

Children (Equal Protection from Assault) (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 5

Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Oliver Mundell

Supported by: Mary Fee, Christine Grahame

1 In section 1, page 1, line 8, at end insert—

- <() For the avoidance of doubt, nothing in this section affects the ability of a person having charge or care of a child to—
- (a) act in the best interests of the child,
 - (b) make physical contact with the child for the purposes of physical restraint necessary to restrain the child for the purpose of preserving the safety of the child or preventing the child from self harm,
 - (c) fulfil the person’s responsibilities (whether parental responsibilities or otherwise) to—
 - (i) maintain the child’s safety and wellbeing or that of another person, or
 - (ii) prevent the child from committing a criminal offence.>

Section 2

Liam Kerr

9 In section 2, page 1, line 11, at end insert—

- <() the rule of law referred to in section 1,
- () the protection from assault for children provided in the Criminal Justice (Scotland) Act 2003,
 - () parental responsibilities under the Children (Scotland) Act 1995,
 - () good parenting practices and the potential harm to children who suffer disproportionate violence or assault in childhood,
 - () alternative parenting practices that do not include any form of—
 - (i) violence,
 - (ii) smacking or reasonable chastisement.>

Section 3

Annie Wells

2 In section 3, page 1, line 23, at end insert—

<() For the avoidance of doubt, provision in regulations under subsection (3) must not unduly limit the ability of parents to carry out their responsibilities to their children.>

Annie Wells

3 In section 3, page 1, line 24, leave out <negative> and insert <affirmative>

Section 4

Oliver Mundell

4 In section 4, page 2, line 3, at end insert—

<(1A) Section 1 may not come into force until subsections (1B) and (1C) have been complied with.

(1B) The Scottish Ministers must prepare and publish guidance on the operation of this Act.

(1C) Guidance issued under subsection (1B) must include, but is not limited to, guidance on—

- (a) the rights of parents and carers to use restraint when in charge of a child,
- (b) the limits of physical force that may be applied in common situations,
- (c) best practice on alternatives to prosecution and the support that should be made available to affected families where there are no child welfare concerns,
- (d) the support (including, but not limited to, independent legal advice and contact with a nearest relative or other trusted adult) that should be provided to a child in the circumstances where the child is a witness in any criminal proceedings against the child's parent or legal guardian.>

Oliver Mundell

5 In section 4, page 2, line 3, at end insert—

<(1D) Section 1 may not come into force until subsections (1E) and (1F) have been complied with.

(1E) The Lord Advocate must prepare and publish guidance on prosecutorial policy to support a proportionate and appropriate response to the individual circumstances of particular cases, informed by—

- (a) a person's responsibility to protect a child of whom the person has charge or care from harm, and
- (b) wider consideration of the best interests of the child.

(1F) The chief constable of the Police Service of Scotland is to take steps to make constables aware of guidance issued under subsection (1E).>

Oliver Mundell

6 In section 4, page 2, line 3, at end insert—

<(1G) Section 1 may not come into force until subsections (1H) and (1I) have been complied with.

(1H) The Scottish Ministers must prepare and publish guidance on the operation of this Act.

(1I) Guidance issued under subsection (1H) must include, but is not limited to, guidance on the support (including, but not limited to, independent legal advice and contact with a nearest relative or other trusted adult) that should be provided to a child in the circumstances where the child is a witness in any criminal proceedings against the child's parent or legal guardian.>

Oliver Mundell

7 In section 4, page 2, line 3, at end insert—

<(1J) Section 1 may not come into force until subsections (1K) to (1M) have been complied with.

(1K) The Scottish Ministers must prepare, publish and lay before the Parliament a statement setting out the additional resources provided to persons and bodies whose functions are likely to be affected by the operation of section 1.

(1L) Before preparing a statement under subsection (1K), the Scottish Ministers must consult—

- (a) the chief constable of the Police Service of Scotland,
- (b) local authorities in respect of their social work functions,
- (c) each Health Board,
- (d) the Crown Office and Procurator Fiscal Service,

about the effect they expect the operation of section 1 to have on the resources they require.

(1M) The Parliament must resolve that it considers that the resources set out in the statement under subsection (1K) are sufficient.>

Annie Wells

8 In section 4, page 2, line 3, at end insert—

<(1N) Section 1 may not come into force until subsections (1O) and (1P) have been complied with.

(1O) The Scottish Ministers must prepare, publish and lay before the Parliament a statement setting out—

- (a) data on the effect of the rule of law described in section 1(1) (in particular, but not limited to, the number of cases in which that rule is considered to have been a relevant factor),
- (b) an analysis of that data.

(1P) Before preparing a statement under subsection (1O), the Scottish Ministers must consult—

- (a) the chief constable of the Police Service of Scotland,
- (b) the Crown Office and Procurator Fiscal Service.>

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