



# Children (Scotland) Act 2020

## 2020 asp 16

*Further provision about orders under section 11(1) of the Children (Scotland) Act 1995*

PROSPECTIVE

### **18 Duty to consider child's best interests when allowing access to information**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11D (which is inserted by section 17(2) of this Act) insert—

#### **“11E Duty to consider child's best interests when allowing access to information**

- (1) Where the court—
  - (a) is considering making an order under section 11(1), and
  - (b) has to decide whether a person should have access to anything in which private information about a child is recorded,in making that decision it must comply with subsections (2) and (3) in relation to that child.
- (2) The court must regard the best interests of the child as a primary consideration.
- (3) The court must—
  - (a) give the child an opportunity to express the child's views in—
    - (i) the manner that the child prefers, or
    - (ii) a manner that is suitable to the child if the child has not indicated a preference or it would not be reasonable in the circumstances to accommodate the child's preference, and
  - (b) have regard to any views expressed by the child, taking into account the child's age and maturity.
- (4) But the court is not required to comply with subsection (3) if satisfied that—
  - (a) the child is not capable of forming a view, or
  - (b) the location of the child is not known.

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*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Children (Scotland) Act 2020, Section 18. (See end of Document for details)*

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- (5) The child is to be presumed to be capable of forming a view unless the contrary is shown.
- (6) In this section, “private information” means information in which the child could have a reasonable expectation of privacy.”.

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Children (Scotland) Act 2020, Section 18.