



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

PROMOTION OF CHILDREN'S WELFARE BY LOCAL
AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

CHAPTER I

SUPPORT FOR CHILDREN AND THEIR FAMILIES

Miscellaneous and General

34 Registration and inspection of certain residential grant-aided and independent schools etc

(1) Part IV of the Social Work (Scotland) Act 1968 (which makes provision as regards residential and other establishments) shall be amended in accordance with this section.

(2) In section 61 (restriction on carrying on of establishments)—

(a) for subsection (1) there shall be substituted—

“(1) In so far as the context admits, the following provisions of this Part of this Act apply—

- (a) except in the case mentioned in paragraph (b) below, to any residential or other establishment the whole or a substantial part of whose functions is to provide persons with such personal care or support, whether or not combined with board and whether for reward or not, as may be required for the purposes of this Act or of the Children (Scotland) Act 1995;
- (b) in the case of a residential establishment which is a grant-aided or independent school (as respectively defined in section 135(1) of the Education (Scotland) Act 1980), to that

Status: This is the original version (as it was originally enacted).

establishment if any part of its functions are as described in paragraph (a) above.”;

- (b) in subsection (1A)—
 - (i) in paragraph (a) of the definition of “establishment”, for the words “sections 61A and” there shall be substituted “section”; and
 - (ii) at the end of that definition there shall be added “but an establishment is not excluded for those purposes by paragraph (a) above by reason only of its being registrable by the Registrar of Independent Schools in Scotland;”; and
- (c) in subsection (2), for the words “section 62(8) and (8A) below” there shall be substituted “sections 61A(1) and 62(8) and (8A) of this Act”.

(3) For section 61A there shall be substituted—

“61A Voluntary registration

- (1) A grant-aided or independent school, provided it is not a residential establishment the whole or a substantial part of whose functions is as described in subsection (1)(a) of section 61 of this Act, may be carried on by a person without his being registered in respect of it as mentioned in subsection (2) of that section; but he may if he wishes apply in accordance with section 62, or as the case may be 63, of this Act for such registration.
- (2) Sections 62(8) and (8A) and 65 of this Act shall not apply in relation to establishments as respects which registration has been by virtue of subsection (1) above.”.

(4) After section 62 there shall be inserted—

“62A Certificate of registration as respects grant-aided or independent school

A certificate of registration granted under section 62 of this Act as respects an establishment which is a grant-aided, or independent, school shall relate to the whole of the establishment except so much as is used exclusively for educational purposes.”.

- (5) In section 65(1) (removal of persons from establishment), after the word “ought”—
 - (a) where it first occurs, there shall be inserted “(by virtue of subsections (2) and (3)) of section 61 of this Act”; and
 - (b) where it occurs for the second time, there shall be inserted “(by virtue of the said subsections (2) and (3))”.

(6) For section 67 there shall be substituted—

“67 Entry to examine state and management of establishments etc

- (1) A person duly authorised by a local authority may in the area of that authority, at all reasonable times, enter, for a relevant purpose—
 - (a) any establishment as regards which a person is registered, or ought (by virtue of subsections (2) and (3) of section 61 of this Act) to be registered, under section 62 of this Act; or

- (b) any place which the person so authorised has reasonable cause to believe is being used as such an establishment,

and subsections (2A) to (2D), (4) and (5) of section 6 of this Act shall apply in respect of a person so authorised as they apply in respect of a person duly authorised under subsection (1) of that section.

- (2) “Relevant purpose” in subsection (1) above means—

- (a) the purpose of making such examinations into the state and management of the establishment or place, and the condition and treatment of the persons in it, as the person so authorised thinks necessary; or

- (b) the purpose of inspecting any records, or registers (in whatever form they are held) relating to the place, or to any person for whom, under or by virtue of this Act, section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984, or Part II of the Children (Scotland) Act 1995, services are being or have been provided in the place.”.