

# REGULATION OF CARE (SCOTLAND) ACT 2001

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on sections*

#### **Part 5: Provisions Common to the Commission and Council**

#### **Complaints, inquiries and maladministration**

#### *Section 65: Inquiries*

174. Subsection (1) enables Scottish Ministers to act on any concerns over the Commission or Council's exercise of its functions or concerns over the provision of a care service, by setting up an inquiry. Subsection (2) allows the Commission to set up an inquiry on the exercise of its functions, or over the provision of a care service. Subsection (3) allows the Council to set up an inquiry on the exercise of its functions. The Commission and the Council need to have legal authority to investigate issues of serious concern that may arise in respect of their functions or any particular care service.
175. Subsection (4) enables an inquiry to be held in private. This might be necessary to protect, for example, a victim of child abuse.
176. Subsections (5) and (6) provide for section 210(2)-(8) of the Local Government (Scotland) Act 1973 to apply in relation to an inquiry. This will enable the person holding the inquiry to issue a summons requiring an individual to give evidence or produce any documents in their custody or under their control at a stated time and place. If that person fails to attend (for reasons other than not having the necessary expenses of their visit paid or tendered), they are liable to a fine or imprisonment.
177. Subsections (7) and (8) allow the Commission and the Council to determine who should pay their expenses in relation to an inquiry. Subsection (9) allows both bodies also to award expenses to parties involved in an inquiry and to direct who should pay those expenses.