



# Regulation of Care (Scotland) Act 2001

## 2001 asp 8

### PART 6

#### MISCELLANEOUS

*Central Council for Education and Training in Social Work: cessation of Scottish functions*

**67 Cessation of exercise of certain functions by Central Council for Education and Training in Social Work**

The Central Council for Education and Training in Social Work shall cease to exercise in relation to Scotland the functions conferred on it by or under section 10 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41).

*Grants, loans and other payments*

**68 Grants in respect of activities relating to child care and family support**

- (1) The Scottish Ministers may make grants to persons who—
  - (a) to any extent, undertake or engage in activities which relate to—
    - (i) the protection or care, under or by virtue of the Social Work (Scotland) Act 1968 (c.49) or the Children (Scotland) Act 1995 (c.36), of children; or
    - (ii) the provision of support, under or by virtue of either of those Acts, to families; or
  - (b) propose to undertake or engage in such activities to any extent.
- (2) The Scottish Ministers may make the payment of a grant in pursuance of subsection (1) above subject to such conditions and requirements (including a requirement that the whole or any part of the grant be repaid) as they think fit.

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**69 Amendment of Social Work (Scotland) Act 1968: delegation of power to make grants and loans to certain voluntary organisations etc.**

In section 10 of the Social Work (Scotland) Act 1968 (c.49) (financial and other assistance to voluntary organisations etc. for social work)—

(a) after subsection (1) there is inserted—

“(1A) The Scottish Ministers may make grants and loans of such amounts, and subject to such conditions, as they may determine to a voluntary organisation engaged as is mentioned in subsection (1) above to enable that organisation (in this section referred to as the “primary organisation”) to make grants and loans (in this section referred to as “secondary grants and loans”) to other voluntary organisations, or other persons, so engaged, in circumstances where it appears to the primary organisation that the secondary grants and loans should be made; and the Scottish Ministers may require that any secondary grant be subject to such conditions (including conditions for securing the repayment in whole or in part of that grant) as they may specify.”;

and

(b) in subsection (2), for the words “under the foregoing subsection” there is substituted “by the Scottish Ministers under subsection (1) or (1A) above”.

**70 Amendment of Social Work (Scotland) Act 1968: direct payments to children for care services**

In section 12B of the Social Work (Scotland) Act 1968 (c.49) (direct payments in respect of community care services)—

(a) in subsection (1)(a)—

(i) the words from “have decided” to “care service” become sub-paragraph (i); and

(ii) for the words “within the meaning of section 5A of this Act,” there is substituted the word “; or” and the following sub-paragraph—

“(ii) have a duty to provide a service to him under section 22(1) of the Children (Scotland) Act 1995 (c.36) (promotion of welfare of children in need) other than a service which comprises giving assistance in cash;”;

and

(b) at the end there is added—

“(7) The definition of “community care service” in section 5A of this Act shall, with the modification mentioned in subsection (8) below, apply for the purposes of this section as that definition applies for the purposes of that section.

(8) The modification is that the words “, other than services for children,” in the definition shall be disregarded.”.

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## 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”.

### *Nursing in local authority residential accommodation*

## 72 **Provision by local authorities of residential accommodation in which nursing is provided**

A local authority shall have power to provide and maintain such accommodation as is mentioned in subsection (1) of section 13A of the Social Work (Scotland) Act 1968 (c.49) (residential accommodation with nursing); and accordingly—

- (a) in that subsection—
  - (i) after the word “shall” there is inserted the following paragraph—

“(a) provide and maintain;”;
  - (ii) after that paragraph there is inserted the word “or”; and
  - (iii) the existing words “make such arrangements as they consider appropriate and adequate for the provision of” become paragraph (b);
- (b) in subsection (2) of that section, the word “The”, where it first occurs, is repealed; and
- (c) in section 59(1) of that Act (provision of residential and other establishments by local authorities etc.), for the words “Subject to” there are substituted the words “Without prejudice to their duties under”.

### **Annotations:**

#### **Commencement Information**

- II** S. 72 wholly in force at 1.4.2002, see s. 81(2)-(4) and S.S.I. 2002/162, **art. 2(e)** (subject to **arts. 3-13**)

PROSPECTIVE

### *After-care*

## 73 **Amendment of Children (Scotland) Act 1995: after-care**

(1) In section 29 of the Children (Scotland) Act 1995 (c.36) (after-care for persons who have been looked after by local authorities)—

- (a) in subsection (3), at the beginning there is inserted “Subject to section 73(2) of the Regulation of Care (Scotland) Act 2001 (asp 8),”;
- (b) after subsection (4) there is added—

“(5) It is the duty of each local authority, in relation to any person to whom they have a duty under subsection (1) above or who makes an application under subsection (2) above, to carry out an assessment of the person’s needs.

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- (6) Each local authority shall establish a procedure for considering representations (including complaints) made to them by any person mentioned in subsection (1) or (2) above about the discharge of their functions under the provisions of subsections (1) to (5) above.
- (7) In subsection (1) above, the reference to having been “looked after by a local authority” shall be construed as including having been looked after by a local authority in England and Wales; and subsection (4) of section 105 of the Children Act 1989 (c.41) (construction of references to a child looked after by a local authority) shall apply for the purposes of this subsection as it applies for the purposes of that Act (“local authority in England and Wales” being construed in accordance with subsection (1) of that section).”.
- (2) The Scottish Ministers may in regulations—
- (a) specify, either generally or in relation to a category or description of persons mentioned in subsection (1) or (2) of section 29 of the Children (Scotland) Act 1995 (or treated, by virtue of paragraph (b)(i) below, as so mentioned), the manner in which assistance is to be provided or, as the case may be, may be provided under the subsection in question;
  - (b) prescribe a category or description of persons who—
    - (i) though not mentioned in subsection (1) or (2) of that section are, for the purposes of the subsection in question, to be treated as persons so mentioned; or
    - (ii) though so mentioned are, for the purposes of the subsection in question, not to be treated as so mentioned,
 but such category or description must for the purposes of sub-paragraph (i) above be of persons who are, or have been, “eligible children” within the meaning of paragraph 19B(1) of Schedule 2 to the Children Act 1989 (local authority support for children and families) or “relevant children” within the meaning of section 23A(1) of that Act (functions of responsible authority) and for the purposes of sub-paragraph (ii) above be of persons to whom the subsection in question applies by virtue of subsection (1) above;
  - (c) make provision as to assessments for the purposes of subsection (5) of section 29 of the Children (Scotland) Act 1995; or
  - (d) make provision as to procedures established under subsection (6) of that section.
- (3) Regulations under subsection (2)(c) above may in particular make provision about—
- (a) who is to be consulted in relation to an assessment;
  - (b) the way in which an assessment is to be carried out, by whom and when;
  - (c) the recording of the results of an assessment; or
  - (d) the considerations to which the local authority are to have regard in carrying out the assessment.
- (4) Regulations under this section may make different provision for different areas.

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### *Place of safety*

#### **74 Amendment of Children (Scotland) Act 1995: “place of safety”**

In section 93(1) of the Children (Scotland) Act 1995 (c.36) (interpretation), in the definition of “place of safety”, for paragraph (d) (and the word “or” which immediately precedes that paragraph) there is substituted—

- “(d) a hospital, or surgery, the person or body of persons responsible for the management of which is willing temporarily to receive the child;
- (e) the dwelling-house of a suitable person who is so willing; or
- (f) any other suitable place the occupier of which is so willing.”.

### *Panels*

#### **75 Panels for curators ad litem, reporting officers and safeguarders**

In section 101 of the Children (Scotland) Act 1995 (c.36) (establishment of a panel of persons from whom curators ad litem, reporting officers and safeguarders may be appointed)—

- (a) for subsection (1) there is substituted—

“(1) The Scottish Ministers may by regulations make provision for the establishment of one or more of each of the following—

- (a) a panel of persons from which curators ad litem may be appointed under section 58 of the Adoption (Scotland) Act 1978 or under section 87(4) of this Act;
  - (b) a panel of persons from which reporting officers may be appointed under either of those sections; and
  - (c) a panel of persons from which appointments may be made under section 41(1) of this Act.”;
- (b) in subsection (2), in each of paragraphs (a) and (b), for the words “the panel” there is substituted “those panels”; and
  - (c) for subsection (3) there is substituted—

“(3) Regulations under subsection (1) above may provide—

- (a) for the defrayment by local authorities of expenses incurred by members of any panel established by virtue of that subsection; and
- (b) for the payment by local authorities of fees and allowances for such members.

(4) Paragraphs 9 and 10(b) of Schedule 1 to this Act shall apply in relation to any panel established by virtue of subsection (1)(c) above as they apply in relation to children’s panels.”.

#### **76 Amendment of Children (Scotland) Act 1995: Children’s Panel Advisory Committees**

In Schedule 1 to the Children (Scotland) Act 1995 (c.36) (children’s panels and Children’s Panel Advisory Committees)—

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- (a) in paragraph 9, the words from “to recruit” to the end become sub-paragraph (a) and after that sub-paragraph there is added—

“; and

- (b) to train members, or possible members, of the Children’s Panel Advisory Committees (or of any sub-committees of any of those committees).”;

- (b) in paragraph 10(b), the words “panel members or potential panel members” become head (i) and after that head there is added—

“; and

- (ii) members or potential members of Children’s Panel Advisory Committees (or of any sub-committees of any of those committees).”.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I. 2004/100, art. 3(2) 4(b) by [S.S.I. 2004/377 art. 2](#)
- specified provision(s) amendment to earlier commencing S.S.I. 2006/275, art. 3 by [S.S.I. 2007/67 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3 4](#)
- Blanket amendment words substituted by [S.I. 2011/1043 art. 3 6](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 2(4)-(4B) substituted for s. 2(4) by [2007 asp 14 s. 82\(1\)](#)
- s. 2(11)-(12B) substituted for s. 2(11)(12) by [2007 asp 4 s. 7](#)
- s. 25(3)(a)(i)-(iv) substituted for s. 25(3)(a)(i)(ii) by [S.S.I. 2009/131 art. 4](#)
- s. 25(5)(a)(i)-(iv) substituted for words by [S.S.I. 2009/131 art. 5](#)
- s. 25(5)(b)(i)-(iv) substituted for words by [S.S.I. 2009/131 art. 5](#)
- s. 25(5A) (5B) inserted by [2005 asp 13 s. 31\(2\)](#)
- s. 44(1)(aa) inserted by [S.I. 2007/3101 reg. 257\(a\)](#)
- s. 44(2)(2A) substituted for s. 44(2) by [S.I. 2007/3101 reg. 257\(b\)](#)
- s. 45(1A) inserted by [S.I. 2007/3101 reg. 258\(b\)](#)
- s. 46(2A)-(2H) inserted by [2010 asp 8 sch. 15 para. 2\(b\)](#)
- s. 46A 46B inserted by [S.I. 2007/3101 reg. 260](#)
- s. 46A(2) word substituted by [S.I. 2016/1030 reg. 116\(2\)](#)
- s. 46A(5) word substituted by [S.I. 2016/1030 reg. 116\(3\)\(a\)](#)
- s. 46A(5) word substituted by [S.I. 2016/1030 reg. 116\(3\)\(b\)](#)
- s. 47(2)(a) words in s. 47(2) renumbered as s. 47(2)(a) by [2010 asp 8 sch. 15 para. 3\(b\)\(i\)](#)
- s. 47(2)(b) (c) added by [2010 asp 8 sch. 15 para. 3\(b\)\(iii\)](#)
- s. 48(2)-(4) substituted for s. 48(2) by [2010 asp 8 sch. 15 para. 4\(b\)](#)
- s. 50(5) added by [2010 asp 8 sch. 15 para. 7\(e\)](#)
- s. 51(A1)-(A5) inserted by [2010 asp 8 sch. 15 para. 9\(a\)](#)
- s. 51(1)(a) word omitted by [S.I. 2016/1030 reg. 117\(2\)](#)
- s. 51(1)(b) word inserted by [S.I. 2016/1030 reg. 117\(3\)](#)
- s. 51(1)(c) inserted by [S.I. 2016/1030 reg. 117\(4\)](#)
- s. 51(2)(c) and word inserted by [2010 asp 8 sch. 15 para. 9\(c\)\(iii\)](#)
- s. 53(3A) (3B) inserted by [2010 asp 8 sch. 15 para. 10\(a\)](#)
- s. 53(6) (7) inserted by [2010 asp 8 sch. 15 para. 10\(b\)](#)
- s. 57(2A) inserted by [S.I. 2007/3101 reg. 264](#)
- s. 57A 57B and cross-heading inserted by [2005 asp 13 s. 32](#)
- s. 59(5) inserted by [2010 asp 8 sch. 14 para. 4\(b\)](#)
- Sch. 3 para. 22(b)(c) coming into force by [S.S.I. 2004/100 art. 2\(e\)](#)
- Sch. 3 para. 14(d)(e) repealed by [2010 c. 8 Sch. 10 Pt. 13](#)

**Commencement Orders yet to be applied to the Regulation of Care (Scotland) Act 2001**

Commencement Orders bringing legislation that affects this Act into force:

- S.S.I. 2004/522 art. 2 commences (2003 asp 5)
- S.S.I. 2005/161 art. 2-4 commences (2003 asp 13)
- S.S.I. 2005/492 art. 3 Sch. 1-3 commences (2005 asp 13)
- S.S.I. 2006/166 art. 2 commences (2005 c. 15)
- S.S.I. 2007/385 art. 2 Sch. commences (2007 asp 14)
- S.S.I. 2009/267 art. 2 commences (2007 asp 4)
- S.S.I. 2010/221 art. 3 Sch. commences (2010 asp 8)
- S.S.I. 2010/321 art. 3 Sch. commences (2010 asp 8)
- S.S.I. 2010/357 art. 2 commences (2009 asp 9)
- S.S.I. 2011/122 art. 2 Sch. commences (2010 asp 8)
- S.S.I. 2011/157 art. 2(a) commences (2007 asp 14)