



Adult Support and Protection (Scotland) Act 2007 2007 asp 10

PART 3

ADULT SUPPORT ETC.: MISCELLANEOUS AMENDMENTS AND REPEALS

65 Adjustments between councils in relation to social services etc.

- (1) Section 86 (adjustments between local authority providing services and local authority of area of ordinary residence) of the Social Work (Scotland) Act 1968 (c. 49) is amended as follows—
- (a) in subsection (1)—
 - (i) for “section”, where first occurring, substitute “ subsection ”,
 - (ii) after paragraph (b) insert—
 - “(ba) in making a payment under section 12B of this Act in relation to the provision of a service for a person ordinarily so resident; or”
 - (b) in subsection (3)—
 - (i) after “child,”, where first occurring, insert “ any period during which he is provided with accommodation under this Act or under sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ”,
 - (ii) for the words from “hospital”, where first occurring, to “1978”, where second occurring, substitute “ health service hospital (within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29)) ”,
 - (c) after subsection (3) insert—
 - “(4) This subsection applies where a local authority (“the responsible authority”) performs a function under—
 - (a) this Act;
 - (b) Part II of the Children (Scotland) Act 1995 (c. 36); or
 - (c) section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13),

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by making arrangements with a person (“the provider”) in terms of which the provider undertakes to accommodate, or to secure accommodation for, another person.

- (5) Where subsection (4) applies—
- (a) any expenditure incurred under the arrangements by a provider which is a local authority is recoverable from the responsible authority; and
 - (b) any period during which the person is accommodated under the arrangements is to be disregarded in determining the person's ordinary residence for the purposes of subsection (1) of this section.
- (6) The Scottish Ministers may make regulations specifying circumstances in which a local authority (“the providing authority”) may recover from another local authority (“the other authority”) expenditure which the providing authority incurs in the provision of services or facilities under arrangements made with the other authority for the purpose of enabling that other authority to perform a function under—
- (a) this Act;
 - (b) Part II of the Children (Scotland) Act 1995 (c. 36); or
 - (c) section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).
- (7) The Scottish Ministers may make regulations specifying circumstances which must be taken into account, or disregarded, when determining a person's ordinary residence for the purposes of subsection (1) of this section (and such regulations may modify subsection (2), (3) and (5)(b) of this section).
- (8) Regulations made under subsection (6) or (7) of this section may—
- (a) make different provision for different cases and for different persons;
 - (b) include such supplementary, incidental, consequential and transitional provisions and savings as the Scottish Ministers think fit.
- (9) Despite section 90(2) of this Act, no statutory instrument containing regulations made under subsection (7) of this section which includes provisions which modify this section may be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.
- (10) References in subsections (4) to (6) of this section to a local authority which is providing accommodation, service or facilities include references to a local authority in England or Wales.”.
- (2) In section 2 of the Community Care and Health (Scotland) Act 2002 (asp 5), for “section 87(2)” substitute “sections 86 and 87(2)”.

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Commencement Information

II S. 65 in force at 5.10.2007 by S.S.I. 2007/334, art. 2(b), **Sch. 2**

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