registered as the child's father on the child's birth certificate then the father will have parental rights and responsibilities.	Re unmarried father (1) Section 3 of the Children (Scotland) Act 1995 (c.36) (provisions relating both to parental responsibilities and parental rights) shall be amended in accordance with subsections (2) and (3). (2) In paragraph (b) of subsection (1) (cases in which parents have parental responsibilities and parental rights)— (a) the words from "married" to the end shall become sub-paragraph (i) of that paragraph; and (b) at the end there shall be added "or (ii) where not married to the mother at that time or subsequently, the father is registered as the child's father under any of the enactments mentioned in subsection (1A).". (3) After subsection (1) there shall be inserted— "(1A) Those enactments are— (a) section 18(1)(a), (b)(i) and (c) and (2)(b) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c.49); (b) sections 10(1)(a) to (e) and 10A(1)(a) to (e) of the Births and Deaths Registration Act 1953 (c.20); and (c) article 14(3)(a) to (e) of the Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041).". (4) Paragraph (b)(ii) of subsection (1) of section 3 of the Children (Scotland) Act 1995 (c.36) (which is inserted by subsection (2)(b)) shall not confer parental responsibilities or parental rights on a man who,	

	before the coming into force of subsections (2) and (3), was registered under any of the enactments mentioned in subsection (1A) of that section (which is inserted by subsection (3)).	
Residential Establishments Child Care (Scotland) Regulations 2006 The Regulations bring in rules for the conduct of residential establishments and sets out matters to be included in its statements and objectives.	Makes provision for conduct of residential establishments, matters to be included in statement and objectives	
Protection of Vulnerable Groups (Scotland) Act 2007	replaces the former disclosure system and sets out when PVG certificates are required for those working with children	
Adoption and Children (Scotland) Act 2007 **This Act updated the law regarding adoption and permanence planning for children who will not be returned to their parents' care.** **It also updated the rules under which adoption agencies operate.**	**The Act comprehensively updated the adoption process in Scotland, and the rules under which adoption agencies operate.** **The Act also introduced 'Permanence Orders', a new legal route designed to secure greater stability for a child within a care placement.** **Section 1 imposes a duty on LAs to provide an adoption service** **Section 1 provides that an "adoption service" means services designed to meet the needs, in relation to adoption, of the following persons (a) children who may be adopted; (b) persons who have**	**Note recent appeal cannot grant an PO for child 16 and over** **Guidance on Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007 provides information on a large number of matters including how a local authority should consult and prepare a plan about how it will provide an adoption service in terms of section 1.**

The Act introduced permanence orders, being a new legal order designed to secure greater stability for a child within a long term care placement, where again the child was not going to be returned to his parents and where adoption was not an appropriate outcome for the child.[3]	**been adopted, (c) parents and guardians of those adopted children and persons; (d) natural parents of persons who have been adopted, (e) persons who, before the placing of a child for adoption or the adoption of a child, treated the child as their child, (f) siblings (whether of the whole-blood or half-blood), natural grandparents and former guardians of those children or persons; (g) persons who may adopt a child, (h) persons who have adopted a child, (i) in relation to persons mentioned in paragraph (g) or (h), children of, or children treated as children of, such persons, and (j) any other persons who are— (i) affected by the placing, or proposed placing, of a child for adoption, or (ii) affected by an adoption.** **An adoption service includes, arrangements for assessing children who may be adopted, arrangements for assessing prospective adopters, arrangements for placing children for adoption, the provision of information about adoption), and adoption support services.** **"adoption support services" means services consisting of or including the provision of—** **(a) counselling to any of the persons mentioned** **(b) guidance about adoption to such persons,** **(c) any other assistance in relation to the adoption process that the local authority providing an adoption service in a particular case considers appropriate in the circumstances of that case.**	**In terms of whether there are specific support provisions, regard would have to be had to a local authority's plan. The support would be available to all the persons set out in section 1 and the services would include the services referred to in section 1.** **As noted the support services includes counselling, guidance and other assistance that the local authority considers appropriate in the particular case.** **The Adoption Support Services and Allowances (Scotland) Regulations 2009 imposes a duty on each local authority to prepare a an adoption allowances scheme, providing circumstances in which adoption allowances may be paid.**

[3] In the recent Sheriff Appeal case of Glasgow City Council MM [2024] SAC (Civ) 38 - child over 16 cannot grant PO for. (writer understands that this decision is being appealed by Glasgow City Council)

	LA have to have regard to guidance **Section 9 LA duty to carry out an assessment of needs if requested to do so** **Section 10 duty on LA to provide adoption services** **The act includes : -** **Chapter 2 sets out the legal provisions when proceeding with an adoption and the duties on an LA** **Chapter 3 sets out the status of an adopted child** **Chapter 4 sets out duties on LAs to prepare adoption support plans** **Part 2 deals with permanence orders and the duties on local authorities in relation to permanence orders.**	
Public Health etc. (Scotland) Act 2008	PART 8 REGULATION OF PROVISION OF SUNBEDS *Offences* Law In Force 95 Prohibition on allowing use of sunbeds by persons under 18	
Human Fertilization and Embryology Act 2008	Defines in act meaning of mother, father and where woman is the other parent	
Education (Additional Support for Learning) (Scotland) Act 2009	An Act of the Scottish Parliament to amend the law in respect of placing requests in relation to the school education of children and young persons having additional support needs and in respect of arrangements between education authorities in relation to such school education.	

	it automatically deems all looked after children and young people to have additional support needs unless they do not require additional support in order to benefit from education. Section 8(1) inserts new subsections (1A) and (1B) into section 1 of the 2004 Act. Subsection (1A) deems looked after children and young persons to have additional support needs. Therefore, all the provisions of the 2004 Act relating to children and young persons with additional support needs apply to looked after children and young people.	
Looked After Children (Scotland) Regulations 2009 Part II deals with care planning for looked after children. It sets out details provisions for planning and assessment process for children who are looked after. The schedules sets out lists of factors to be included in the child's plan. It requires a local authority to prepare the child's plan. There is also now a duty place siblings together. There are provisions for looked after children who are looked after at home; in kinship care; in foster care;	The Regulations are made in exercise of the powers conferred by section 5(2), (3) and (4) of the Social Work (Scotland) Act 19681 , sections 17(2) and (3), 31 and 103(2) and (3) of the Children (Scotland) Act 19952 and sections 110 and 117 of the Adoption and Children (Scotland) Act 2007 and all other powers enabling them to do so. Part II care planning for LACC child child's plan 5A now duty to place siblings together looked after at home (Part IV), kinship care (Part V), foster care and panels (Parts VI and VIII) fostering and kinship care allowances (Part VIII) and residential care (Part IX), emergency care (Part X) case records (Part XI) review of case records (Part XII)	Looked After Children (Scotland) Amendment Regulations 2014 Guidance on Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007

and in residential care. It considers fostering and kinship care allowances. Makes provision for emergency care. It requires the preparation of plans for children and the review of those plans. The regulations underpin many of the looked after child processes in operation today.	arrangements with ref. fostering services (Part XIII) schedules set out info to be obtained relating to the child (1) (2) Matters to be in Childs's plan, (3) Info about kinship / foster carer (4) Matters to be in the foster/kinship placement agreement the regulations underpin many of the 'looked after child' processes in operation today. (5) Matters and obligations in kinship carer agreements (6) Matters and obligations in foster carer agreements (7) Arrangements with reg. foster services In brief summary, regulations three, four and five describe the assessment and planning process which every local authority must undertake in respect of a child in, or coming into, care. This includes the information which must be collected, the purpose of assessment, questions which must be considered (e.g. permanence), and the individuals and organisations who should be consulted in the preparation of a plan. These provisions situated the care planning process for looked after children much more clearly within the Getting it Right for Every Child framework. Regulations four and five also refine the rules governing contact between a looked after child and their parents, family members, individuals with parental responsibilities or rights, and other specified persons. Regulations 44, 45 and 46 specify how children's cases must be reviewed, in terms of approach and frequency. Regulation eight focuses on looked after children 'cared for by their parents', clarifying local authorities' responsibilities. Accompanying	

	guidance states that "children who remain at home [...] are subject to the same care planning regulations [four and five] as children placed away from home". Regulations ten through 16 have the effect of establishing 'kinship care' as a placement of parity with fostering, residential and at home. Regulation ten provides the legal description for what a 'kinship carer' is, and Regulation 11 sets out the aspects a local authority must consider before placing a child in kinship care. Regulations 17 through 20 revise and update the requirements in respect of fostering panels: the means by which prospective foster carers are assessed as suitable, and whether a specific carer is suitable to care for a particular child. The regulations specify the qualifications and experience of panel members, their terms of reference and operating procedure. Regulations 21 through 32 provide the operating framework for the delivery of foster care itself, including the approval and continued review of foster carers, rules governing placements, etc. (Following amendment in 2014, the regulations also set a 'placement limit', of no more than three unrelated children being placed with a foster carer at one time.) Regulation 33 allows for the payment, by local authorities, of financial allowances to kinship carers and foster carers. Regulations 36 through 41 provide the rules governing placements of children made in an emergency.	
The Adoption Agencies (Scotland) Regulations 2009	Sets out the steps Adoption Agencies are required to take before making decisions about individual adoption cases.	Duty to seek PO w/o adoption - obligations arises from 2011 Act section 131 (2)(c)

	These regulations set out the regulations set out requirements for adoption panels. In addition, they set out regulations on the assessment of prospective adopters and also, the duties on adoption agencies when considering adoption for a child; applications for permanence orders; and placement for adoption. There are rules on case records. In relation to permanence orders with authority to adopt, it includes how the views of children dependent on age and maturity must be taken into account, as well as those of other relatives. Part IV. - duties of adoption agencies when considering adoption for a child Part VI - application for permanence order Part VII - placement for adoption Part VIII - case records Permanence Orders with the authority to adopt, and how the views of the child, dependent on age and maturity, must be taken into account, as well as those of other relatives are also set out.	No regulations dealing with Pos alone
Various adoption regulations brought in a secondary legislation	Adoption Agencies (Scotland) Regulations 2009/154 (Scottish SI) Adoption Support Services and Allowances (Scotland) Regulations 2009/152 (Scottish SI) Adoptions with a Foreign Element Adoption and Supervision Requirements Reports in App for Pos Period to prepare an Adoption Allowance Scheme Scotland Order Registration Services (Prescription of Forms) © Regs. Scotland Adoption Register Reg.s Special Restrictions on Adoptions from various named countries Adoption (Designation of Overseas Adoptions) Order 1973/19 Adoption (Disclosure of Information and Medical Information about Natural Parents) (Scotland) Regulations 2009	

	Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013/310 (Scottish SI)	
UN Convention on the Rights of Persons with Disabilities (Ratified in 2009)		
Equality Act 2010	The Equality Act 2010 prohibits discrimination and harassment based on certain specified protected characteristics. It further places duties on public authorities to challenge discrimination, advance equality of opportunity and foster good relations for a range of protected characteristics. These protected characteristics are defined in the Equality Act as race, sex, disability, sexual orientation, religion or belief, age, gender reassignment, pregnancy and maternity, and marriage and civil partnership. There are provisions of the Act for schools.	
Public Services Reform (Scotland) Act 2010 This is an Act which sees the establishment of Social Care and Social Work Improvement Scotland with scrutiny functions in relation to	Act to undertake various duties including to establish Social Care and Social Work Improvement Scotland with scrutiny functions in relation to care services and social work services; to establish Healthcare Improvement Scotland with scrutiny and other functions in relation to services provided under the National Health Service and independent health care services; to amend the Mental Health (Care and Treatment) (Scotland) Act 2003 to make provision in relation to the	

care services and social work services.	Mental Welfare Commission for Scotland; to make provision about the exercise of scrutiny functions by certain bodies, including provision in respect of the involvement of users of scrutinised services, co-operation and joint inspections;	
Children's Hearings (Scotland) Act 2011 **The Act was designed to modernise and streamline the hearing system through a number of structural reforms and the establishment of the public body Children's Hearing Scotland. It saw the introduction of a standalone piece of legislation for the children's hearing system and associated bodies. Part 1 created the National Convenor and Children's Hearings Scotland. Part 2 sets out the provisions for the Reporter and SCRA. Parts 3 to 16 deal with grounds, investigations, bringing children to a children's hearing, safeguarders, child assessment, child protection orders, referrals to the children's hearing, applications to the sheriff, implementation of orders, appeals. There are miscellaneous other matters including vulnerable**	**The Act was designed to modernise and streamline the hearing system through a number of structural reforms and the establishment of the public body Children's Hearing Scotland.** **It saw the introduction of a standalone piece of legislation for the children's hearing system and associated bodies.** **Part 1 created the National Convenor and Children's Hearings Scotland.** **Part 2 sets out the provisions for the Reporter and SCRA.** **Parts 3 to 16 deal with grounds, investigations, bringing children to a children's hearing, safeguarders, child assessment, child protection orders, referrals to the children's hearing, applications to the sheriff, implementation of orders, appeals.** **There are miscellaneous other matters including vulnerable witnesses, taking of evidence and availability of legal aid.** **LA may apply for Child Assessment Order (s. 35)** **LA my apply for a Child Protection Order (s. 38)** **LA has an obligation to treat a child removed to a place of Safety under a CPO to tret the child as a child under section 17 of the CSA 1995 (s.44)**	

witnesses, taking of evidence and availability of legal aid.	**Section 60 local authority has a duty to provide information to the principal reporter** **Section 66 the reporter can require the local authority to provide a report** **Section 83 local authority has a duty to implement a compulsory supervision order** **Section 144 duty on LA to give effect to the CSO** **Section 145 duty on LA to assess the if the CSO is being complied with** **Section 166 duties on the LA to seek review** **Section 181 deals with annual reporting by the national convener**	
Children hearings rules and regulations Emanating from the 2011 Act, are a number of rules and regulations. These include rules of procedure, transfer of children to Scotland, provision of information by the Principal Reporter, child protection and emergency measures, children's advocacy services, compulsory supervision orders further provisions, implementation of secure accommodation authorizations, movement restriction conditions, rehabilitation of offenders, review of	Children's hearings Scotland act 2011 rules of procedure in children's hearings rules 2013/194 Children's Hearings (Scotland) Act 2011 (Transfer of Children to Scotland) Regulations 2013 Children's Hearings (Provision of Information by Principal Reporter) (Specified Persons) (Scotland) Regulations 2020/449 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Appeals against Dismissal by SCRA) Regulations 2012/337 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Child Protection Emergency Measures) Regulations 2012/334 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Children's Advocacy Services) Regulations 2020/370 (Scottish SI)	

contact directions and definition of relevant persons, safeguards panel.	Children's Hearings (Scotland) Act 2011 (Compulsory Supervision Orders etc.: Further Provision) Regulations 2013/149 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Consequential Provision) and Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2011/186 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013/212 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013/210 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Rehabilitation of Offenders) (Transitory Provisions) Order 2013/146 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Review of Contact Directions and Definition of Relevant Person) Order 2013/193 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Rights of Audience of the Principal Reporter) Regulations 2012/335 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012/54 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Safeguarders: Further Provision) Regulations 2012/336 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Supplementary Provision) Order 2014/137 (Scottish SI)	

	Children's Hearings (Scotland) Act 2011 (Transfer of Children to Scotland - Effect of Orders made in England and Wales or Northern Ireland) Regulations 2013/99 (Scottish SI) Children's Hearings (Scotland) Act 2011 (Transitional, Savings and Supplementary Provisions) Order 2013/150 (Scottish SI) Cross-border Placements (Effect of Deprivation of Liberty Orders) (Scotland) Regulations 2022/225 (Scottish SI)	
Children's hearing practice and procedure manual		
Police and Fire Reform (Scotland) Act 2012	The duty to protect and report	
Post-16 Education (Scotland) Act 2013	Makes changes to the Further and Higher Education (Scotland) Act 1992 and Further and Higher Education (Scotland) Act 2005	
Social Care (Self-Directed Support) (Scotland) Act 2013 In 2013 the Social Care (Self-directed Support) (Scotland) Act 2013 came into force. This Act obliges a local authority to have regard to the	*General principles* 1 General principles (1) A local authority must have regard to the principles in subsections (2) to (4) in carrying out its functions under—	Statutory guidance published for this act The Guidance explains what authorities should do to make sure that people are able to get the support that is right for them.

principles that a person must have as much involvement as the person wishes in relation to the assessment of the person's needs for support or services and the provision of support or services for the person. A person must be provided with any assistance that is reasonably required to enable the person to express any views that that person may have about the options for self-directed support and to make an informed choice when choosing an option for self-directed support. A local authority must collaborate with the person in relation to the assessment of the person's needs for support or services and the provision of support or services for that person. Section 8 of the Act deals with the choice of options for children and family members and this section applies where a local authority is to provide services under section 22 of the 1995 Act to a child or a member of a child's family. The local authority must give the supported person the opportunity to choose one of the options for self-directed support unless the authority	(a) Part 2 of the 1968 Act (other than the provisions mentioned in subsection (5)), (b) [sections 22 and 23] 1 of the 1995 Act, (c) this Act [,]2 (d) Part 2 or 3 of the Carers (Scotland) Act 2016.] 2 (2) A person must have as much involvement as the person wishes in relation to— (a) the assessment of the person's needs for support or services, and (b) the provision of support or services for the person. (3) A person must be provided with any assistance that is reasonably required to enable the person— (a) to express any views the person may have about the options for self-directed support, and (b) to make an informed choice when choosing an option for self-directed support. (4) A local authority must collaborate with a person in relation to— (a) the assessment of the person's needs for support or services, and (b) the provision of support or services for the person. (5) The provisions are— (a) sections 27 to 27B (which make provision in relation to the supervision and care of persons put on probation or released from prison etc.), (b) [...]3 (c) section 29 (local authority's power to make payments to parents etc. in respect of expenses for visiting certain persons and attending funerals). (6) In this section—	It is based on the Social Care (Self-directed Support) (Scotland) Act 2013 ('the 2013 Act'). This is the law that tells local authorities what they must do to give access to SDS in a way that supports people's rights to choice, dignity and being able to take part in the life of their communities.

considers the supported person is not eligible to receive direct payments.	(a) references to the assessment of a person's needs are references to assessment under section 12A of the 1968 Act [, section 23(3)] 4 of the 1995 Act [or by virtue of section 8 or 14 of the Carers (Scotland) Act 2016,] 5 (b) references to the provision of support for a person are references to the provision of support under [section 24 of the Carers (Scotland) Act 2016] 6 , (c) references to the provision of services for a person are references to the provision of community care services under Part 2 of the 1968 Act or, as the case may be, the provision of services under section 22 of the 1995 Act. 4 Options for self-directed support (1) The options for self-directed support are— *Option 1 Option 2* *Option 3* *Option 4* The making of a direct payment by the local authority to the supported person for the provision of support. The selection of support by the supported person, the making of arrangements for the provision of it by the local authority on behalf of the supported person and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of that provision. The selection of support for the supported person by the local authority, the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the	

	authority, the payment by the authority of the relevant amount in respect of the cost of that provision. The selection by the supported person of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support. 8 Choice of options: children and family members (1) This section applies where a local authority is to provide services under section 22 of the 1995 Act ("support") to a child or a member of a child's family. (2) The authority must give the supported person the opportunity to choose one of the options for self-directed support unless the authority considers that the supported person is ineligible to receive direct payments. (3) If the authority considers that the supported person is ineligible to receive direct payments the authority must— (a) notify the supported person of— (i) the reason why the authority considers that to be the case, and (ii) the circumstances in which the authority must under section 12 review the question of whether the supported person is ineligible to receive direct payments, and (b) give the supported person the opportunity to choose one of the options for self-directed support other than— (i) Option 1, and (ii) so far as relating to that option, Option 4.	

	(4) In carrying out the duties imposed by subsections (2) and (3)(b), the authority must inform the supported person of— (a) the amount that is the relevant amount for each of the options for self-directed support from which the authority is giving the person the opportunity to choose, and (b) the period to which the amount relates. (5) Subsection (6) applies where the supported person is an appropriate person in relation to the child. (6) Before making a choice in pursuance of subsection (2) or (3)(b), the supported person must, so far as practicable and taking account of the maturity of the child— (a) give the child an opportunity to indicate whether the child wishes to express the child's views, (b) if the child wishes to do so, give the child an opportunity to express them, and (c) have regard to any views expressed by the child. (7) If the supported person does not make a choice in pursuance of subsection (2) or (3)(b) the supported person is deemed to have chosen Option 3. (8) The authority must give the notification required by subsection (3)(a) in writing and, if necessary, in such other form as is appropriate to the needs of the person to whom it is given. (9) In this section— …	

Secure Accommodation (Scotland) Regulations 2013 Included in these rules is that the welfare of children in secure accommodation must be safeguarded and promoted. What information must be supplied to Children's Hearing by a local authority recommending the inclusion of a secure accommodation authorisation. It also makes provision for children being detained under section 44 of the Criminal Procedure Act and the use of secure accommodation. It also provides for appeals against secure accommodation; the review of the use of secure accommodation; and the requirement to keep records.	sets out the definition and parameters of secure care make provision for the use and management of secure care accommodation for children. These include the conditions under which a looked after child may be placed in secure care, and the duties and actions of local authorities and others when such an action is taken. 4. Welfare of children in secure accommodation Where a child is in secure accommodation the managers, in consultation with the head of unit, must ensure that the welfare of a child so placed and kept is safeguarded and promoted. 6. Information to be supplied to children's hearing by a local authority recommending the inclusion of a secure accommodation authorisation 7.— Placement in secure accommodation of children subject to compulsory supervision orders which do not include a secure accommodation authorisation 8.— Placement in secure accommodation of children subject to a relevant order which does not include a secure accommodation authorisation 9.— Placement in secure accommodation of looked after children 10.— Looked after child placed in secure accommodation: duties of the Principal Reporter and local authority 11.— Child detained under section 44 of the Criminal Procedure Act: use of secure accommodation	Are these regs to be updated in light of he changes to no more young offender institution Good Practice Guidance The Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 The guidance is in 4 sections Section 1- Provides a brief overview of the key objectives of the new regulations and some background about the new secure accommodation decision making process. Section 2- Provides an overview of the new duties in relation to decisions to implement a secure authorisation and the duty to review the placement in secure accommodation (regulations 4, 5, 6 & 10). Section 3- Outlines the duties in relation to a decision not to implement a secure accommodation authorisation and rights to request a review of this decision (regulations 7, 8 & 9,). Section 4- Discusses the appeals process (regulations 11, 12 13, 14).

	[11A.— Appeal against decision to detain a child in secure accommodation 12.— Children otherwise dealt with under the Criminal Procedure Act 13.— Review of the use of secure accommodation in connection with children dealt with under the Criminal Procedure Act 14.— Children dealt with under the Criminal Procedure Act on the relevant date 15.— Records to be kept in respect of a child placed in secure accommodation 11.— Child detained under section 44 of the Criminal Procedure Act: use of secure accommodation (1) This regulation applies where the sheriff makes an order under section 44(1) of the Criminal Procedure Act (detention of children) requiring a child to be detained in a residential establishment provided by a local authority. (2) The child may be detained in secure accommodation where the chief social work officer of the local authority makes a determination to place the child in secure accommodation where the requirements in paragraph (3) are satisfied. (3) The requirements are— (a) to consult and take into account the views of— (i) the child, taking into account their age and maturity; (ii) each relevant person in respect of the child; (iii) the head of unit; (b) that the chief social work officer is satisfied that— (i) placement in secure accommodation would be in the child's best interests;	https://www.cypcs.org.uk/wpcypcs/wp-content/uploads/2021/06/Secure-Investigation.pdf

	(ii) in relation to the placing of the child in the residential establishment providing the secure accommodation the placement in that establishment is appropriate to the child's needs having regard to the residential establishment's statement of functions and objectives; and (iii) one or more of the conditions mentioned in paragraph (4) is satisfied in respect of the child. (4) The conditions are— (a) that the child has previously absconded and is likely to abscond again and, if the child were to abscond, it is likely that the child's physical, mental or moral welfare would be at risk; (b) that the child is likely to engage in self-harming conduct; or (c) that the child is likely to cause injury to another person. (5) Where the child is detained in secure accommodation under paragraph (2) the child may only be kept in secure accommodation for so long as the head of unit with the agreement of the chief social work officer considers necessary. (6) Paragraph (5) is subject to regulation 13. 13.— Review of the use of secure accommodation in connection with children dealt with under the Criminal Procedure Act (1) The chief social work officer of the appropriate local authority, in consultation with the head of unit, must ensure that, where a child is detained or kept in secure accommodation by virtue of regulation 11 or 12, arrangements are made by them to review the child's case— (a) within 7 days of the child's placement in secure accommodation (irrespective of whether the child is still being kept or detained in secure accommodation); (b) at such times as appear to them to be necessary or appropriate in light of the child's progress; and (c) in any event at intervals of not more than 3 months.	

Children and Young People (Scotland) Act 2014. **This Act is in 18 Parts.** **Amongst those 18 parts, it contains provisions dealing with the Commissioner for Children. Enabling the Commissioner to investigate the extent to which a service provider has had regard to the rights, views and interests of an individual child or young person. It has important provisions in relation to children's service planning.** **The named person.** **It sets out requirements for preparation of a child's plan.** **The 2014 Act shifted the focus of public service resources towards the early years of a child's life and early intervention whenever a family or young person's needs help; and cooperation between services.** **It contains provisions dealing with early years learning; childcare; the power to provide preschool**	**PT 1 repealed** **Pt 2 commissioner for children** **Pt3 children's service planning** **Pt 4 named persons (gen. not yet in force with amendments pending)** **Pt 5 child's plan** **Pt 6 early years learning and childcare** **7 power to provide preschool education** **8 day care and out of school care** **9 corporate parenting** **10 aftercare** **11 continuing care** **12 services in elation to children at risk of becoming looked after** **13 support for kinship care** **14 adoption register** **15 school closure proposal**	**In 2015 the Scottish Government published 'National Guidance on Part 13: Support for Kinship Care' under the Children and Young People (Scotland) Act 2014** **GIRFEC Resources** **SHANARRI** **The Practice Guidance** **Policy Statement** **Practice Guidance 1. Using the National Practice Model** **- Improving outcomes using the Wellbeing Indicators - Gathering information with the My World Triangle** **- Analysing information with the Resilience Matrix** **Practice Guidance 2. The role of the named person Practice Guidance 3. The role of the lead professional Practice Guidance 4. Information sharing** **The Statutory Guidance** **Assessment of Wellbeing – Part 18 (Section 96) of the Children and Young People (Scotland) Act 2014** **Children and Young People (Scotland) Act 2014: National Guidance on Part 12:**

education; day care and out of school care. **There are duties in relation to corporate parenting.** **It amends the 1995 Act in relation to increasing rights to aftercare and continuing care.** **It contains provisions in relation to services for children at risk of becoming looked after.** **There are further provisions in relation to support for kinship care.** **Importantly, it also sets out provisions in relation to the assessment of well-being and what is known as the GIRFEC principles "getting it right for every child" children's model framework on to a statutory footing[4].**	**16 children hearings** **16A secure transportation** **17 other reforms in wellbeing under the 1995 act** **18 general** **Inc s96 assessment of wellbeing** **PART 5 CHILD'S PLAN** **(1) For the purposes of this Part, a child requires a child's plan if the responsible authority in relation to a child considers that—** **(a) the child has a wellbeing need, and** **(b) subsection (3) applies in relation to that need.** **(2) A child has a wellbeing need if the child's wellbeing is being, or is at risk of being, adversely affected by any matter.** **(3) This subsection applies in relation to a wellbeing need if—** **(a) the need is not capable of being met, or met fully, by the taking of action other than a targeted intervention in relation to the child, and** **(b) the need, or the remainder of the need, is capable of being met, or met to some extent, by one or more targeted interventions in relation to the child.**	**Services in relation to Children at Risk of Becoming Looked After, etc**

[4] In 2015 the Scottish Government published 'National Guidance on Part 13: Support for Kinship Care' under the Children and Young People (Scotland) Act 2014

	(4) A "targeted intervention" is a service which— **(a) is provided by a relevant authority in pursuance of any of its functions, and** **(b) is directed at meeting the needs of children whose needs are not capable of being met, or met fully, by the services which are provided generally to children by the authority.** **(5) The references in subsection (4) to services being provided by a relevant authority include references to services provided by a third person under arrangements made by the relevant authority.** **(6) In deciding whether a child requires a child's plan, the responsible authority—** **(a) is, where the child's named person is not an employee of the responsible authority, to consult the child's named person, and** **(b) is so far as reasonably practicable to ascertain and have regard to the views of—** **(i) the child,** **(ii) the child's parents,** **(iii) such persons, or the persons within such description, as the Scottish Ministers may by order specify, and** **(iv) such other persons as the responsible authority considers appropriate.** **(7) In having regard to the views of the child, the responsible authority is to take account of the child's age and maturity.** **(8) Subsection (1) does not apply in relation to—** **(a) a child who already has a child's plan,** **(b) a child who is a member of any of the regular forces.** **(9) In subsection (8)(b), "regular forces" has the meaning given by section 374 of the Armed Forces Act 2006.**	

	34 Content of a child's plan **(1) A child's plan is to contain a statement of—** **(a) the child's wellbeing need,** **(b) the targeted intervention which requires to be provided, or the targeted interventions which require to be provided, in relation to the child, and** **(c) in relation to each such targeted intervention—** **(i) the relevant authority which is to provide the targeted intervention,** **(ii) the manner in which the targeted intervention is to be provided, and** **(iii) the outcome in relation to the child's wellbeing need which the targeted intervention is intended to achieve.** **(2) A child's plan may contain a targeted intervention only where the relevant authority which would provide it, or under whose arrangements it would be provided, agrees.** **(3) If that relevant authority is not to prepare the plan, it must provide to the person who is to prepare the plan a statement of its reasons for not agreeing.** **(4) The Scottish Ministers may by order make provision as to—** **(a) other information which is, or is not, to be contained in child's plans, (b) the form of child's plans.** **36 Responsible authority: general**	

	(1) For the purposes of this Part, the responsible authority in relation to a child is— **(a) where the child is a pre-school child, the health board for the area in which the child resides,** **(b) where the child is not a pre-school child, the local authority for the area in which the child resides.** **…** **56 Corporate parents** **(1) The persons listed, or within a description listed, in schedule 4 are "corporate parents" for the purposes of this Part (subject to subsections (3) and (4)).** **(2) The Scottish Ministers may by order modify schedule 4 by— (a) adding a person or description of persons,** **(b) removing an entry listed in it, or** **(c) varying an entry listed in it.** **58 Corporate parenting responsibilities** **(1) It is the duty of every corporate parent, in so far as consistent with the proper exercise of its other functions—** **(a) to be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom this Part applies,** **(b) to assess the needs of those children and young people for services and support it provides,** **(c) to promote the interests of those children and young people,** **(d) to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing,**	

	(e) to take such action as it considers appropriate to help those children and young people— **(i) to access opportunities it provides in pursuance of paragraph (d), and** **(ii) to make use of services, and access support, which it provides, and** **(f) to take such other action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to those children and young people.** **(2) The Scottish Ministers may by order—** **(a) modify subsection (1) so as to confer, remove or vary a duty on corporate parents,** **(b) provide that subsection (1) is to be read, in relation to a particular corporate parent or corporate parents of a particular description, with a modification conferring, removing or varying a duty.** **PART 10 AFTERCARE** **66 Provision of aftercare to young people** **(1) The 1995 Act is amended as follows.** **(2) In section 29—(a) in subsection (1)—** **..** **In section 30** **PART 11 CONTINUING CARE** **67 Continuing care: looked after children (1) After section 26 of the 1995 Act insert— "26A Provision of continuing care: looked after children**	

	PART 12 SERVICES IN RELATION TO CHILDREN AT RISK OF BECOMING LOOKED AFTER, ETC. **68 Provision of relevant services to parents and others** **(1) A local authority must make arrangements to secure that relevant services of such description as the Scottish Ministers may by order specify are made available for—** **(a) each eligible child residing in its area,** **(b) a qualifying person in relation to such a child,** **(c) each eligible pregnant woman residing in its area, (d) a qualifying person in relation to such a woman.** **(2) A "relevant service" is a service comprising, or comprising any combination of— (a) providing information about a matter,** **(b) advising or counselling about a matter,** **(c) taking other action to facilitate the addressing of a matter by a person.** **(3) An "eligible child" is a child who the authority considers—** **(a) to be at risk of becoming looked after, or** **(b) to fall within such other description as the Scottish Ministers may by order specify.** **(4) A "qualifying person" in relation to an eligible child is a person—** **(a) who is related to the child,** **(b) who has any parental rights or responsibilities in relation to the child, or (c) with whom the child is, or has been, living.** **(5) An "eligible pregnant woman" is a pregnant woman who the authority considers is going to give birth to a child who will be an eligible child.**	

	(6) A "qualifying person" in relation to an eligible pregnant woman is a person— **(a) who is the father of the child to whom the pregnant woman is to give birth,** **(b) who is married to, in a civil partnership with or otherwise related to the pregnant woman, (c) with whom the pregnant woman is living, or** **(d) who does not fall within any of paragraphs (a) to (c) but who the authority considers will, when the pregnant woman gives birth to the child, become a qualifying person in relation to the child.** **(7) The references in this section to a person who is** **PART 18 GENERAL** **96 Assessment of wellbeing** **(1) This section applies where under this Act a person requires to assess whether the wellbeing of a child or young person is being or would be—** **(a) promoted,** **(b) safeguarded,** **(c) supported,** **(d) affected, or** **(e) subject to an effect.** **(2) The person is to assess the wellbeing of the child or young person by reference to the extent to which the child or young person is or, as the case may be, would be—** **Safe,** **Healthy,** **Achieving,**	

	Nurtured, **Active,** **Respected,** **Responsible, and** **Included.** **(3) The Scottish Ministers must issue guidance on how the matters listed in subsection (2) are to be used to assess the wellbeing of a child or young person.** **(4) Before issuing or revising such guidance, the Scottish Ministers must consult—** **(a) each local authority,** **(b) each health board, and** **(c) such other persons as they consider appropriate.** **(5) In measuring the wellbeing of a child or young person as mentioned in subsection (2), a person is to have regard to the guidance issued under subsection (3).** **(6) The Scottish Ministers may by order modify the list in subsection (2).** **(7) Before making an order under subsection (6), the Scottish Ministers must consult— (a) each local authority,** **(b) each health board, and** **(c) such other persons as they consider appropriate.** **97 Interpretation** **(1) In this Act—** **"the 1980 Act" means the Education (Scotland) Act 1980,** **"the 1995 Act" means the Children (Scotland) Act 1995,** **"child" means a person who has not attained the age of 18 years,**	

	"health board" means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978. **(2) References in this Act to a child being or becoming "looked after" are to be construed in accordance with [sections 17(6) and 17A(2)] 1 of the 1995 Act.** **(3) The following expressions have the same meaning in this Act as they have in the 1980 Act— education authority** **grant-aided school independent school managers** **nursery class primary school proprietor** **public school pupil school age.** **Noted to be a landmark piece of legislation, introducing a range of significant reforms across many aspects of children's services.** **Taken together, the Act's parts are focused on facilitating a shift in public services resources towards the early years of a child's life, and towards early intervention whenever a family or young person needs help.** **The legislation places new duties on public authorities to report on the steps they have taken to secure the United Nations Convention on the Rights of the Child 1989 (UNCRC), and provides new powers to Scotland's Commissioner for Children and Young People, enabling she/he to investigate the extent to which a service provider has had regard to the rights, views and interests of an individual child or young person. (Previously the Commissioner could only investigate matters affecting a group of children or young people.)**	

	The 2014 Act introduces a number of important changes for looked after children and care leavers in Scotland. In summary, these are: • **Every child and young person (up to their 18th birthday) will have a Named Person (Part four);** • **Every looked after child and care leaver (up to their 18th birthday) will have a Child's Plan (Part five);** • **600 hours (a total soon to be raised further) of free early learning and child care for all two year olds who are 'looked after' or secured with friends or relatives through a Kinship Care Order (Part six, sections 47 and 48);** • **Introduces 'corporate parenting' duties on certain publicly funded individuals and organisations (Part nine);** • **Extends eligibility for aftercare assistance up to an individual's 26th birthday (from a previous statutory upper limit of 21st birthday); new duty on local authorities to report on the death of a young person in receipt of aftercare services (Part ten);** • **Introduces 'Continuing Care', providing certain care leavers with the opportunity to continue with the accommodation and assistance they were provided with immediately before they ceased to be looked after (Part 11);** • **Places requirements on local authorities to provide support for children considered to be 'at risk of becoming looked after' (Part 12);** • **Duties local authorities to provide assistance for applicants and holders of a Kinship Care Order (Part 13);** • **Establishes Scotland's national Adoption Register on a legal footing, and provides Ministers with powers to mandate its use by all adoption agencies (Part 14).**	

Public Bodies (Joint Working) (Scotland) Act 2014	sets the framework for health and social care integration	
Community Empowerment (Scotland) Act 2015	An Act of the Scottish Parliament to make provision about national outcomes; community planning and other matters 11 Public Services Reform (Scotland) Act 2010 In section 115 of the Public Services Reform (Scotland) Act 2010 (joint inspections), in subsection (12), for the words from "means" to the end of the subsection, substitute "is to be construed in accordance with section 7 of the Children and Young People (Scotland) Act 2014.".	
Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014.	Order from section 47 and 99 of the Children and Young People (Scotland) Act 2014 makes provision for children to get childcare. Article 2 describes an eligible pre-school child.	
Support and Assistance of Young People Leaving Care (Scotland) Regulations 2015	These Regulations amend the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 ("the 2003 Regulations") in consequence of amendments made to section 29 of the Children (Scotland) Act 1995 ("the 1995 Act") by section 66 of the Children and Young People (Scotland) Act 2014 ("the 2014 Act").	CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014: Guidance on Part 10: Aftercare Guidance on Part 11 (Continuing Care) of the Children and Young People (Scotland) Act 2014

	Section 29 of the 1995 Act makes provision as to the duties and powers of local authorities to provide aftercare assistance to young people who were formerly looked after by them in terms of section 17(6) of the 1995 Act. The 2003 Regulations supplement section 29 of the 1995 Act and make provision as to how young persons are to be assessed for the purposes of section 29(5), the manner in which aftercare assistance may be provided and the procedures which local authorities must establish to consider representations (including complaints) by young people. Section 66 of the 2014 Act amends section 29 of the 1995 Act to change the powers and duties of local authorities in relation to aftercare and so, in consequence, it is necessary to amend the 2003 Regulations to take into account the amended section 29. Article 2 of this Order makes a number of consequential amendments to some of the key definitions in regulation 2(1) of the 2003 Regulations (e.g. "compulsorily supported person" and "discretionarily supported person") and also to regulations 7 to 9 and 11 (which deal with various aspects of pathway plans) and 16 (appeals) of the 2003 Regulations to take into account the amendments made to section 29 of the 1995 Act by section 66 of the 2014 Act.	These are our bairns: a guide for community planning partnerships on being a good corporate parent Staying put Scotland: providing care leavers with connectedness and belonging Supporting Young People Leaving Care in Scotland Regulations and Guidance on Services for Young People Ceasing to be Looked After by Local Authorities Guidance for local authorities and their community planning partners on improving housing and accommodation outcomes for care leavers.
Aftercare (Eligible Needs) (Scotland) Order 2015	This Order makes provision in relation to the provision of aftercare to young people under section 29 of the Children (Scotland) Act 1995 ("the 1995 Act").	

	Section 66 of the Children and Young People (Scotland) Act 2014 makes a number of amendments to section 29 of the 1995 Act 2. Aftercare: types of support constituting “eligible needs” The following types of support are specified for the purposes of section 29(8) of the Children (Scotland) Act 1995 1 :— (a) financial support to meet essential accommodation and maintenance costs; (b) support, in the form of information or advice, to assist the person to access education, training, employment, leisure and skills-related opportunities; and (c) insofar as not covered by sub-paragraph (b), support, in the form of information or advice, relating to the person's wellbeing.	
Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2015	This Order amends the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014. Article 2 amends the definition of “qualifying benefit”,	
Education (Scotland) Act 2016 The Education (Scotland) Act 2016 introduced additional responsibilities on Scottish ministers and local authorities to have regard to the need to reduce inequality of outcomes whether arising out of	New legislative provision in the Act will place additional responsibilities on Scottish Ministers and local authorities to have regard to the need to reduce inequalities of outcomes – whether arising out of socio-economic disadvantage or otherwise – when exercising their functions relating to school education.	

socioeconomic disadvantage or otherwise, when exercising their functions relating to school education. It also provides certain children with rights to question support needs they may have in order to make the most of their learning while at school. Section 1 introduces a new section 3A into the Standards in School in Scotland Act 2000 in relation to pupils experiencing inequalities of outcome and the Scottish Ministers duty in relation to that.	The Act will also ensure that certain children have rights to question any support needs they may have in order to make the most of their learning while at school. It will ensure that all children and young people have appropriately qualified teachers, and that local authorities each have a qualified and experienced Chief Education Officer with responsibility for advising on how to deliver their education functions. 1 Pupils experiencing inequalities of outcome After section 3 of the Standards in Scotland's Schools etc. Act 2000 insert— "3A Pupils experiencing inequalities of outcome: Scottish Ministers' duty (1) The Scottish Ministers must, when exercising their powers relating to school education, have due regard to the need to exercise the powers in the way mentioned in subsection (2). (2) The way is a way designed to reduce inequalities of outcome for— (a) pupils who experience those inequalities as a result of socio-economic disadvantage, and (b) pupils who— (i) experience those inequalities other than as a result of socio economic disadvantage, and (ii) are of such description as may be specified in regulations made by the Scottish Ministers. (3) Regulations under subsection (2)(b)(ii) are subject to the affirmative procedure. 3B Pupils experiencing inequalities of outcome: education authority's duties	

	(1) This section applies where— (a) an education authority is making a decision of a strategic nature about the carrying out of its functions relating to school education, or (b) an education authority is considering what steps to take to implement such a decision. (2) The authority must have due regard to the need to carry out its functions relating to school education in the way mentioned in section 3A(2). (3) The authority must— (a) seek and have regard to the views of persons mentioned in subsection (4) in relation to the decision and steps, (b) provide any advice and support that the authority thinks appropriate to those persons in relation to its consideration of the decision and steps. (4) The persons are— (a) the headteachers of such schools managed by the authority as the authority thinks appropriate, (b) such pupils as the authority thinks appropriate, (c) the parents of such pupils as the authority thinks appropriate, (d) the representatives of any trade union which appears to the authority to be representative of the teaching staff at such schools managed by the authority as the authority thinks appropriate, (e) such voluntary organisations as the authority thinks appropriate, (f) any other persons the authority thinks appropriate.”.	
Carers (Scotland) Act 2016	The Carers (Scotland) Act 2016 makes provisions for carers, which include identification of a carer’s needs for support through adult care support plans and young carer’s statements.	

	There are also provision for support to carers and enabling involvement in certain services. Young carers are defined as anyone under 18 or 18 if still at school.	
Community Justice (Scotland) Act 2016	The Act establishes a new model for community justice services which has local delivery, partnerships and collaboration at its heart, with national arrangements to provide profile, leadership and strategic direction. Robust accountability and driving improvement will also be important aspects of the new model. Enhanced opportunities for innovation, learning and development will also be provided.	
Children and Young People (Scotland) Act 2014 (Consequential Modifications) 2016	This Order makes amendments in consequence of the Children and Young People (Scotland) Act 2014 (2014 asp 8) ("the Act"). The Act inserted a new section 26A into the Children (Scotland) Act 1995 which places a duty on local authorities to provide 'continuing care' to eligible people who have ceased to be looked after by the local authority. Article 2 amends Schedules 9 and 10 to the Income Support (General) Regulations 1987 (S.I. 1987/1967). The amendment of Schedule 9 has the effect that any payments in the form of income made by a local authority with respect to a person who is the subject of the continuing	

	care arrangements are disregarded when calculating the claimant's income support. The amendment of Schedule 10 has the same effect with respect to any payments that are made in the form of capital. Articles 3, 4 and 6 to 8 make similar provision for the disregard of payments made in the form of income and capital with respect to the Jobseeker's Allowance Regulations). Article 5 of this Order amends regulation 2 of the 2004 Regulations to add a reference to a person to whom a local authority in Scotland is obliged to provide continuing care (accommodation and other assistance) under section 26A of the Children (Scotland) Act 1995 (as inserted by section 67(1) of the Act) where that person has ceased to be “looked after” by the local authority. This has the effect that such a person is excluded from entitlement to income-based jobseeker's allowance, income support and housing benefit on the same basis as a person to whom the local authority owes an obligation to provide advice, guidance and assistance under section 29(1) of the Children (Scotland) Act 1995.	
Kinship Care Assistance (Scotland) Order 2016	This Order make provision for the duties and functions of local authorities in respect to kinship care assistance. Article 3 provides that a local authority must have regard to the wellbeing of the child in the consideration of the provision of kinship care assistance. Article 4 specifies the categories of kinship care assistance provided by local authorities.	

	Article 5 specifies the circumstances in which a child is an eligible child for the purpose of section 71(5) of the Children and Young People (Scotland) Act 2014. Article 6 specifies the factors which a local authority must consider as to whether a child is at risk of becoming looked after. Article 7 specifies the types of kinship care assistance that require an application. Article 8 provides that a local authority must notify the applicant of the decision to provide kinship care assistance or financial support falling within article 4(b)(ii), (d)(ii), (e)(ii), (f)(ii) and (g)(ii). Article 9 provides that local authorities must publish information about the provision of kinship care assistance.	
Adoption Register Regulations 2016	These Regulations make provision in relation to Scotland's Adoption Register ("the Register"). The Register was established by Chapter 1A of the Adoption and Children (Scotland) Act 2007 (asp 4) which was inserted by section 75 of the Children and Young People (Scotland) Act 2014 (asp 8). Provision is made in Chapter 1A in connection with the Register. Chapter 1A and these Regulations come into force on 1st April 2016. These Regulations make provision about the information which the Register is to contain (regulation 3 and Schedules 1 and 2).	

	Regulation 4 provides that where a Scottish adoption agency decides that adoption is in the child's best interests or that an application should be made for a permanence order granting authority for a child to be adopted, information about that child must be provided to the Register. Regulation 5 provides that where a Scottish adoption agency decides that a person would be suitable to be an adoptive parent, information about that person must be provided to the Register. Regulation 6 makes provision about the retention of information on the Register. Regulation 7 authorises the disclosure of information from the Register in certain circumstances.	
The Children and Young People (Scotland) Act 2014 Relevant Services in Relation to Children at Risk of Becoming Looked After (Scotland) Order 2016	2.— Relevant services (1) The following descriptions of relevant services are specified for the purpose of section 68(1) of the Act:— (a) family group decision-making services; and (b) support services in relation to parenting. (2) For the purpose of paragraph (1)— (a) a “family group decision-making service” means a service which is designed to facilitate decision-making by a child's family in relation to the services and support required for the child; and (b) a “support service in relation to parenting” means a service which is designed to increase parenting skills.	

	3.— Relevant services: further provision (1) Relevant services are to be provided in accordance with this article. (2) For the purpose of considering whether a child is within section 68(3)(a) of the Act, a local authority must consider whether the child's wellbeing is being, or is at risk of being, adversely affected by any matter, such that the child is at risk of becoming looked after. (3) A local authority must only provide relevant services as specified in article 2 where the local authority considers that the likely benefit to the eligible child's wellbeing in doing so outweighs any likely adverse effect on that wellbeing arising from doing so. (4) In considering the likely effect on an eligible child's wellbeing as mentioned in paragraph (3) a local authority must, so far as reasonably practicable, ascertain and have regard to the views of— (a) the child; and (b) such other persons as the local authority considers appropriate. 4. Publication of information about the provision of relevant services	
Child's Plan (Scotland) Order 2016	Revoked before coming into force on August 31, 2016 by Named Persons (Training, Qualifications, Experience and Position) and the Child's Plan (Scotland) Revocation Order 2016/234 (Scottish SI) art.2(b) (August 30, 2016) See Children (Care and Justice)(Scotland) Act 2024	

Child Poverty (Scotland) Act 2017 This act sets targets relating to the eradication of child poverty. It includes provisions which require plans to be made and reports to be provided in relation to whether those targets are being met. It established the Poverty and Inequality Commission.	This act sets targets relating to the eradication of child poverty. It includes provisions which require plans to be made and reports to be provided in relation to whether those targets are being met. It established the Poverty and Inequality Commission. The Child Poverty (Scotland) Act contains the following key elements. It: • Sets out four statutory income targets, with interim targets. • Places a duty on the Scottish Ministers to publish child poverty delivery plans, with the first plan covering the 4 year period from 1 April 2018 and two further plans covering a 4 and 5 year period respectively, and to report on those plans annually. • Places a duty on local authorities and Health Boards to report annually on activity contributing to the meeting of the child poverty targets. • Establishes a Poverty and Inequality Commission from 1 July 2019.	
Children and Social Work Act 2017	English act incs placing children elsewhere in UK Includes Corporate parenting principles ; safeguarding of children - practice review panel, local arrangements for safeguarding Inserts provision into the 1989 Act about care leavers provisions advice and support	

Data Protection Act 2018		
Age of criminal responsibility (Scotland) Act 2019	raises the age of criminal responsibility to 12 years makes changes to the law on the disclosure of criminal records and of other information relating to individuals working or seeking to work with children or certain adults; on the provision of information by the Principal Reporter to persons adversely affected by the behaviour of children; on the taking of certain children to a place of safety by the police; on the search of certain children by the police; on police interviews with certain children; and on the taking of forensic samples from certain children by the police	raised the age of criminal responsibility to 12 years.
Children (Scotland) Act 2020	**Makes important changes to children's views, in relation to orders sought in the 1995 Act, the 2007 Act and the 2011 Act. These provisions are not yet fully in force.** **Changes are being made in relation to taking account of children's views; how their views are sought; and to explaining decisions to children.** **The Act removes the presumption that a child aged over 12 is considered mature enough to give their views, now where a younger**	

	children, who is capable of forming a view, and wishes to give their views are able to do so. **Further provisions are also made regarding the protection of vulnerable witnesses and special measures when giving evidence.** **The Act also puts on a statutory basis duties to promote contact between looked after children and their siblings (Section 13 amending section 17 of the 1995 Act).** **The Act also makes provision that siblings views should be sought when decisions are being made in relation to a looked after child.** **Section 14 inserts a new section into the 2011 Act so that when a children's hearing are deciding whether or not to make a direction regulating contact they now have to also consider whether or not there should be contact between the child and their siblings and between a child and a relevant person.** **The Act also clarifies the law to the effect that a child under 16 can seek an order for contact with another child under 16.** ***Regard to be had to child's views*** **7. Sections 1 to 3 of the Act make amendments to sections 6, 11, 14 and 16 of the 1995 Act, sections 14 and 84 of the 2007 Act and section 27 of the 2011 Act.** **These amendments remove a presumption that a child aged 12 or over is considered mature enough to give their views. This will ensure that younger children who are capable of forming a view and who may wish to give their views are able to do so.**	

	The presumption being removed covers both when a court or a children's hearing is making a decision that concerns the child (sections 11 and 16 of the 1995 Act, section 14 and 84 of the 2007 Act and section 27 of the 2011 Act) and when a person is exercising their parental responsibilities and rights (section 6 of the 1995 Act). **The changes require the decision maker to give a child an opportunity to express their views in court cases under section 11 of the 1995 Act and on key decisions that may affect them, such as who they should live with or have contact with.** **The child must be given an opportunity to express their views in the manner they prefer. If a child indicates a preference as to how to give their views, the decision maker may reject the chosen method only if it would be unreasonable to allow it in all the circumstances. If a child does not indicate a preferred manner of expressing their views or it would not be reasonable in the circumstances to accommodate the preferred manner then the decision maker can choose the manner.** **Where the exception applies, the decision maker must choose a manner which is suitable to the child.** **When the views of the child have been obtained, the decision maker is required to have regard to the views taking into account the child's age and maturity. This is repeated from existing legislation.** **Section 4 amends the 2004 Act. The 2004 Act contains special measures designed to protect vulnerable witnesses which, at the moment, include measures such as use of a live television link, use of a screen and supporters. The new special measure allows the**	

	court to prohibit parties to the proceedings from personally conducting their own case. ***Promotion of contact between looked after children and siblings*** **Section 13 amends section 17 of the 1995 Act to provide that the local authority must take such steps to promote personal relations and direct contact between a looked after child and their siblings, as appear to the local authority to be appropriate, having regard to the local authority's duty to promote the welfare of the child.** **This replicates the duty that local authorities have to promote personal relations and contact between a looked after child and those with parental responsibilities and rights. The duty applies not only to siblings , but also to any other person with whom the child has lived and with whom** **the child has an ongoing relationship with the character of a relationship between siblings.** **This section also amends section 17(3) of the 1995 Act. The effect is that, before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the views of siblings and any other person with whom the child has lived and with whom the child has an ongoing relationship with the character of a relationship between siblings.** ***Duty to consider contact when making etc. compulsory supervision order*** **Section 14 of the Act inserts into the 2011 Act when deciding whether to include a direction regulating contact between the child the decision maker must in particular consider the relationships**	

	between the child and their siblings and between the child and their relevant persons and decide if a relationship should be supported by a legal measure of contact implemented by the relevant authority.	
Disclosure (Scotland) Act 2020		
Children (Care and Justice) (Scotland) Act 2024	Children Care and Justice (Scotland) Act 2024 make provision in relation to a number of important matters affecting children. Part 1 the main change brought in by the Act is that the definition of child in section 199 of the Children's Hearings (Scotland) Act 2011, has been amended so that all young people under the age of 18 will be children for the purposes of the children's hearing system. There are other changes to the 2011 Act made by Part 1 including placing a duty on children's hearings to have due regard to the effects of trauma on children. Part 2 deals with children who are involved in the criminal justice system when suspected or accused of offences or when involved as victims or witnesses. Included in Section 19 is that under eighteens will no longer be detained in young offenders institutions. Where the are detained in secure accommodation, section 24 provides that local authorities will have to treat those children as looked after children.	

	Part 5 makes changes to the meaning of child in the Antisocial Behaviour etc. (Scotland) Act 2004, so that child is a person under 18, (except in the case of parenting orders where it remains under 16). Also includes measures that may be included in compulsory supervision orders, the provision of information to certain persons as to disposals made by the hearings system, and supervision and guidance for children after age 18 makes provision treating under 18s as children for the purposes of the criminal justice system and about how children are treated in that system, including providing for new safeguards for children in court, the circumstances in which courts must seek advice from a children's hearing or remit the case to a hearing for disposal, the court's power to impose driving disqualifications and penalty points despite so remitting, the operation of sexual offences notification requirements on such remittal, and the use of secure accommodation, and removing the option of young offenders institutions and remand centres, when detaining children; to make changes to provision on secure accommodation and the regulation of secure accommodation services, including those services which take children from other parts of the United Kingdom; to make provision about UNCRC compatibility issues in relation to decisions to prosecute children	

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024	**This Act incorporates into Scots law the rights and obligations set out in the UNCRC.** **It also brings in related provisions to ensure compliance with the duties relating to the UNCRC.** **Included in the Act is section 6 which confirms that the acts of public authorities are to be compatible with the UNCRC requirements.** **Section 17 deals with children's rights and well-being impact assessments and sets out when the Scottish Ministers have to prepare such assessments.** **The articles in the UNCRC are contained in the Act** **17 Child rights and wellbeing impact assessments** **(1) A child rights and wellbeing impact assessment is an assessment of the likely effects (if any) of a legislative provision on, or decision of a strategic nature relating to, the rights and wellbeing of children.** **(2) The Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to the following legislative provisions—** **(a) a Bill for an Act of the Scottish Parliament that the Scottish Ministers intend to introduce in the Scottish Parliament,** **(b) a Scottish statutory instrument made by the Scottish Ministers other than one which brings a provision of an Act of the Scottish Parliament or an Act of Parliament into force.** **(3) The Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to decisions of a strategic**	UNCRC (Incorporation) (Scotland) Act 2024 - part 2: statutory guidance Draft

	nature relating to the rights and wellbeing of children as required by, and in accordance with, the arrangements set out in the Scheme. **(4) Without prejudice to the generality of subsection (3), the Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to—** **(a) any decision by the Scottish Ministers to restrict, for a reason relating to coronavirus, the delivery in person of education provision to children at schools,** **(b) any strategy, policy or criteria of the Scottish Ministers that is to be applied by an education authority in making a decision temporarily to remove or restrict the delivery in person of education provision to children at schools under the education authority's management, regardless of the reason for the decision.** **…**	
National Guidance for Child Protection in Scotland 2021 - updated 2023		
Note bill on Disabled Children and Young Peoples (Transitions to Adulthood)(Scotland) Bill 2022		

Key colours

Green the principal acts for care experience
Blue principal associated regulations
Yellow matters of particular interest