

Status: Point in time view as at 01/10/2010.

Changes to legislation: Regulation of Care (Scotland) Act 2001 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F1}SCHEDULE 1 (introduced by section 1(3))

THE SCOTTISH COMMISSION FOR THE REGULATION OF CARE

Textual Amendments

- F1** Sch. 1 repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 14 para. 37](#); [S.S.I. 2010/321](#), art. 3, sch.; [S.S.I. 2011/122](#), art. 2, sch. (with savings and transitional provisions in [S.S.I. 2011/121](#), arts. 1(1), [15-21](#) and [S.S.I. 2011/169](#), arts. 1(1), [2](#), 3)

Status

- 1 The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

Membership

- 2 The Commission shall consist of a convener and other members appointed by the Scottish Ministers on such terms and conditions as appear to the Scottish Ministers to be appropriate.
- 3 In making appointments under paragraph 2 above, the Scottish Ministers shall have regard to the desirability of encouraging equal opportunities.
- 4 In making appointments under paragraph 2 above, the Scottish Ministers shall ensure that there is a requisite number of appointees who are persons who either—
- (a) use, or have used, care services or services which prospectively are to become care services; or
 - (b) care for such persons as are mentioned in head (a) above.
- 5 In paragraph 4 above, “requisite number” means at least two unless one sixth of the total number of members is (disregarding any fraction) a number greater than two, in which case it means at least that number greater than two.

General powers

- 6 Subject to any directions given by the Scottish Ministers, the Commission may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions; and without prejudice to that generality the Commission may in particular—
- (a) co-operate with other persons in matters relevant to the exercise of its functions;
 - (b) acquire and dispose of land and other property;
 - (c) enter into contracts; and
 - (d) with the consent of the Scottish Ministers, borrow sums in sterling by way of overdraft for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

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Regulations as to appointments, procedure etc.

- 7 The Scottish Ministers, after consulting such persons, or groups of persons, as they consider appropriate, may by regulations make provision as to—
- (a) the appointment of the convener (including any conditions to be fulfilled for appointment);
 - (b) the appointment of the other members (including, subject to paragraph 4 above, the number, or limits on the number, of those who may be appointed and any conditions to be fulfilled for appointment);
 - (c) the tenure of office of the convener and other members (including the circumstances in which they shall cease to hold office or may be removed or suspended from office);
 - (d) the appointment of, constitution of and exercise of functions by committees and sub-committees (including committees and sub-committees which consist of or include persons who are not members of the Commission);
 - (e) the procedure of the Commission and of any of its committees or sub-committees (including the validation of proceedings in the event of vacancies or of defects in appointment);
 - (f) the payment by the Commission to its convener and members (and to the members of its committees and sub-committees who are not members of the Commission) of such remuneration and allowances—
 - (i) on such terms; and
 - (ii) subject to such conditions,
 as the Scottish Ministers think fit;
 - (g) the payment by the Commission to, or in respect of, persons who have been its convener or members (or such members of committees and sub-committees as are mentioned in head (f) above) of such pensions, allowances and gratuities—
 - (i) on such terms; and
 - (ii) subject to such conditions,
 as the Scottish Ministers think fit;
 - (h) the payment by the Commission of compensation to any person who, other than on the expiry of a term of office, ceases to be its convener or to be a member of it; and
 - (i) the delegation by the Commission of any of its functions to any of its committees, sub-committees, members or employees.

Staff

- 8
- (1) Subject to sub-paragraph (2) below, the Commission may appoint as employees such persons (other than its convener or members) as it considers appropriate.
 - (2) The Commission shall have, as a member of its staff, a chief officer who shall be responsible to the Commission for the general exercise of its functions; and the appointment of that officer shall be subject to the approval of the Scottish Ministers.
 - (3) The remuneration and conditions of service of a chief officer appointed under this paragraph shall be such as the Commission, with the consent of the Scottish Ministers, may determine.
 - (4) The Commission may—

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- (a) pay, or make arrangements for the payment of;
 - (b) make payments towards the provision of; and
 - (c) provide and maintain schemes (whether contributory or not) for the payment of,
- pensions, allowances and gratuities to or in respect of such of its employees, or former employees, as it thinks fit.
- (5) The reference in sub-paragraph (4) above to pensions, allowances and gratuities includes, subject to sub-paragraph (6) below, a reference to pensions, allowances and gratuities by way of compensation for loss of employment or reduction in remuneration.
- (6) Anything done by virtue of sub-paragraph (5) above requires the approval of the Scottish Ministers.

Accounts

- 9 (1) The Commission shall—
- (a) keep accounts; and
 - (b) prepare annual accounts in respect of each financial year,
- in accordance with such directions as the Scottish Ministers may give it.
- (2) The Commission shall send a copy of the annual accounts to the Auditor General for Scotland for auditing.
- (3) The financial year of the Commission is—
- (a) the period beginning with the date on which the Commission is established and ending with 31st March next following that date; and
 - (b) each successive period of twelve months ending with 31st March.
- (4) If requested by any person, the Commission shall make available at any reasonable time, without charge, in printed or in electronic form, its audited accounts, so that they may be inspected by that person.

Reports

- 10 (1) As soon as possible after the end of each financial year of the Commission, it shall make a report to the Scottish Ministers on the exercise of its functions during that year; and they shall lay before the Parliament a copy of that report.
- (2) The Commission shall provide the Scottish Ministers with such reports and information relating to the exercise of its functions as they may from time to time require.]

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SCHEDULE 2

(introduced by section 43(3))

THE SCOTTISH SOCIAL SERVICES COUNCIL

Status

- 1 The Council shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Council's property shall not be regarded as property of, or property held on behalf of, the Crown.

Membership

- 2 The Council shall consist of a convener and other members appointed by the Scottish Ministers on such terms and conditions as appear to the Scottish Ministers to be appropriate.
- 3 In making appointments under paragraph 2 above, the Scottish Ministers shall have regard to the desirability of encouraging equal opportunities.
- 4 In making appointments under paragraph 2 above, the Scottish Ministers shall ensure that there is—
- (a) a requisite number of appointees who are persons registered under Part 3 of this Act; and
 - (b) a requisite number of appointees who are persons who either—
 - (i) use, or have used, care services or services which prospectively are to become care services; or
 - (ii) care for such persons as fall within sub-head (i) above.
- 5 In paragraph 4 above, “requisite number” means at least two unless one sixth of the total number of members is (disregarding any fraction) a number greater than two, in which case it means at least that number greater than two.

General powers

- 6 Subject to any directions given by the Scottish Ministers, the Council may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions; and without prejudice to that generality the Council may in particular—
- (a) co-operate with other persons in matters relevant to the exercise of its functions;
 - (b) acquire and dispose of land and other property;
 - (c) enter into contracts; and
 - (d) with the consent of the Scottish Ministers, borrow sums in sterling by way of overdraft for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

Regulations as to appointments, procedure etc.

- 7 The Scottish Ministers, after consulting such persons, or groups of persons, as they consider appropriate, may by regulations make provision as to—
- (a) the appointment of the convener (including any conditions to be fulfilled for appointment);

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- (b) the appointment of the other members (including, subject to paragraph 4 above, the number, or limits on the number, of those who may be appointed and any conditions to be fulfilled for appointment);
- (c) the tenure of office of the convener and other members (including the circumstances in which they shall cease to hold office or may be removed or suspended from office);
- (d) the appointment of, constitution of and exercise of functions by committees and sub-committees (including committees and sub-committees which consist of or include persons who are not members of the Council);
- (e) the procedure of the Council and of any of its committees or sub-committees (including the validation of proceedings in the event of vacancies or of defects in appointment);
- (f) the payment by the Council to its convener and members (and to the members of its committees and sub-committees who are not members of the Council) of such remuneration and allowances—
 - (i) on such terms; and
 - (ii) subject to such conditions,as the Scottish Ministers think fit;
- (g) the payment by the Council to, or in respect of, persons who have been its convener or members (or such members of committees and sub-committees as are mentioned in head (f) above) of such pensions, allowances and gratuities—
 - (i) on such terms; and
 - (ii) subject to such conditions,as the Scottish Ministers think fit;
- (h) the payment by the Council of compensation to any person who, other than on the expiry of a term of office, ceases to be its convener or to be a member of it; and
- (i) the delegation by the Council of any of its functions to any of its committees, sub-committees, members or employees.

Staff

- 8 (1) Subject to sub-paragraph (2) below, the Council may appoint as employees such persons (other than its convener or members) as it considers appropriate.
- (2) The Council shall have, as a member of its staff, a chief officer who shall be responsible to the Council for the general exercise of its functions; and the appointment of that officer shall be subject to the approval of the Scottish Ministers.
- (3) The remuneration and conditions of service of a chief officer appointed under this paragraph shall be such as the Council, with the consent of the Scottish Ministers, may determine.
- (4) The Council may—
 - (a) pay, or make arrangements for the payment of;
 - (b) make payments towards the provision of; and
 - (c) provide and maintain schemes (whether contributory or not) for the payment of,pensions, allowances and gratuities to or in respect of such of its employees, or former employees, as it thinks fit.

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- (5) The reference in sub-paragraph (4) above to pensions, allowances and gratuities includes, subject to sub-paragraph (6) below, a reference to pensions, allowances and gratuities by way of compensation for loss of employment or reduction in remuneration.
- (6) Anything done by virtue of sub-paragraph (5) above requires the approval of the Scottish Ministers.

Accounts

- 9 (1) The Council shall—
 - (a) keep accounts; and
 - (b) prepare annual accounts in respect of each financial year,
 in accordance with such directions as the Scottish Ministers may give it.
- (2) The Council shall send a copy of the annual accounts to the Auditor General for Scotland for auditing.
- (3) The financial year of the Council is—
 - (a) the period beginning with the date on which the Council is established and ending with 31st March next following that date; and
 - (b) each successive period of twelve months ending with 31st March.
- (4) If requested by any person, the Council shall make available at any reasonable time, without charge, in printed or in electronic form, its audited accounts, so that they may be inspected by that person.

Reports

- 10 (1) As soon as possible after the end of each financial year of the Council, it shall make a report to the Scottish Ministers on the exercise of its functions during that year; and they shall lay before the Parliament a copy of that report.
- (2) The Council shall provide the Scottish Ministers with such reports and information relating to the exercise of its functions as they may from time to time require.

SCHEDULE 3

(introduced by section 79)

MINOR AND CONSEQUENTIAL AMENDMENTS

Human Tissue Act 1961 (c.54)

- 1 In section 1(7) of the Human Tissue Act 1961 (removal of parts of bodies for medical purposes), after the word “institution” there is inserted “ or in accommodation provided by a care home service (“care home service” having the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)) ”.

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Commencement Information

- I1** Sch. 3 para. 1 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c.49)

- 2 In section 50 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (events occurring in institutions)—
- (a) the words “nursing home” are repealed;
 - (b) after the word “institution”, where it first occurs, there is inserted “ or of accommodation provided by a care home service (“care home service” having the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8) ”; and
 - (c) after the word “institution”, where it occurs for the second and third times, there is in each case inserted “ or accommodation ”.

Commencement Information

- I2** Sch. 3 para. 2 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

Sewerage (Scotland) Act 1968 (c.47)

- 3 In section 59 of the Sewerage (Scotland) Act 1968 (interpretation)—
- (a) in subsection (1), in the definition of “trade or industry”, for the words—
 - (i) “and the carrying on of a hospital or a nursing home” there is substituted “ , the carrying on of a hospital and the provision of a care home service ”; and
 - (ii) “a nursing home”, where they occur for the second time, there is substituted “ as accommodation provided by a care home service ”; and
 - (b) after subsection (3) there is inserted—

“(3A) In the definition of “trade or industry” in subsection (1) above, the references to a “care home service” shall be construed in accordance with section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8).”.

Commencement Information

- I3** Sch. 3 para. 3 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

Social Work (Scotland) Act 1968 (c.49)

- 4 (1) The Social Work (Scotland) Act 1968 is amended as follows.

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(2) In section 10(3A) (construction of the expression “voluntary organisation the sole or primary object of which is to promote social welfare”), for the words “an adoption society approved under Part I of the Adoption (Scotland) Act 1978” there is substituted “ a person providing, as mentioned in section 2(11)(b) of the Regulation of Care (Scotland) Act 2001 (asp 8), an adoption service registered under Part 1 of that Act ”.

(3) In section 13A, for subsection (2) there is substituted—

“(2) The arrangements made by virtue of subsection (1) above shall be made with a voluntary or other organisation or other person, being an organisation or person providing—

- (a) an independent health care service which is a private psychiatric hospital; or
- (b) a care home service.

(2A) Expressions used in subsection (2) above have the same meanings as in the Regulation of Care (Scotland) Act 2001 (asp 8).”

Commencement Information

- I4** Sch. 3 para. 4 partly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 81(2)-(4); Sch. 3 para. 4(1)(3) in force at 1.4.2002 by [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))
- I5** Sch. 3 para. 4(2) in force at 1.4.2004 by [S.S.I. 2004/100](#), [art. 2\(e\)](#) (with [arts. 3, 4](#)) (as amended (30.9.2004) by [S.S.I. 2004/377](#), art. 2)

Medicines Act 1968 (c.67)

5 In section 10 of the Medicines Act 1968 (exemptions for pharmacists)—

- (a) in subsection (1), after the word “hospital” there is inserted “ , a care home service ”; and
- (b) at the end there is added—

“(9) In subsection (1) of this section, “care home service” has the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8).”

Commencement Information

- I6** Sch. 3 para. 5 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

Employment Agencies Act 1973 (c.35)

6 In section 13(8)(a) of the Employment Agencies Act 1973 (application of Act to Scotland), for the words from “any agency” to “1951” there is substituted “ a nurse agency as defined in section 2(6) of the Regulation of Care (Scotland) Act 2001 (asp 8) ”.

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- I7** Sch. 3 para. 6 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

Adoption (Scotland) Act 1978 (c.28)

F27

Textual Amendments

- F2** Sch. 3 para. 7 repealed (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), [sch. 3](#); [S.S.I. 2009/267](#), [arts. 1\(2\), 2](#) (with [arts. 3-21](#)) (as amended (7.5.2012) by [S.S.I. 2012/99](#), art. 2)

Water (Scotland) Act 1980 (c.45)

- 8** In section 50 of the [Water \(Scotland\) Act 1980](#) (power to require supply by meter)—
- (a) in paragraph (b), the words “, nursing home” are repealed; and
 - (b) after that paragraph, there is inserted—
 - “(bb) accommodation provided by a care home service (as defined by section 2(3) of the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#).”.

Commencement Information

- I8** Sch. 3 para. 8 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

Administration of Justice Act 1982 (c.53)

- 9** In section 11 of the [Administration of Justice Act 1982](#) (maintenance at public expense taken into account in assessment of damages)—
- (a) the words “, nursing home” are repealed;
 - (b) the words from “a hospital” to “institution” become paragraph (a); and
 - (c) after that paragraph there is inserted—
 - “; or
 - (b) accommodation provided by a care home service (as defined by section 2(3) of the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#).”.

Commencement Information

- I9** Sch. 3 para. 9 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), [art. 2\(h\)](#) (subject to [arts. 3-13](#))

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Anatomy Act 1984 (c.14)

- 10 In section 4(9) of the Anatomy Act 1984 (lawful examination of bodies after death)—
- (a) the words “, nursing home” are repealed;
 - (b) the words from “a hospital” to “institution”, where it occurs for the first time, become paragraph (a);
 - (c) after that paragraph, there is inserted—
 - “; or
 - (b) accommodation provided by a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)”; and
 - (d) after the word “institution”, where it occurs for the second time, there is inserted “ or accommodation ”.

Commencement Information

I10 Sch. 3 para. 10 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(h)** (subject to [arts. 3-13](#))

Mental Health (Scotland) Act 1984 (c.36)

- 11 (1) The Mental Health (Scotland) Act 1984 is amended as follows.
- ^{F3}(2)
 - ^{F3}(3)
 - ^{F3}(4)
 - ^{F3}(5)
 - ^{F3}(6)
 - ^{F3}(7)
 - (8) In section 126 (preservation of amendments), subsection (1)(a) is repealed.
 - (9) In Schedule 3 (consequential amendments), paragraph 3 is repealed.

Textual Amendments

F3 Sch. 3 para. 11(2)-(7) repealed (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), **sch. 5 Pt. 1**; [S.S.I. 2005/161](#), **art. 3** (as substituted by [S.S.I. 2005/375](#), **art. 2** and as amended by [S.S.I. 2005/459](#), **art. 2**)

Commencement Information

I11 Sch. 3 para. 11 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(h)** (subject to [arts. 3-13](#))

Foster Children (Scotland) Act 1984 (c.56)

- 12 (1) The Foster Children (Scotland) Act 1984 is amended as follows.

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- (2) In section 2(2)(d) (children who are not foster children), for the words from “nursing home” to the end there is substituted “ accommodation provided by a care home service registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (asp 8) ”.
- (3) In section 21(1) (interpretation)—
- (a) at the appropriate place there is inserted—
- ““care home service” has the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8);”;
- and
- (b) in the definition of “place of safety” for the words from “means” to the end there is substituted “ has the meaning given by section 93(1) of the Children (Scotland) Act 1995 (c.36) ”.

Commencement Information

I12 Sch. 3 para. 12 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(h)** (subject to [arts. 3-13](#))

Disabled Persons (Services, Consultation and Representation) Act 1986 (c.33)

- 13 In section 2(5)(d) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (rights of authorised representatives of disabled persons), for the words “an establishment (other than accommodation falling within paragraph (c) above) registered under section 61 of the 1968 Act” there is substituted “ provided by a care home service within the meaning of the Regulation of Care (Scotland) Act 2001 (asp 8) ”.

Commencement Information

I13 Sch. 3 para. 13 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(h)** (subject to [arts. 3-13](#))

Income and Corporation Taxes Act 1988 (c.1)

- 14 In section 155A(6) of the Income and Corporation Taxes Act 1988 (care for children) —
- (a) in paragraph (a), the words “section 1 of the Nurseries and Child-Minders Regulation Act 1948 or” are repealed;
- (b) the word “or” immediately following that paragraph is repealed;
- (c) in paragraph (b), the words “section 71 or” are repealed;
- ^{F4}(d)
- ^{F4}(e)

Textual Amendments

F4 Sch. 3 para. 14(d)(e) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 13** (with [Sch. 9 paras. 1-9, 22](#))

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Commencement Information

I14 Sch. 3 para. 14 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162, art. 2\(h\)](#) (subject to [arts. 3-13](#))

Children Act 1989 (c.41)

15 (1) The Children Act 1989 is amended as follows.

(2) In section 105 (interpretation)—

- (a) in subsection (5A), paragraph (a) is repealed; and
- (b) after subsection (5A), there is inserted—

“(5B) References in this Act to acting as a child minder and to a child minder shall be construed, in relation to Scotland, in accordance with section 2(17) of the Regulation of Care (Scotland) Act 2001 (asp 8).”.

Commencement Information

I15 Sch. 3 para. 15 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162, art. 2\(h\)](#) (subject to [arts. 3-13](#))

Opticians Act 1989 (c.44)

16 In section 27(5) of the Opticians Act 1989 (sale of optical appliances to medical institutions), after paragraph (c) there is inserted—

“(cc) to any authority or person providing a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)), which includes the provision of medical or surgical treatment;”.

Commencement Information

I16 Sch. 3 para. 16 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162, art. 2\(h\)](#) (subject to [arts. 3-13](#))

Environmental Protection Act 1990 (c.43)

17 In section 75(5)(e) of the Environmental Protection Act 1990 (meaning of “household waste”), for the words “nursing home” there is substituted “ which are used to provide a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)) ”.

Commencement Information

I17 Sch. 3 para. 17 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162, art. 2\(h\)](#) (subject to [arts. 3-13](#))

Status: Point in time view as at 01/10/2010.

Changes to legislation: Regulation of Care (Scotland) Act 2001 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Local Government Finance Act 1992 (c.14)

- 18 In paragraph 8 of Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount)—
- (a) in sub-paragraph (1), for heads (a) and (b) there is substituted—
 - “(a) either—
 - (i) he has as his sole or main residence a private hospital in Scotland; or
 - (ii) a care home service provides, in Scotland, accommodation which is his sole or main residence; and
 - (b) he is receiving care or treatment (or both) in the hospital or in the accommodation so provided.”;
 - (b) in sub-paragraph (2)—
 - (i) the definitions of “hostel”, “nursing home” and “residential care home” are repealed; and
 - (ii) after the word “paragraph—” there is inserted—
 - ““care home service” has the same meaning as in the Regulation of Care (Scotland) Act 2001 (asp 8); and”;
 - (c) sub-paragraph (3) is repealed; and
 - (d) in sub-paragraph (4)—
 - (i) the words “nursing home”, are repealed; and
 - (ii) for the words “residential care home” there is substituted “ care home service ”.

Commencement Information

I18 Sch. 3 para. 18 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(h)** (subject to [arts. 3-13](#))

Children (Scotland) Act 1995 (c.36)

- 19 (1) The Children (Scotland) Act 1995 is amended as follows.
- (2) In section 36(3) (persons who must notify local authority where child provided with residential accommodation)—
- (a) sub-paragraph (ii), and the word “or” immediately preceding that sub-paragraph, are repealed; and
 - (b) after paragraph (c) there is added—
 - “; and
 - (d) any person providing a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)).”.
- (3) In section 38(1)(b) (short-term refuges for children at risk of harm)—
- (a) for the words from “carries on” to “that Act)” there is substituted “ provides a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)) ”;

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- (b) for the words “that establishment” there is substituted “ the accommodaton in question ”; and
 - (c) for the word “establishment”, where it occurs for the third, fourth, fifth and sixth times, there is in each case substituted “ accommodation ”.
- (4) In section 93(1) (interpretation of Part II of that Act), in the definition of “secure accommodation”—
- (a) after the word “approved” there is inserted “ by the Scottish Ministers in accordance with regulations made under section 29(9)(a) of the Regulation of Care (Scotland) Act 2001 (asp 8) or ”; and
 - (b) the words “section 60(1)(bb) of the Social Work (Scotland) Act 1968 or under” are repealed.

Commencement Information

I19 Sch. 3 para. 19 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162, art. 2\(h\)](#) (subject to [arts. 3-13](#))

Criminal Procedure (Scotland) Act 1995 (c.46)

20 In section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation), in the definition of “hospital”, in paragraph (b), for the words “registered under Part IV” there is substituted “ as defined in section 12(2) ”.

Police Act 1997 (c.50)

^{F5}21

Textual Amendments

F5 Sch. 3 para. 21 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 17 Pt. 2](#); [S.S.I. 2006/166, art. 2\(1\)\(d\)](#)

Adoption (Intercountry Aspects) Act 1999 (c.18)

22 In section 2 of the Adoption (Intercountry Aspects) Act 1999 (central authorities and accredited bodies)—

- (a) subsection (2) is repealed;
- (b) after subsection (2A) there is inserted—
 - “(2B) A registered adoption service is an accredited body for the purposes of the Convention if, in accordance with the conditions of its registration, the service may provide facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.”;

and

- (c) for subsection (6) there is substituted—
 - “(6) In this section in its application to Scotland, “registered adoption service” means an adoption service provided as mentioned in

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section 2(11)(b) of the Regulation of Care (Scotland) Act 2001 (asp 8) and registered under Part 1 of that Act; and “registration” shall be construed accordingly.”.

Commencement Information

I20 Sch. 3 para. 22(b)(c) in force at 1.4.2004 by [S.S.I. 2004/100](#), **art. 2(e)** (with [arts. 3, 4](#)) (as amended (30.9.2004) by [S.S.I. 2004/377](#), art. 2)

Adults with Incapacity (Scotland) Act 2000 (asp 4)

- 23 (1) The Adults with Incapacity (Scotland) Act 2000 is amended as follows.
- (2) In section 35 (application of Part 4)—
- (a) in subsection (1), for paragraphs (a) to (g) there is substituted—
 - “(a) a health service hospital;
 - (b) an independent hospital or private psychiatric hospital;
 - (c) a State hospital;
 - (d) a care home service; and
 - (e) a limited registration service.”;
 - (b) in subsection (2), for the words “(ca), (cb), (d) or (f)” there is substituted “(d) or (e)”;
 - (c) in subsection (3)(b), for the words “for registration of an” there is substituted “, under section 7(1) of the Regulation of Care (Scotland) Act 2001 (asp 8), for registration of the service which comprises that ”; and
 - (d) at the end there is added—
 - “(6) Expressions used in subsection (1) and in the Regulation of Care (Scotland) Act 2001 have the same meanings in that subsection as in that Act.”.
- (3) In section 40 (supervisory bodies)—
- (a) in subsection (1), for the words from the beginning of the subsection to the end of paragraph (c) there is substituted—
 - “(1) The supervisory body for the purposes of this Part is, in relation to—
 - (a) a registered establishment, the Scottish Commission for the Regulation of Care; and
 - (b) an unregistered establishment, the Health Board for the area in which the establishment is situated;”;
 - (b) in each of subsections (2) and (3), for the word “A” there is substituted “The ”; and
 - (c) in subsection (4), for the words from “by regulations” to the end there is substituted “, as respects any authorised establishment, amend subsection (1) by substituting for the supervisory body allotted to that establishment a different supervisory body. ”.
- (4) In section 45 (appeal, revocation etc.)—
- (a) for the word “a” where it first occurs there is substituted “the ”;
 - (b) for paragraphs (a) and (b) there is substituted “that power to manage ”;
 - (c) subsection (2) is repealed;

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- (d) in subsection (3), the words “registration or” are repealed; and
 - (e) in subsection (6), for the word “a” there is substituted “ the ”.
- (5) In section 84 (applications to guardians appointed under Criminal Procedure (Scotland) Act 1995 (c.46)), in subsection (1)(b) of the section prospectively inserted by subsection (2), for the words “60A” there is substituted “ 60B ”.
- (6) In schedule 1 (managers of an establishment), for paragraphs (d) to (g) there is substituted—
- “(d) in relation to a care service or limited registration service—
 - (i) the person identified under section 7(2)(b) of the Regulation of Care (Scotland) Act 2001 (asp 8) in the application for registration of the service;
 - (ii) if the application is made under section 33(1) of that Act, the local authority or any person appointed by the local authority to manage the service; or
 - (iii) if another person has been identified in pursuance of regulations under section 29(7)(j) of that Act, the other person so identified,
 and in paragraph (d) above “care service” and “limited registration service” have the same meanings as in the Regulation of Care (Scotland) Act 2001.”.
- (7) In schedule 5 (minor and consequential amendments), in paragraph 26(3)—
- (a) for the word “60” there is substituted “ 60A ”;
 - (b) for the words “60A” there is substituted “ 60B ”; and
 - (c) after the words “intervention order” there is inserted “ (as defined in section 53(1) of the Adults with Incapacity (Scotland) Act 2000 (asp 4) ”.

Commencement Information

- I21** Sch. 3 para. 23 wholly in force at 1.4.2002; Sch. 3 para. 23 not in force at Royal Assent see s. 81(2); Sch. 3 para. 23(7) in force at 1.10.2001 by [S.I. 2001/304](#), [art. 2\(1\)\(d\)](#); Sch. 3 para. 23(1)-(6) in force at 1.4.2002 by [S.S.I. 2002/162](#), [art. 2\(h\)](#)

^{F6}24

Textual Amendments

- F6** Sch. 3 para. 24 repealed (3.8.2001) by [S.I. 2001/2478](#), [art. 2](#)

Sexual Offences (Amendment) Act 2000 (c.44)

- 25 (1) Section 4 (meaning of “position of trust”) of the Sexual Offences (Amendment) Act 2000 is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (b), the words “residential care home, nursing home, mental nursing home or” are repealed; and
 - (b) after that paragraph, there is inserted the following paragraph—
 - “(bb) provided by a care home service;”.

Status: Point in time view as at 01/10/2010.

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(3) In subsection (9)—

(a) after the definition of “authority”, there is inserted—

““care home service” has the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8);”;

(b) in the definition of “nursing home”, paragraph (b) is repealed; and

(c) in the definition of “residential care home”, paragraph (b) is repealed.

Commencement Information

I22 Sch. 3 para. 25 wholly in force at 1.4.2002, see s. 81(2)-(4) and [S.S.I. 2002/162](#), **art. 2(h)** (subject to [arts. 3-13](#))

SCHEDULE 4 (introduced by section 80(1))

REPEALS

Commencement Information

I23 Sch. 4 in force for specified purposes at 1.4.2002 by [S.S.I. 2002/162](#), **art. 2(i)** (subject to [arts. 3-13](#))

I24 Sch. 4 in force at 1.4.2004 for specified purposes by [S.S.I. 2004/100](#), **art. 2(g)** (with [arts. 3, 4](#)) (as amended (30.9.2004) by [S.S.I. 2004/377](#), art. 2)

<i>Enactment</i>	<i>Extent of repeal</i>
Nursing Homes Registration (Scotland) Act 1938 (c.73)	The whole Act.
Nurses (Scotland) Act 1951 (c.55)	The whole Act.
Social Work (Scotland) Act 1968 (c.49)	In section 5(1B), paragraph (o); and the word “and” which immediately precedes that paragraph. In section 6A(1), paragraph (c). Sections 60 to 68. In section 94(1), in paragraph (c) of the definition of “prescribed”, the words “62(2), 64A(3), 66(1) and (2),”. Schedule 5.
Criminal Law Act 1977 (c.45)	In Schedule 6, the entries relating to the Nursing Homes Registration (Scotland) Act 1938 and to sections 60(3), 61(3), 62(6) and 65(4) of the Social Work (Scotland) Act 1968.
National Health Service (Scotland) Act 1978 (c.29)	In Schedule 16, paragraph 7.

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Nurses, Midwives and Health Visitors Act 1979 (c.36)	In Schedule 7, paragraphs 1 to 6.
Health Services Act 1980 (c.53)	In Schedule 4, Part II, except paragraph 16.
Mental Health (Scotland) Act 1984 (c.36)	Part IV, except subsection (2) of section 12.
Foster Children (Scotland) Act 1984 (c.56)	Section 7(1)(e).
Registered Establishments (Scotland) Act 1987 (c.40)	The whole Act.
Children Act 1989 (c.41)	Section 19. Part X. Section 80. In section 102(6)(a), the words "76,". In section 108 (11), the words "section 19;" and "Part X; section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);". Schedule 9.
National Health Service and Community Care Act 1990 (c.19)	In section 63(2), paragraph (b); and the word "and" which immediately precedes that paragraph. In Schedule 9, paragraphs 3 and 10(8) to (10).
Tribunals and Inquiries Act 1992 (c.53)	In Part II of Schedule 1, paragraph 61(b).
Children (Scotland) Act 1995 (c.36)	Sections 34 and 37. In section 94, subsections (1) and (2). In Schedule 2, paragraphs 3 and 5(a). In Schedule 4, paragraphs 15(16) and 48(4).
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40)	In Schedule 2, in Part II, the entries relating to the Nursing Homes Registration (Scotland) Act 1938 (c.73).
Registered Establishments (Scotland) Act 1998 (c.25)	The whole Act.
Adults with Incapacity (Scotland) Act 2000 (asp 4)	Section 36. Section 38. In schedule 5, paragraphs 10 and 11.

Status:

Point in time view as at 01/10/2010.

Changes to legislation:

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