
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 72

SOCIAL CARE

**The Recovery of Expenditure for the Provision of
Social Care Services (Scotland) Regulations 2010**

Made - - - - 25th February 2010
*Laid before the Scottish
Parliament* - - - - 1st March 2010
Coming into force - - 6th April 2010

The Scottish Ministers make these Regulations in exercise of the powers conferred by section 86(6) and (7) of the Social Work (Scotland) Act 1968⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Recovery of Expenditure for the Provision of Social Care Services (Scotland) Regulations 2010 and come into force on 6th April 2010.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“accommodation with support” means accommodation that is supported, under arrangements, by services or facilities that are provided under—

- (a) the Social Work (Scotland) Act 1968;
- (b) Part II of the Children (Scotland) Act 1995⁽²⁾ (promotion of children’s welfare by local authorities etc.); or
- (c) sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003⁽³⁾ (local authority provision of services),

to enable a person to live in that accommodation but does not include accommodation provided under any of those enactments;

(1) 1968 c. 49. Section 86(6) and (7) was inserted by section 65(1) of the Adult Support and Protection Act 2007 (asp 10).
(2) 1995 c.36. Part II was relevantly amended by the Mental Health (Care and Treatment) (Scotland) Act 2003(asp 13), section 227(2) and schedule 4 paragraph 7, the Community Care and Health (Scotland) Act 2003 (asp 13), Part 1 sections 10 and 11 and the Children and Young Persons Act 2008 (c.23), schedule 1, paragraph 9.
(3) 2003 asp 13.

“arrangements” means arrangements of the type described in section 86(6);

“the Act” means the Social Work (Scotland) Act 1968;

“the other authority” has the meaning assigned by section 86(6) but restricted to local authorities in Scotland; and

“the providing authority” has the meaning assigned by section 86(6) but restricted to local authorities in Scotland.

Any reference in these Regulations to a section is a reference to a section of the Act unless otherwise stated.

Circumstances specified under section 86(6)

3. Expenditure incurred by the providing authority under arrangements for the provision of services or facilities in accommodation with support is recoverable from the other authority.

Period to be disregarded for the purposes of section 86(1)

4. In determining, for the purposes of section 86(1) the ordinary residence of any person, any period in which that person is residing, under arrangements, in accommodation with support shall be disregarded.

St Andrew’s House,
Edinburgh
25th February 2010

SHONA ROBISON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 86 of the Social Work (Scotland) Act 1968 (“the Act”) provides for adjustments of expenditure to be made between local authorities in the provision of accommodation and services provided under the Act, the Children (Scotland) Act 1995 (“the 1995 Act”) or the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”).

These Regulations provide, at regulation 3, that expenditure incurred by an authority providing services or facilities under arrangements made under the Act, the 1995 Act or the 2003 Act is recoverable from the authority who has arranged the placement.

Regulation 4 establishes that the time a person stays in accommodation with support under arrangements made by a local authority is to be disregarded for the purposes of establishing the ordinary residence of that person.