

## SCHEDULE 1

### MODIFICATIONS RELATING TO SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND

#### PART 1

#### MODIFICATIONS OF PRIMARY LEGISLATION

##### ***Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c.49)***

1. In section 50 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(1) (events occurring in institutions), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

##### ***Sewerage (Scotland) Act 1968 (c.47)***

2. In section 59(3A) of the Sewerage (Scotland) Act 1968(2) (interpretation), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

##### ***Social Work (Scotland) Act 1968 (c.49)***

3. In the Social Work (Scotland) Act 1968(3)—

(a) in section 10(3A)(4) (financial and other assistance to voluntary organisations)—

(i) for “section 2(11)(b) of the Regulation of Care (Scotland) Act 2001”, substitute “paragraph 8(1)(b) of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and

(ii) for “Part 1” substitute “Part 5”; and

(b) after section 13A(2A)(5) (residential accommodation with nursing), insert—

“(2B) In subsection (2)(b) above, “care home service” has the same meaning as in paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8).”.

##### ***Water (Scotland) Act 1980 (c.45)***

4. In section 50(1)(bb) of the Water (Scotland) Act 1980(6) (power to require supply by meter), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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(1) 1965 c.49; section 50 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8) (“the 2001 Act”), schedule 3, paragraph 2.

(2) 1968 c.47; section 59(3A) was inserted by the 2001 Act, schedule 3, paragraph 3(b).

(3) 1968 c.49.

(4) Section 10(3A) was inserted by the Children Act 1975 (c.72), Schedule 2, paragraph 51(b) and amended by the 2001 Act, schedule 3, paragraph 4(2) and S.S.I. 2010/21.

(5) Section 13A was inserted by the National Health Service and Community Care Act 1990 (c.19), section 56 and subsection (2A) was inserted by the 2001 Act, schedule 3, paragraph 4(3).

(6) 1980 c.45; section 50(1)(bb) was inserted by the 2001 Act, schedule 3, paragraph 8(b) and was amended by the Water Industry (Scotland) Act 2002 (asp 3), schedule 6, paragraph 32.

***Foster Children (Scotland) Act 1984 (c.56)***

5. In the Foster Children (Scotland) Act 1984(7)—

- (a) in section 2(2)(d)(8) (children who are not defined as a “foster child” for the purposes of the Act), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 21(1)(9) (interpretation), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Children (Scotland) Act 1995 (c.36)***

6. In the Children (Scotland) Act 1995(10)—

- (a) in section 36(3)(d)(11) (welfare of certain children in hospitals and nursing homes etc.), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 38(1)(b)(12) (short-term refuges for children at risk of harm), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Criminal Procedure (Scotland) Act 1995 (c.46)***

7. In section 57A(16) of the Criminal Procedure (Scotland) Act 1995(13) (compulsion order), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Adults with Incapacity (Scotland) Act 2000 (asp 4)***

8.—(1) The Adults with Incapacity (Scotland) Act 2000(14) is amended as follows.

(2) In section 35 (application of Part 4)—

- (a) in subsection (3)(b)(15), for “section 7(1) of the Regulation of Care (Scotland) Act 2001” substitute “section 59(1) of the Public Services Reform (Scotland) Act 2010”; and
- (b) in subsection (6)(16), for the words from “the” where it first appears to the end substitute—
  - “(a) the Public Services Reform (Scotland) Act 2010 have the same meanings in that subsection as in that Act;”.

(3) For section 40(1)(a)(17) (supervisory bodies), substitute—

- “(a) a registered establishment which is—
  - (i) registered under the Public Services Reform (Scotland) Act 2010, Social Care and Social Work Improvement Scotland;”.

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(7) 1984 c.56.

(8) Section 2(2)(d) was amended by the 2001 Act, schedule 3, paragraph 12(2).

(9) Section 21 was relevantly amended by the 2001 Act, schedule 3, paragraph 12(3)(a).

(10) 1995 c.36.

(11) Section 36(3)(d) was inserted by the 2001 Act, schedule 3, paragraph 19(2)(b).

(12) Section 38(1)(b) was amended by the 2001 Act, schedule 3, paragraph 19(3).

(13) 1995 c.46; section 57A was inserted by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), section 133.

(14) 2000 asp 4.

(15) Section 35(3)(b) was amended by the 2001 Act, schedule 3, paragraph 23(2)(c).

(16) Section 35(6) was inserted by the 2001 Act, schedule 3, paragraph 23(2)(d).

(17) Section 40(1) was amended by the 2001 Act, schedule 3, paragraph 23(3)(a).

- (4) In paragraph 1 of schedule 1(18) (managers of an establishment)—
- (a) for “the Regulation of Care (Scotland) Act 2001”—
    - (i) the first time it appears, substitute “the Public Services Reform (Scotland) Act 2010”;
    - (ii) the second time it appears, substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”;
  - (b) in sub-paragraph (d)(i), for “section 7(2)(b)” substitute “section 59(2)(b)”;
  - (c) in sub-paragraph (d)(ii), for “section 33(1)” substitute “section 83(1)”;
  - (d) in sub-paragraph (d)(iii), for “section 29(7)(j)” substitute “section 78(2)”.

### ***Regulation of Care (Scotland) Act 2001 (asp 8)***

9. For section 77 (interpretation) of the Regulation of Care (Scotland) Act 2001(19) substitute—

#### **“77. Interpretation**

In this Act, unless the context otherwise requires—

“care service” has the meaning given by section 47(1) of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#);

“the Council” means the Scottish Social Services Council (which is constituted under section 43 of this Act);

“enactment” has the meaning given by section 126(1) of the Scotland Act 1998 (c.46);

“equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 (equal opportunities) of Schedule 5 to the Scotland Act 1998;

“exempt person” means—

- (a) a national of a relevant European State other than the United Kingdom;
- (b) a national of the United Kingdom who is seeking to engage in relevant social work by virtue of an enforceable community right; or
- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable community right, entitled to be treated, as regards the right to engage in relevant social work, no less favourably than a national of a relevant European State;

and in paragraphs (a) to (c), “national”, in relation to a relevant European State, means the same as in the Community Treaties, but does not include a person who, by virtue of Article 2 of Protocol No. 3 (Channel Islands and the Isle of Man) to the Treaty of Accession, is not to benefit from Community provisions relating to the free movement of persons and services;

“the General Systems Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I. 2007/2781);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39);

“notice” means notice in writing;

“prescribed” means prescribed by order made by the Scottish Ministers;

“regulations” means regulations made by the Scottish Ministers;

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(18) Paragraph 1(d) of schedule 1 was amended by the 2001 Act, schedule 3, paragraph 23(6).

(19) 2001 asp 8; which was relevantly amended by S.I. 2007/3101.

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

“relevant European State” means an EEA State or Switzerland;

“social service worker” means a person, other than a person excepted from this definition by regulations, who—

- (a) has an entitling professional qualification in social work (that is to say a qualification which, if the person holding it also satisfies the requirements of subsection (2)(a) and (b) of section 46 of this Act and, except where section 46B of this Act applies, the requirements as to education imposed as mentioned in subsection (2)(c)(i) of that section, entitles that person to be registered in the part for social workers of the register maintained under section 44(1) of this Act); or
- (b) is a visiting social worker from a relevant European State; or
- (c) not being a person mentioned in paragraph (a) or (b) above, is employed in the provision of (or in managing the provision of) a care service; or
- (d) being an employee of Social Care and Social Work Improvement Scotland, is an authorised person by virtue of section 56 of the Public Services Reform (Scotland) Act 2010;

“social worker” means a person described in paragraph (a) of the definition, above, of “social service worker”;

“visiting social worker from a relevant European state” means a person entitled under section 46A of this Act to be registered in the part of the register maintained under section 44(1) of this Act for visiting social workers from relevant European States; and

“voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit.”.

### ***Community Care and Health (Scotland) Act 2002 (asp 5)***

**10.** In the Community Care and Health (Scotland) Act 2002(**20**)—

- (a) in section 1(1)(a) (regulations as respects charging and not charging for social care), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 12(5) (carer information strategies), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

### ***Freedom of Information (Scotland) Act 2002 (asp 13)***

**11.** In schedule 1 to the Freedom of Information (Scotland) Act 2002(**21**) (Scottish public authorities)—

- (a) the following paragraphs are repealed—
  - (i) 19 (social work inspectors)(**22**); and
  - (ii) 81 (Scottish Commission for the Regulation of Care); and
- (b) after paragraph 102 (Scottish Water) insert—
 

**“102A.** Social Care and Social Work Improvement Scotland.”.

(20) 2002 asp 5.

(21) 2002 asp 13.

(22) Paragraph 19 was amended by the [Joint Inspection of Children’s Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#) (“the 2006 Act”), section 8(2).

***Criminal Justice (Scotland) Act 2003 (asp 7)***

**12.** In the Criminal Justice (Scotland) Act 2003(23)—

- (a) in section 14(6)(a)(ii) (victim statements), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 16(8)(24) (victim’s right to receive information), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)***

**13.—**(1) The Mental Health (Care and Treatment) (Scotland) Act 2003(25) is amended as follows.

(2) In section 8(4) (duty to bring specific matters to the attention of the Scottish Ministers and others etc.), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

(3) In section 25(3)(a)(ii) (care and support services etc.), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

(4) In section 298(6) (removal to a place of safety from a public place), in the definition of “care service”, for “section 2(1) of the Regulation of Care (Scotland) Act 2001” substitute “section 47(1) of the Public Services Reform (Scotland) Act 2010”.

(5) In section 300(b) (meaning of “place of safety”), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

(6) In section 329(1)(26) (interpretation), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)***

**14.—**(1) The Antisocial Behaviour etc. (Scotland) Act 2004(27) is amended as follows.

(2) In section 81(3)(b) (interpretation of Part 7)—

- (a) in sub-paragraph (i), for “subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”;
- (b) in sub-paragraph (ii), for “subsection (4) of that section” substitute “paragraph 3 of that schedule”; and
- (c) in sub-paragraph (iv), for “subsection (9) of that section” substitute “paragraph 6 of that schedule”.

(3) In section 83(6)(a) (application for registration)—

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(23) 2003 asp 7.

(24) Section 16(8) was inserted by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 36(b).

(25) 2003 asp 13.

(26) Section 329(1) was relevantly amended by S.S.I. 2005/465.

(27) 2004 asp 8.

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

- (a) in sub-paragraph (i), for “subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”;
- (b) in sub-paragraph (ii), for “subsection (4) of that section” substitute “paragraph 3 of that schedule”; and
- (c) in sub-paragraph (iv), for “subsection (9) of that section” substitute “paragraph 6 of that schedule”.

***Fire (Scotland) Act 2005 (asp 5)***

**15.** In section 78(5)(b) of the Fire (Scotland) Act 2005(**28**) (meaning of “relevant premises”), for “subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Management of Offenders etc. (Scotland) Act 2005 (asp 14)***

**16.** In the Management of Offenders etc. (Scotland) Act 2005(**29**)—

- (a) for section 2(2)(c)(**30**) (co-operation for purposes of inspections) substitute—
  - “(c) Social Care and Social Work Improvement Scotland.”; and
- (b) for section 6(2)(a)(**31**) (power of Scottish Ministers to require action by community justice authority) substitute—
  - “(a) Social Care and Social Work Improvement Scotland.”.

***Housing (Scotland) Act 2006 (asp 1)***

**17.** In section 126(1)(b) of the Housing (Scotland) Act 2006(**32**) (houses in multiple occupation which are exempt from licensing requirement), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

***Adoption and Children (Scotland) Act 2007 (asp 4)***

**18.** In section 2(3) of the Adoption and Children (Scotland) Act 2007(**33**) (carrying out of duties imposed by section 1)—

- (a) for “section 2(11)(b) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 8(1)(b) of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) for “Part 1” substitute “Part 5”.

***Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)***

**19.** In the Protection of Vulnerable Groups (Scotland) Act 2007(**34**)—

- (a) in the list of persons in section 19(3)(**35**) (information held by public bodies etc.), the entry relating to “social work inspectors” is repealed;

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(28) 2005 asp 5.

(29) 2005 asp 14.

(30) Section 2(2)(c) was amended by the 2006 Act, section 8(3)(a).

(31) Section 6(2)(a) was amended by the 2006 Act, section 8(3)(b).

(32) 2006 asp 1.

(33) 2007 asp 4.

(34) 2007 asp 14.

(35) Section 19(3) was amended by the Public Services Reform (Scotland) Act 2010 (asp 8) (“the 2010 Act”), schedule 14, paragraph 30 and Schedule 17, paragraph 36(b) and S.I. 2010/231.

- (b) in section 97(1)(**36**) (interpretation) the definition of “social work inspector” is repealed;
- (c) in paragraph 1A of schedule 2(**37**) (regulated work with children), in paragraph (d) of the definition of “responsible person”, for “section 2 of the 2001 Act” substitute “schedule 12 to the 2010 Act”;
- (d) in paragraph 8 of Part 3 of schedule 3 (establishments), for “the 2001 Act” substitute “schedule 12 to the 2010 Act”; and
- (e) in the table in schedule 5(**38**) (index) the entry relating to “social work inspector” is repealed.

### ***Sexual Offences (Scotland) Act 2009 (asp 9)***

**20.**—(1) The Sexual Offences (Scotland) Act 2009(**39**) is amended as follows.

(2) In section 44 (interpretation of section 43)—

- (a) in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8) (“the 2001 Act”)” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8) (“the 2010 Act”)”;
- (b) in the definition of “school care accommodation service”, for “section 2(4) of the 2001 Act” substitute “paragraph 3 of schedule 12 to the 2010 Act”; and
- (c) in the definition of “secure accommodation service”, for “section 2(9) of the 2001 Act” substitute “paragraph 6 of schedule 12 to the 2010 Act”.

(3) In section 46(4) (sexual abuse of trust of a mentally disordered person), for the definition of “care service” substitute—

““care service” has the meaning given by subsection (1)(a), (b), (d), (f), (g), (j) and (m) of section 47 of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#) as read with paragraphs 1, 2, 4, 6, 7, 11 and 19 of schedule 12 to that Act.”.

### ***Public Services Reform (Scotland) Act 2010 (asp 8)***

**21.** In schedule 14 to the Public Services Reform (Scotland) Act 2010 (asp 8)(**40**) (modifications of enactments in respect of Social Care and Social Work Improvement Scotland), paragraph 35(a) is repealed.

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(36) Section 97(1) was amended by the Policing and Crime Act 2009 (c.26) (“the 2009 Act”), section 81(3)(n) and the 2010 Act, schedule 14, paragraph 34 and [S.I. 2010/231](#).

(37) Paragraph 1A will be inserted upon the commencement of article 4 of [S.S.I. 2010/240](#).

(38) Schedule 5 was amended by the 2009 Act, section 81 and [S.I. 2010/231](#).

(39) 2009 asp 9.

(40) 2010 asp 8.