



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART II

PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES

Supervision and care of persons put on probation or released from prisons etc.

27 Supervision and care of persons put on probation or released from prisons etc.

- (1) It shall be a function of every local authority under this Part of this Act to provide a service for the following purposes, that is to say—
- (a) making available to any court such social background reports and other reports relating to persons appearing before the court which the court may require for the disposal of a case
 - [^{F1}(aa) making available to any children's hearing such reports relating to persons aged 16 and 17 years in relation to the commission of an offence, as the hearing may require for the disposal of a case;]
 - [^{F2}(ab) making available to any procurator fiscal or the Lord Advocate such reports as the procurator fiscal or the Lord Advocate may request in relation to persons who are charged with an offence;]
 - [^{F3}(ac) the provision of advice, guidance and assistance for persons who are in prison or subject to any other form of detention and who—
 - (i) resided in their area immediately prior to such imprisonment or detention; or
 - (ii) intend to reside in their area on release from such imprisonment or detention,and who on release from such imprisonment or detention, it appears to the local authority, will be required to be under supervision under any enactment or by the terms of an order or licence of the Scottish Ministers or of a condition or requirement imposed in pursuance of an enactment;]
 - (b) the supervision of, and the provision of advice, guidance and assistance for—

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- (i) persons in their area who are under supervision by order of a court made in exercise of its criminal jurisdiction by virtue of any enactment, and
 - (ii) persons in their area who, following on release from prison or any other form of detention, are required to be under supervision under any enactment or by the terms of an order or licence of the Secretary of State or of a condition or requirement imposed in pursuance of any enactment [F4]and].
 - [F4](iii) without prejudice to sub-paragraphs (i) and (ii) above, persons in the area who are subject to a community service order under [F5]section 238 of the Criminal Procedure (Scotland) Act 1995] or a probation order which includes a requirement that the offender shall perform unpaid work[[F6]; and]
 - [F6](iv) without prejudice to paragraphs (i) to (iii) above, persons in their area who are subject to supervised attendance orders under [F7]section 235 of the said Act of 1995]. . .
 - [F8](v) without prejudice to sub-paragraphs (i) to (iv) above, persons in their area who are subject to a supervision and treatment order made under section 57(2)(d) of the Criminal Procedure (Scotland) Act 1995;]
 - [F9](va) without prejudice to sub-paragraph (i) above, persons in their area who are subject to community reparation orders under section 245K of the said Act of 1995;
 - (vb) without prejudice to sub-paragraph (i) above, persons in their area who are under 16 years of age and subject to restriction of liberty orders under section 245A of the said Act of 1995;]
 - [F10](vi) persons in their area aged 16 and 17 years who are subject to a supervision requirement imposed in relation to the commission of any offence by that person;
 - [F11](vii) persons in their area who are charged with, but not prosecuted for, any offence and are referred to the local authority by the procurator fiscal or the Lord Advocate; and
 - [F12](c) the provision of advice, guidance and assistance for persons in their area who, within 12 months of their release from prison or any other form of detention, request such advice, guidance or assistance.]
- [F13](1A) A local authority may provide advice, guidance or assistance for any person who—
- (a) would fall to be provided for under paragraph (ac) of subsection (1) above but for the fact that it appears to the local authority that he will not be required to be under any form of supervision on release as mentioned in that paragraph; and
 - (b) requests such advice, guidance or assistance.
- (1B) Where as respects any person more than one local authority is required by paragraph (ac) of subsection (1) to make such provision as is mentioned in that paragraph, they may agree between themselves that only one of them shall do so; and where there is such agreement the paragraph shall apply accordingly.]
- (2) For the purposes of the foregoing subsection every local authority shall [F14]... prepare a scheme (hereinafter referred to as a [F15]community justice[[F16] scheme]) and submit it by such date, as he may require, to the Secretary of State for his approval.

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- (3) A ^{F17}community justice]^{F16}scheme] shall make provision with regard to the following matters—
- (a) the manner in which any report requested by the court from the local authority is to be prepared and submitted to the court;
 - ^{F18}(aa) the matters to be included in such a report;]
 - (b) arrangements for the attendance of officers of the local authority at the court;
 - (c) arrangements for the co-operation of the local authorities with the courts, and such arrangements may include the appointment of one or more sheriffs having jurisdiction in their areas to ^{F19}a committee or sub-committee of such authorities];
 - (d) arrangements for the keeping of adequate records and statistics regarding the performance of functions under this section; and
 - (e) such other matters as the local authority considers relevant to the service to be provided.
- (4) The Secretary of State may approve a ^{F20}community justice]^{F16}scheme] with or without modifications.
- (5) A local authority may apply to the Secretary of State for the revision of a ^{F21}community justice]^{F16}scheme] and, if the Secretary of State so requires, shall prepare and submit to the Secretary of State for his approval a revised scheme or a modification of an existing scheme.
- ^{F22}(5A) Before including in a community justice scheme which is made, revised or modified under this section provision for the purposes of subsection (1)(b)(va), a local authority shall consult such persons or class or classes of person as the Scottish Ministers may by regulations prescribe.
- (5B) The Scottish Ministers may give local authorities directions in writing as to the content of community justice schemes; and authorities shall comply with any such directions.
- (5C) The power conferred by subsection (5B) above to give a direction shall include power to vary or revoke the direction.]
- (6) Any function required by any enactment to be performed by a probation officer shall, after the coming into operation of this Part of this Act, be performed by an officer of the appropriate local authority.
- (7) Section 11 of and Schedule 3 to the ^{M1} Criminal Justice (Scotland) Act 1949 (administrative provisions as to probation) shall cease to have effect.

Textual Amendments

- F1** S. 27(1)(aa) inserted after paragraph (a) (1.8.1997) by 1997 c. 48, s. 32(a); S.I. 1997/1712, art. 3, Sch.
- F2** S. 27(1)(ab) inserted after paragraph (a) (1.8.1997) by 1997 c. 48, s. 32(b); S.I. 1997/1712, art. 3, Sch.
- F3** S. 27(1)(ac) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 71(2), 89(2); S.S.I. 2003/288, art. 2, sch.
- F4** Word and s. 27(1)(b)(iii) added by Community Service by Offenders (Scotland) Act 1978 (c. 49, SIF 39:1), Sch. 2 para. 1(a)
- F5** Words in s. 27(1)(b)(iii) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 6(4)(b)
- F6** S. 27(1)(b)(iv) and the word “; and” immediately preceding it inserted (1.4.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1), s. 62(5), Sch. 6 para. 8(a); S.I. 1991/850, art. 3, Schedule

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- F7** Words in s. 27(1)(b)(iv) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 6(4)(c)**
- F8** S. 27(1)(b)(v) inserted after sub-paragraph (iv) of paragraph (b) (1.8.1997) by 1997 c. 48, s. **32(c)**; S.I. 1997/1712, art. 3, **Sch.**
- F9** S. 27(1)(b)(va)(vb) inserted (28.10.2004 for specified purposes, 4.4.2005 in so far as not already in force) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 4 para. 1(a)(ii)**; S.S.I. 2004/420, art. 3, sch. 1, sch. 5
- F10** S. 27(1)(b)(vi) inserted after sub-paragraph (iv) of paragraph (b) (1.8.1997) by 1997 c. 48, s. **32(d)**; S.I. 1997/1712, art. 3, **Sch.**
- F11** S. 27(1)(b)(vii) inserted after sub-paragraph (iv) of paragraph (b) (1.8.1997) by 1997 c. 48, s. **32(e)**; S.I. 1997/1712, art. 3, **Sch.**
- F12** S. 27(1)(c) and the word “; and” immediately preceding it added (1.4.1991) by *Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1)*, s. **61(4)(a)**; S.I. 1991/850, art. 3, **Schedule**
- F13** S. 27(1A) (1B) inserted (27.6.2003) by *Criminal Justice (Scotland) Act 2003 (asp 7)*, ss. **71(3)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F14** Words in s. 27(2) repealed (28.10.2004) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 5**; S.S.I. 2004/420, art. 3, sch. 1
- F15** Words in s. 27(2) substituted (28.10.2004) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F16** Words in s. 27(4) substituted (1.4.1991) by virtue of *Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1)*, s. 62(5), **Sch. 6 para. 8(b)**; S.I. 1991/850, art. 3, **Schedule**
- F17** Words in s. 27(3) substituted (28.10.2004) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F18** S. 27(3)(aa) inserted (1.4.1991) by *Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1)*, s. **61(4)(b)**; S.I. 1991/850, art. 3, **Schedule**
- F19** Words in s. 27(3)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(9)**; S.I. 1996/323, art. **4(1)(b)(c)**
- F20** Words in s. 27(4) substituted (28.10.2004) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F21** Words in s. 27(5) substituted (28.10.2004) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F22** S. 27(5A)-(5C) inserted (28.10.2004) by *Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*, s. 145(2), **sch. 4 para. 1(c)**; S.S.I. 2004/420, art. 3, sch. 1

Modifications etc. (not altering text)

- C1** The text of ss. 2(4), 3(9), 14(4), 27(7), 95(2), Sch. 2 Pt. II paras. 7, 18, Sch. 8 paras. 6, 7(1)(3), 8–16, 32–34, 37–43, 60, 68, 73, Sch. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M1** 1949 c. 94.

[^{F23}27ZA] Advice, guidance and assistance to persons arrested or on whom sentence deferred

- (1) It shall be a function of a local authority, if and to such extent as the Scottish Ministers so direct and in accordance with the direction, to provide, directly or indirectly, advice, guidance and assistance to any person (and in particular to any person who appears to the local authority to have dependency problems)—
- (a) who is arrested and detained in police custody in their area, but only during the period of such detention; or

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- (b) on whom sentence is deferred under section 202(1) of the 1995 Act, but only during the period of deferment and while that person is in their area.
- (2) The function mentioned in subsection (1)(a) above may continue to be exercised by the local authority while the person is in their area for a period not exceeding 12 months from the date of his release from police custody.
- (3) In subsection (1) above, “dependency problems” means problems relating to a dependency on drugs, alcohol or some other substance.]

Textual Amendments

F23 S. 27ZA inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 71(4), 89(2); S.S.I. 2003/288, art. 2, sch.

[^{F24}27A Grants in respect of community service facilities

[The Secretary of State may make to a local authority grants of such amount and subject ^{F25}(1)] to such conditions as he may with the consent of the Treasury determine in respect of expenditure incurred by the authority in providing a service

[for the purposes mentioned in section 27(1) [^{F27}or 27ZA] of this Act; and ^{F26}(a)

(b) for such other similar purposes as the Secretary of State may prescribe.

[In a case where two or more local authorities are discharging any function mentioned ^{F28}(1A) in section 27(1) or 27ZA of this Act jointly, whether or not in accordance with arrangements made under section 56(5) of the Local Government (Scotland) Act 1973 (c. 65), the power of the Scottish Ministers to make grants under subsection (1) above in respect of expenditure incurred for the purposes mentioned in paragraph (a) of that subsection includes a power to make such grants, on such conditions as are mentioned in that subsection, to a local authority nominated by the local authorities from among their number.]

(2) Before exercising his power under subsection (1)(b) above the Secretary of State shall consult local authorities and such other bodies as he considers appropriate.]]

Textual Amendments

F24 S. 27A inserted by Community Service by Offenders (Scotland) Act 1978 (c. 49, SIF 39:1), s. 9

F25 In s. 27A “(1)” inserted (1.4.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1), s. 61(5)(a); S.I. 1991/850, art. 3, Schedule

F26 S. 27A(1)(a)(b)(2) substituted (1.4.1991) for words by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1), s. 61(5)(b); S.I. 1991/850, art. 3, Schedule

F27 Words in s. 27A(1)(a) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 71(5), 89(2); S.S.I. 2003/288, art. 2, sch.

F28 S. 27A(1A) beginning with the words "In a case where two or more local authorities" inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 72, 89(2); S.S.I. 2003/288, art. 2, sch.

[^{F29}27B Grants in respect of hostel accommodation for persons under supervision.

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- [The Secretary of State may make to a local authority grants of such amount and subject ^{F30}(1)] to such conditions as he may with the consent of the Treasury determine in respect of expenditure incurred by the authority under this Act in—
- (a) providing; or
 - (b) contributing by way of grant under section 10(3) of this Act to the provision by a voluntary organisation of, residential accommodation wholly or mainly for the persons mentioned in ^{F31}subsection (2) below.
- (2) The persons referred to in subsection (1) above are—
- (a) persons mentioned in section 27(1)(b)(i) and (ii) of this Act;
 - (b) persons who have been charged with an offence and are on bail;
 - (c) persons who have been released from prison or any other form of detention but do not fall within section 27(1)(b)(ii) of this Act; and
 - (d) such other classes of persons as the Secretary of State may prescribe.
- (3) Before exercising his power under subsection (2)(d) above the Secretary of State shall consult local authorities and such other persons as he considers appropriate.]]

Textual Amendments

- F29** S. 27B inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **s. 79**
- F30** In s. 27B “(1)” inserted (1.4.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 39:1\)](#), **s. 61(6)(a)**; S.I. 1991/850, **art. 3**, Schedule
- F31** S. 27B(2)(3) and the words “subsection (2) below.” preceding them substituted (1.4.1991) for words by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 39:1\)](#), **s. 61(6)(b)**; S.I. 1991/850, **art. 3**, Schedule

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