



Regulation of Care (Scotland) Act 2001

2001 asp 8

PART 6

MISCELLANEOUS

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.

(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)

Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Section 73. (See end of Document for details)

Act 1995 (or treated, by virtue of paragraph (b)(i) below, as so mentioned), the manner in which assistance is to be provided [^{F1}under subsection (1) or (5A)(a) of that section] or, as the case may be, may be provided under the [^{F2}subsection (5A)(b) or (5B) of that section];

- (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.

Textual Amendments

- F1** Words in s. 73(2)(a) inserted (1.4.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), s. 102(3), [sch. 5 para. 8\(a\)](#); S.S.I. 2015/61, art. 2(1)(2), sch.
- F2** Words in s. 73(2)(a) substituted (1.4.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), s. 102(3), [sch. 5 para. 8\(b\)](#); S.S.I. 2015/61, art. 2(1)(2), sch.

Commencement Information

- I1** S. 73(1)(a) (2)-(4) in force at 5.12.2003 by [S.S.I. 2003/596](#), [art. 3\(1\)](#)
- I2** S. 73(1)(b) in force at 1.4.2004 by [S.S.I. 2003/596](#), [art. 3\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Section 73.