

PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 5 – Social Care and Social Work: Scrutiny and Improvement

Chapter 1 – Social Care and Social Work Improvement Scotland

Social Care and Social Work Improvement Scotland

Section 44 – Social Care and Social Work Improvement Scotland

76. Subsection (1) establishes Social Care and Social Work Improvement Scotland (referred to as SCSWIS in the Act and throughout these notes). It will be a statutory body corporate which will exercise the functions given to it by or under the Act or other relevant legislation. Subsection (1)(b) provides that as part of its function, SCSWIS will be expected to further improvements in social services in Scotland.
77. SCSWIS will be a non-departmental public body. It will be independent in its day to day running but will be accountable to Scottish Ministers, given that, by virtue of subsection (2), it must act in accordance with directions and under the general guidance of Scottish Ministers
78. Subsection (4) gives effect to schedule 11 which sets out general provisions for the establishment and operation of SCSWIS.

Section 45 – General principles

79. This section sets out the “general principles” in accordance with which SCSWIS will be required to exercise their functions under the Act. These are to protect and promote the safety and wellbeing and independence of people who use social services and to promote diversity and good practice in relation to those services.

Key Definitions

Section 46 – Social services

80. This section defines “social services” for the purposes of Part 5.

Section 47 – Care services

81. Subsection (1) sets out the range of “care services” which will be regulated by SCSWIS.
82. Subsection (2) gives effect to schedule 12 which defines the care services listed in subsection (1).

Section 48 – Social work services

83. This section defines what is meant by “social work services” and “social work services functions” for the purposes of Part 5 of this Act. It also gives effect to schedule 13 which specifies enactments within which those social work services functions are contained.

Section 49 – Power to modify key definitions

84. This section gives Scottish Ministers a power, following consultation, to change, by affirmative order, the definition of any social service. The power may be used to add to or remove from the range of defined services and to amend the definitions themselves.

Miscellaneous

Section 50 – Standards and outcomes

85. This section requires Scottish Ministers to prepare and publish standards and outcomes applicable to care services and to social work services; to keep any published standards under review and to publish revised standards and outcomes when they consider it appropriate. Subsections (4) to (6) provide that both any published standards and outcomes applicable to care, adoption and social work services defined in the Act and the Scottish Social Services Council's Codes of Practice must be taken into account by SCSWIS when making any decisions related to registration, inspection and enforcement in respect of these services. This section also ensures that consultation must be undertaken prior to the publication of the standards and outcomes or any amendment of them. Subsection (7) allows Scottish Ministers to make different standards and/or outcomes for different services. Subsection (8) allows Scottish Ministers to delegate the preparation and publication of such standards and outcomes to other persons (which includes other bodies), where appropriate.

Section 51 – Information and advice

86. Subsection (1) provides that SCSWIS must make available to the public information on the availability and quality of social services. Subsection (2) provides that this information should be made available in any format that may reasonably be requested. Information provided might include details about the location and types of services available as well as the results of SCSWIS's inspections of individual social services.
87. Subsection (3)(a) allows SCSWIS to provide advice to Scottish Ministers at any time, and requires it to do so in response to a request by Scottish Ministers. Subsection (3)(b) requires SCSWIS to provide advice to service providers, service users and carers and their representatives, local authorities, health boards, social service providers or prospective providers, and any other bodies set out in an order made under that subsection, about any aspect of its work. For example, SCSWIS might offer advice to service providers on how to meet any standards and outcomes.
88. Subsection (4) allows SCSWIS to charge a reasonable fee for any advice, forms or documents it provides in connection with its obligations under subsection (3)(b).

Section 52 – Dissolution of Scottish Commission for the Regulation of Care

89. This section dissolves the Scottish Commission for the Regulation of Care (“Care Commission”).