



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART II

PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES

General

12 General social welfare services of local authorities

- (1) It shall be the duty of every local authority to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for their area, and in that behalf to make arrangements and to provide or secure the provision of such facilities (including the provision or arranging for the provision of residential and other establishments) as they may consider suitable and adequate, and such assistance may be given to, or in respect of, the persons specified in the next following subsection in kind or in cash, subject to subsections (3) and (4) of this section.
- (2) The persons specified for the purposes of the foregoing subsection are—
 - (a) a person, being a child under the age of eighteen, requiring assistance in kind, or in exceptional circumstances in cash, where such assistance appears to the local authority likely to diminish the need—
 - (i) to receive him into, or to keep him in, care under this Part of this Act, or
 - (ii) of his being referred to a children's hearing under Part III of this Act;
 - (b) a person in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash, where the giving of assistance in either form would avoid the local authority being caused greater expense in the giving of assistance in another form, or where probable aggravation of the person's need would cause greater expense to the local authority on a later occasion.
- (3) Before giving assistance to, or in respect of, a person in cash under subsection (1) of this section a local authority shall have regard to his eligibility for receiving assistance

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from any other statutory body and, if he is so eligible, to the availability to him of that assistance in his time of need.

- (4) Assistance given in kind or in cash to, or in respect of, persons under this section may be given unconditionally or subject to such conditions as to the repayment of the assistance, or of its value, whether in whole or in part, as the local authority may consider reasonable having regard to the means of the person receiving the assistance and to the eligibility of the person for assistance from any other statutory body.
- (5) Nothing in the provisions of this section shall affect the performance by a local authority of their functions under any other enactment.

13 Power of local authorities to assist persons in need in disposal of produce of their work

Where, by virtue of the last foregoing section, a local authority make arrangements or provide or secure the provision of facilities for the engagement of persons in need (whether under a contract of service or otherwise) in suitable work, that local authority may assist such persons in disposing of the produce of their work.

Home help

14 Home help and laundry facilities

- (1) It shall be the duty of every local authority to provide on such scale as is adequate for the needs of their area, or to arrange for the provision on such a scale as is so adequate of, home help for households where such help is required owing to the presence, or the proposed presence, of a person in need or a person who is an expectant mother or lying-in, and every such authority shall have power to provide or arrange for the provision of laundry facilities for households for which home help is being, or can be, provided under this subsection.
- (2) A local authority may, with the approval of the Secretary of State, recover from persons availing themselves of help or facilities provided under this section such charges (if any) as the authority consider reasonable, having regard to the means of, and the cost of the help or facilities made available to, those persons.
- (3) It shall not be a requirement that any matter relating to the discharge of their functions under this section by a local authority shall stand referred to their social work committee.
- (4) On the coming into operation of the provisions of this and the last two foregoing sections, the provisions of sections 13, 44 and 45 of the Health Services and Public Health Act 1968 shall cease to have effect.

Special provisions as to the care of children in need

15 Duty of local authority to provide for orphans, deserted children, etc.

- (1) Without prejudice to the generality of the foregoing provisions of this Part of this Act, where it appears to a local authority with respect to a child in their area appearing to them to be under the age of seventeen—

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- (a) that he has neither parent nor guardian or has been and remains abandoned by his parent or guardian or is lost; or
- (b) that his parent or guardian is, for the time being or permanently, prevented by reason of illness or mental disorder or bodily disease or infirmity or other incapacity or any other circumstances from providing for his proper accommodation, maintenance and upbringing ; and
- (c) in either case, that the intervention of the local authority under this section is necessary in the interests of the welfare of the child,

it shall be the duty of the local authority to receive the child into their care under this section.

- (2) Where a local authority have received a child into their care under this section, it shall, subject to the provisions of this Part of this Act, be their duty to keep the child in their care so long as the welfare of the child appears to them to require it and the child has not attained the age of eighteen.
- (3) If, at the time when a child is received into the care of a local authority under this section, the whereabouts of any parent or guardian of his are unknown, it shall be the duty of the local authority to take all reasonable steps to discover them ; and nothing in this section shall authorise a local authority to keep a child in their care under this section if any parent or guardian desires to take over the care of the child, and the local authority shall, in all cases where it appears to them consistent with the welfare of the child so to do, endeavour to secure that the care of the child is taken over either—
 - (a) by a parent or guardian of his, or
 - (b) by a relative or friend of his, being, where possible, a person of the same religious persuasion as the child or who gives an undertaking that the child will be brought up in that religious persuasion.
- (4) Where a local authority receive a child into their care under this section who is then ordinarily resident in the area of another local authority, that other local authority may within three months after the determination (whether by agreement between the authorities or under section 86 of this Act) of the ordinary residence of the child, or with the concurrence of the first-mentioned authority at any subsequent time, take over the care of the child; and a local authority shall not exercise their right to take over the care of a child under this subsection unless they are satisfied that the taking-over will not be detrimental to his welfare.
- (5) Where under the last foregoing subsection a local authority take over the care of a child from another local authority, that other authority shall where possible inform the parent of the child that the care of the child has been so taken over.

16 Assumption by local authority of parental rights

- (1) Subject to the provisions of this Part of this Act, a local authority may, with respect to any child in their care under the last foregoing section in whose case it appears to them—
 - (a) that his parents are dead and that he has no guardian; or
 - (b) that a parent or guardian of his (hereafter in this Part of this Act referred to as the person on whose account the resolution was passed)—
 - (i) has abandoned him, or
 - (ii) suffers from some permanent disability rendering the said person incapable of caring for the child, or

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- (iii) suffers from a mental disorder which renders him unfit to have the care of the child, or
- (iv) is of such habits or mode of life as to be unfit to have the care of the child, or
- (v) has so persistently failed without reasonable cause to discharge the obligations of a parent or guardian as to be unfit to have the care of the child,

resolve that all the rights and powers which the deceased parent would have if he were still living, or, as the case may be, all the rights and powers of the person on whose account the resolution was passed, shall vest in the local authority.

- (2) In the case of a resolution passed by virtue of paragraph (b) of the last foregoing subsection, unless the person on whose account the resolution was passed has consented in writing to the passing of the resolution, the local authority, if the whereabouts of the said person are known to them, shall forthwith after the passing of the resolution serve on him notice in writing of the passing thereof; and if, not later than one month after such a notice is served on him, the person on whose account the resolution was passed serves a notice in writing on the local authority objecting to the resolution, the resolution shall, subject to the provisions of subsection (3) of this section, lapse on the expiration of fourteen days from the service of the notice of objection.

Every notice served by a local authority under this subsection shall inform the person on whom the notice is served of his right to object to the resolution and of the effect of any objection made by him.

- (3) Where a notice has been served on a local authority under the last foregoing subsection, the authority may, not later than fourteen days from the receipt by them of the notice, apply by way of summary application against the objection to the resolution to the sheriff having jurisdiction in the area of the authority, and in that event the resolution shall not lapse by reason of the service of the notice until the determination of the application, and the sheriff may, on the hearing of the application, order that the resolution shall not lapse by reason of the service of the notice:

Provided that the sheriff shall not so order unless satisfied that the child had been, and at the time when the resolution was passed remained, abandoned by the person who made the objection, or that that person is unfit to have the care of the child by reason of mental disorder within the meaning of the Mental Health (Scotland) Act 1960, or, in the case of a person furth of Scotland, would be deemed to be so unfit if that Act applied to him, or by reason of his habits or mode of life, or by reason of his persistent failure to discharge the obligations of a parent or guardian.

- (4) Where, after a child has been received into the care of a local authority under the last foregoing section, the whereabouts of any parent or guardian of his have remained unknown for not less than twelve months, the parent or guardian shall, for the purposes of the foregoing provisions of this section, be deemed to have abandoned the child.
- (5) Any notice under this section may be served by post, so however that a notice served by a local authority under subsection (2) of this section shall not be duly served by post unless it is sent in a registered letter or by recorded delivery service.

17 Effect of assumption by local authority of parental rights

- (1) While a resolution passed by virtue of paragraph (a) of subsection (1) of section 16 of this Act is in force with respect to a child, all rights and powers which the deceased parents would have if they were still living shall, in respect of the child, be vested in the local authority in accordance with the resolution.
- (2) While a resolution passed by virtue of paragraph (b) of the said subsection (1) is in force with respect to a child, all rights and powers of the person on whose account the resolution was passed shall, in respect of the child, be vested in the local authority in accordance with the resolution, and subsection (3) of section 15 of this Act shall not, in respect of the child, apply in relation to the person on whose account the resolution was passed.
- (3) A resolution under section 16 of this Act shall not prevent the local authority from allowing, either for a fixed period or until the local authority otherwise determine, the care of the child to be taken over by, and the child to be under the control of, a parent, guardian, relative or friend in any case where it appears to the authority to be for the benefit of the child.
- (4) Where a resolution under section 16 of this Act is in force in respect of a child and the child has ceased to be in the care of the local authority by whom the resolution was passed, then (without prejudice to the provisions of section 15 of this Act if those provisions apply) the local authority by whom the resolution was passed shall have power to receive the child back into their care in any circumstances in which it appears to them that their intervention under this subsection is necessary in the interests of the welfare of the child.
- (5) Where a local authority receive a child into their care under the last foregoing subsection, the provisions of this Act, except subsection (4) of section 15 thereof, shall apply as if the child had been received into their care under the said section 15.
- (6) A resolution under the said section 16 shall not relieve any person from any liability to maintain, or contribute to the maintenance of, the child.
- (7) A resolution under the said section 16 shall not authorise a local authority to cause a child to be brought up in any religious persuasion other than that in which he would have been brought up but for the resolution.
- (8) Any person who—
 - (a) knowingly assists or induces or persistently attempts to induce a child to whom this section applies to run away, or
 - (b) without lawful authority takes away such a child, or
 - (c) knowingly harbours or conceals such a child who has run away or who has been taken away or prevents him from returning,shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- (9) Where a local authority have, in accordance with subsection (3) of this section, allowed any person to take over the care of a child with respect to whom a resolution under the said section 16 is in force and have by notice in writing required that person to return the child at a time specified in the notice (which, if that person has been allowed to take over the care of the child for a fixed period, shall not be earlier than the end of that period) any person who harbours or conceals the child after that time or prevents

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him from returning as required by the notice shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

18 Duration and rescission of resolutions under section 16

- (1) Subject to the provisions of this Part of this Act, a resolution under section 16 of this Act shall continue in force until the child with respect to whom it was passed attains the age of eighteen.
- (2) A resolution under the said section 16 may be rescinded by resolution of the local authority if it appears to them that the rescinding of the resolution will be for the benefit of the child.
- (3) On a summary application for the determining of a resolution being made—
 - (a) in the case of a resolution passed by virtue of paragraph (a) of subsection (1) of the said section 16, by a person claiming to be a parent or guardian of the child;
 - (b) in the case of a resolution passed by virtue of paragraph (b) thereof, by the person on whose account the resolution was passed,
 the sheriff, having jurisdiction where the applicant resides, if satisfied that there was no ground for the making of the resolution or that the resolution should in the interests of the child be determined, may by order determine the resolution, and the resolution shall thereupon cease to have effect:

Provided that, if the sheriff thinks fit, he may, in lieu of determining the resolution, order that, either for a fixed period or until he, or, if the order so provides, the local authority, otherwise direct, the local authority shall allow the care of the child to be taken over by, and the child to be under the control of, the applicant.
- (4) A court may entertain an application under section 4(2A) of the Guardianship of Infants Act 1925 to appoint a guardian of an infant notwithstanding that, by virtue of a resolution under section 16 of this Act, a local authority have parental rights with respect to him; but where on such an application the court appoints a guardian the resolution shall cease to have effect.

19 Amendment of Children Act 1958

The Children Act 1958 shall have effect subject to the amendments set out in Schedule 1 to this Act.

20 Duty of local authority to further the best interests of a child in their care and to afford opportunity for his proper development

- (1) Where a child is in the care of a local authority under any enactment, it shall be the duty of that authority to exercise their powers with respect to him so as to further his best interests, and to afford him opportunity for the proper development of his character and abilities.
- (2) In providing for a child in their care as aforesaid, a local authority shall make such use of facilities and services available for children in the care of their own parents as appears to the local authority reasonable in his case.

- (3) Where a local authority allow the care of a child to be taken over under section 17(3) or 18(3) of this Act, their duties in respect of the child under this section shall not be affected by that take-over.

21 Mode of provision of accommodation and maintenance

- (1) Subject to the provisions of this section, a local authority shall discharge their duty to provide accommodation and maintenance for a child in their care—
- (a) by boarding him out on such terms as to payment by the authority and otherwise as the authority may, subject to the provisions of this Act and regulations thereunder, determine; or
 - (b) by maintaining the child in a residential establishment.
- (2) Nothing in the foregoing subsection shall be construed as preventing a local authority from making use, in the case of any child, of any such facilities and services as are referred to in subsection (2) of the last foregoing section, and for that purpose arranging for his accommodation and maintenance in any suitable manner not specified in the last foregoing subsection.
- (3) Arrangements may be made by a local authority under this section for boarding out a child in England or Wales or for maintaining him in any accommodation in England or Wales which a local authority in those countries is authorised to use for that purpose by virtue of section 13 of the Children Act 1948.

22 Removal of children in residential establishments

Notwithstanding any agreement made in connection with the placing of a child in a residential establishment under this Part of this Act by a local authority, the authority may at any time, and shall if required so to do by the Secretary of State or the person responsible for the establishment, remove the child from the establishment.

23 Power of local authorities and voluntary organisations to arrange for emigration of children

- (1) A local authority or a voluntary organisation may, with the consent of the Secretary of State, arrange or assist in arranging the emigration of any child in their care.
- (2) The Secretary of State shall not give his consent under this section unless he is satisfied that emigration would benefit the child, and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going, that the parent of the child has been consulted or that it is not practicable to consult him, and that the child consents:

Provided that where a child is too young to form or express a proper opinion on the matter, the Secretary of State may consent to his emigration notwithstanding that the child is unable to consent thereto in any case where the child is to emigrate in company with a parent or relative of his, or is to emigrate for the purpose of joining a parent, relative or friend.

24 Financial assistance towards expenses of maintenance, education or training of persons over school age

(1) Without prejudice to the provisions of section 12 of this Act a local authority may make contributions to the cost of the accommodation and maintenance of any person—

- (a) who is over school age but has not attained the age of twenty-one; and
- (b) who is, or has at any time after ceasing to be of school age been, in the care of a local authority,

in any place near the place where he may be employed, or seeking employment, or in receipt of education or training.

(2) A local authority may make grants to persons who are over school age, but have not attained the age of twenty-one, and who at or after the time when they ceased to be of school age were in the care of a local authority, to enable them to meet expenses connected with their receiving suitable education or training.

(3) Where a person—

- (a) is engaged in a course of education or training at the time when he attains the age of twenty-one; or
- (b) having previously been engaged in a course of education or training which has been interrupted by any circumstances, resumes the course as soon as practicable,

then if a local authority are at the said time, or were at the time when the course was interrupted, as the case may be, making any contributions or grants in respect of him under any of the foregoing provisions of this section, their powers under those provisions shall continue with respect to him until the completion of the course.

25 Power of local authority to guarantee indentures and other deeds of apprenticeship etc., of persons in their care

While a person is in the care of a local authority by virtue of any enactment, the local authority may undertake any obligation by way of guarantee under any indentures or other deed of apprenticeship or articles of clerkship entered into by that person ; and where the local authority have undertaken any such obligation under any such deed or articles they may at any time (whether or not the person concerned is still in their care) undertake the like obligation under any such deed or articles supplemental thereto.

26 After-care of children formerly in care of local authorities or voluntary organisations

(1) Where it comes to the knowledge of a local authority that there is in their area any child over school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer.—

- (a) in the care of a local authority, or
- (b) in the care of a voluntary organisation,

then, unless the authority are satisfied that the welfare of the child does not require it, they shall be under a duty so long as he has not attained the age of eighteen to advise, guide or assist him:

Provided that where in a case falling within paragraph (b) of this subsection the local authority are satisfied that the voluntary organisation have the necessary facilities, the local authority may make arrangements whereby, while the arrangements continue in

force, he shall be advised, guided or assisted by the voluntary organisation instead of by the local authority.

- (2) Where a child over school age—
- (a) ceases to be in the care of a local authority under section 15 of this Act and proposes to reside in the area of another local authority, or
 - (b) ceases to be in the care of a voluntary organisation,
- the authority or organisation shall inform the local authority for the area in which the child proposes to reside.
- (3) Where it comes to the knowledge of a local authority or a voluntary organisation that a child whom they have been advising, guiding or assisting in pursuance of this section proposes to transfer or has transferred his residence to the area of another local authority, the first-mentioned local authority or, as the case may be, the voluntary organisation shall inform the other local authority.

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;
 - (b) the supervision of, and the provision of advice, guidance and assistance for—
 - (i) persons in their area who are under supervision by order of a court made in the 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.
- (2) For the purposes of the foregoing subsection every local authority shall, after consultation with the sheriffs having jurisdiction in their area, prepare a scheme (hereinafter referred to as a probation scheme) and submit it by such date, as he may require, to the Secretary of State for his approval.
- (3) A probation 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;
 - (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 the social work committee and to any sub-committee thereof;
 - (d) arrangements for the keeping of adequate records and statistics regarding the performance of functions under this section; and

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- (e) such other matters as the local authority considers relevant to the service to be provided.
- (4) The Secretary of State may approve a probation scheme with or without modifications.
- (5) A local authority may apply to the Secretary of State for the revision of a probation 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.
- (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 Criminal Justice (Scotland) Act 1949 (administrative provisions as to probation) shall cease to have effect.

Ancillary

28 Burial or cremation of the dead

- (1) A local authority may cause to be buried or cremated the body of any deceased person who immediately before his death was in the care of, or receiving assistance from, the authority:

Provided that the authority shall not cause the body to be cremated where cremation is not in accordance with the practice of the person's religious persuasion.
- (2) An authority may recover from the estate of the deceased person or from any person who was liable to maintain the deceased person immediately before his death expenses incurred under subsection (1) of this section and not reimbursed under section 39 of the National Insurance Act 1965.

29 Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals

- (1) A local authority may make payments to any parent, relative or other person connected with a person in their care, or receiving assistance from them, in respect of travelling, subsistence or other expenses incurred by the parent, relative or other person in visiting the person, if it appears to the authority that the parent, relative or other person would not otherwise be able to visit the person without undue hardship and that the circumstances warrant the making of the payments.
- (2) A local authority may make the like payments and in the like circumstances to any parent, relative or other person connected with a person who was in their care, or was receiving assistance from them, for the purpose of that parent, relative or other person attending the funeral of the person.