

*Draft Order laid before the Scottish Parliament under section 78(2(b)) of the Regulation of Care (Scotland) Act 2001, for approval by resolution of the Scottish Parliament*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2007 No.**

**SOCIAL CARE**

**The Regulation of Care (Scotland) Act 2001  
(Minimum Frequency of Inspections) Order 2007**

*Made* - - - -

*Coming into force* - - *1st April 2007*

The Scottish Ministers, in exercise of the powers conferred by section 25(5A)(b) and (5B) of the Regulation of Care (Scotland) Act 2001<sup>(1)</sup>, having consulted the Scottish Commission for the Regulation of Care, and thereafter such other persons (or groups of persons) as they considered appropriate in accordance with section 25(5A) of that Act, hereby make the following Order, a draft of which has, in accordance with section 78(2)(b) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation and commencement**

**1.** This Order may be cited as the Regulation of Care (Scotland) Act 2001 (Minimum Frequency of Inspections) Order 2007 and shall come into force on 1st April 2007.

**Amendment to the Regulation of Care (Scotland) Act 2001**

**2.** In section 25(5) of the Regulation of Care (Scotland) Act 2001, in each of paragraphs (a) and (b), for “twelve months” substitute—

- “(i) if the service is a housing support service<sup>(2)</sup> provided by a registered social landlord (being a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001<sup>(3)</sup>), 36 months,
- (ii) if the service is day care of children and is provided for children aged 3 years or over only, is a child care agency or is a nurse agency<sup>(4)</sup>, 24 months, or
- (iii) in the case of any other service, 12 months.”.

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(1) 2001 asp 8 (“the Act”). Section 25(5A) and (5B) was inserted by the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), section 31(2).  
(2) “Housing support service” has the meaning given by section 2(27) of the Act.  
(3) 2001 asp 10.  
(4) “Day care of children” has the meaning given by section 2(20) of the Act. “Child care agency” has the meaning given by section 2(7) of the Act. “Nurse agency” has the meaning given by section 2(6) of the Act.

St Andrew's House,  
Edinburgh  
2007

A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends section 25(5) of the Regulation of Care (Scotland) Act 2001 (“the Act”). It amends the minimum frequency within which the Scottish Commission for the Regulation of Care (“the Care Commission”) must carry out inspections of certain care services under the Act.

Section 25(3) and (5) of the Act provide for two inspection regimes. The first covers care home services, school care accommodation services, secure accommodation services and independent healthcare services which provide overnight accommodation registered under Part 1 or Part 2 of the Act. Under the first regime, the Care Commission must secure that those services are inspected (i) at least twice in the period of 12 months immediately following registration, and (ii) at least twice in each subsequent period of 12 months. At least one inspection in each of those two periods must be without prior notification.

The second regime applies to any other care service registered under Part 1 or 2 of the Act. Under the second regime, the Care Commission must inspect such a care service (i) at least once in the period of 12 months which immediately follows registration and, (ii) for subsequent periods after that, must ensure that no greater period than 12 months elapses before the care service is inspected again.

Article 2 of this Order amends the periods in the second regime. Both 12 month periods are extended as follows for the following care services (and so reducing the frequency within which the Care Commission must inspect those services):

- (a) to 36 months for housing support services provided by registered social landlords;
- (b) to 24 months for—
  - day care of children provided for children aged 3 years or over only;
  - child care agencies; and
  - nurse agencies.

The minimum periods for inspecting all other care services under the second regime remain at 12 months.