

*These notes relate to the Regulation of Care (Scotland) Act  
2001 (asp 8) which received Royal Assent on 5 July 2001*

# REGULATION OF CARE (SCOTLAND) ACT 2001

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on sections*

#### **Part 2: Local Authority Adoption and Fostering Services Etc**

#### **Section 42: Default powers of Scottish Ministers**

136. Subsection (1) provides that Scottish Ministers (having received a report under section 41) may take certain actions if they are satisfied that a local authority providing a service registered under Part 2 is, without reasonable excuse, failing to comply with an improvement notice or carrying on the service not in accordance with relevant requirements.
137. Subsection (2) sets out what those actions are, either to make an order to declare an authority in default or to make a direction setting out the steps that should be taken to remedy the matter. Subsection (3)(a) provides that if an authority fails to comply with that direction Scottish Ministers can take the necessary action themselves or make arrangements for someone to do it on their behalf. Subsection (3)(b) provides that the Court of Session may order specific performance of those steps on application from the Lord Advocate.