



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART IV

RESIDENTIAL AND OTHER ESTABLISHMENTS

Provision of residential and other establishments

59 Provision of residential and other establishments by local authorities, and maximum period for repayment of sums borrowed for such provision

- (1) It shall be the duty of a local authority to provide and maintain such residential and other establishments as may be required for their functions under this Act, or arrange for the provision of such establishments.
- (2) For the purpose of discharging their duty under the foregoing subsection a local authority may—
 - (a) themselves provide such establishments as aforesaid; or
 - (b) join with another local authority in providing those establishments; or
 - (c) secure the provision of such establishments by voluntary organisations or other persons including other local authorities.
- (3) The maximum period for the repayment of sums borrowed by a local authority for the purposes of this section shall be such period not exceeding sixty years as may be sanctioned by the Secretary of State; and accordingly in Schedule 6 to the Local Government (Scotland) Act 1947, at the end, there shall be added the following entry, that is to say—

“Section 59 of the Social Work (Scotland) Act 1968. | Such period not exceeding sixty years as may be sanctioned by the Secretary of State.”

60 Control of residential and other establishments

- (1) The Secretary of State may make regulations as to the conduct of residential and other establishments and for securing the welfare of persons resident or accommodated in them, and, without prejudice to the generality of those regulations, they may provide—
- (a) for the construction of, and the accommodation provided in, those establishments, and their equipment, maintenance and management;
 - (b) for the classification, treatment and control of persons resident therein or attending thereat;
 - (c) for the inspection of those establishments and the visiting of persons from time to time by visitors appointed in accordance with the regulations ;
 - (d) for notice to be given to the Secretary of State or the local authority with which the person carrying on any such establishment is registered under any enactment of any change of the person in charge of the establishment ;
 - (e) for requirements, in the case of children, as to the facilities which are to be given for them to receive a religious upbringing appropriate to the persuasion to which they belong;
 - (f) for making available in any of those establishments any service authorised by the National Health Service (Scotland) Act 1947;
- and may contain different provisions for different classes of establishments and different categories of persons.
- (2) In the foregoing subsection, the expression " treatment" includes training, education and occupation, but does not include medical treatment.
- (3) Where any regulation made in pursuance of this section provides that this subsection shall have effect in relation to the regulation, any person who contravenes or fails to comply with the regulation or any requirement or direction under it shall be liable on summary conviction to a fine not exceeding fifty pounds.

Registration of certain residential and other establishments

61 Restriction on carrying on of establishments

- (1) The establishments to which the following provisions of this Part of this Act apply are any residential or other establishment the sole or main object of which is to accommodate persons for the purposes of this Act, whether for reward or not, not being premises controlled or managed by a Government department or by a local authority, or required to be registered, or premises in respect of which a person is required to be registered, with a Government department or a local authority under any other enactment.
- (2) An establishment shall not be carried on by any person unless he is for the time being registered in respect of it in a register kept for the purposes of this section by a local authority or, as the case may be, by the Secretary of State.
- (3) Any person who carries on an establishment in contravention of the provisions of subsection (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds and in the case of a second or subsequent conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

62 Registration

- (1) Subject to the next following section, an application for registration in respect of an establishment under this section shall be made by the person intending to carry on the establishment to the local authority in the area of which the establishment is situated.
- (2) The application shall be in such form and shall include information about such matters as may be prescribed by the Secretary of State, and the Secretary of State may prescribe different requirements for the applications for different classes of establishments.
- (3) Subject to the provisions of this section, the local authority shall, on receipt of an application under subsection (1) of this section, register the applicant in respect of the establishment named in the application and issue to him a certificate of registration:

Provided that the local authority may refuse to register the applicant if they are satisfied—

- (a) that he or any person employed or proposed to be employed by him in the management of the establishment or any part thereof is not a fit person, whether by reason of age or otherwise, to carry on or to be so employed at an establishment of such a description as the establishment named in the application; or
 - (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the establishment or any premises used in connection therewith are not fit to be used for an establishment of such a description as aforesaid; or
 - (c) that the way in which it is proposed to conduct the establishment is such as not to provide services or facilities reasonably required by persons resorting to such an establishment.
- (4) The local authority may at any time cancel the registration of a person in respect of an establishment on any ground which would entitle them to refuse an application for the registration of that person in respect of that establishment, or on the ground that that person has been convicted of an offence against this section or against any regulations under this Part of this Act relating to the conduct of establishments, or on the ground that any other person has been convicted of such an offence in respect of that establishment.
 - (5) It shall be a condition of the registration of any person in respect of an establishment that the number of persons accommodated at any one time in the establishment (excluding persons carrying on or employed in the establishment and their families) does not exceed such number as may be specified in the certificate of registration; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the local authority consider appropriate for regulating the category of persons who may be received in the establishment.
 - (6) If any condition imposed by or under the last foregoing subsection is not complied with, the person carrying on the establishment shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or subsequent conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment, and without prejudice to the foregoing provision the power of the local authority to cancel registration under subsection (4) of this section shall include power to cancel the registration on the ground that any such condition has not been complied with.

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- (7) The certificate of registration under this section issued in respect of any establishment shall be kept affixed in a conspicuous place in the establishment; and if default is made in complying with this subsection the person carrying on the establishment shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine not exceeding two pounds in respect of each day during which the offence continues after conviction.
- (8) Notwithstanding anything in subsection (1) of this section, where the person registered under this section in respect of an establishment dies, his executor or his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the local authority may sanction, carry on the establishment without being registered in respect thereof.
- (9) Where an offence against this or the last foregoing section or any regulations under this Part of this Act relating to establishments has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.
- (10) The registers kept for the purposes of this section shall be available for inspection at all reasonable times, and a person inspecting any such register shall be entitled to make copies of entries therein.

63 Special provisions for registration by Secretary of State

- (1) The Secretary of State may direct that applications for registration in respect of any establishment or any class of establishment shall be made to him and accordingly the provisions of the last foregoing section shall apply in relation to any such registration and to an application therefor with the substitution for any reference to a local authority of a reference to the Secretary of State.
- (2) Where in pursuance of this section the Secretary of State registers a person in respect of an establishment, or cancels such a registration, he shall notify the local authority in whose area the establishment is situated.
- (3) The Secretary of State may direct that persons registered with him in respect of any establishment or class of establishment under this section shall cease to be so registered and shall be registered by the appropriate local authority under this Part of this Act.

64 Appeals against refusal or cancellation of registration

- (1) Not less than fourteen days before refusing an application for registration or cancelling any registration under this Part of this Act, the local authority or, as the case may be, the Secretary of State shall send by recorded delivery service to the applicant or to the person registered, as the case may be, notice of their intention.
- (2) Every such notice shall state the grounds on which the local authority or the Secretary of State intend to refuse or cancel the registration and shall contain an intimation that if within fourteen days after the receipt of the notice the applicant or person registered, as the case may be, informs the authority or the Secretary of State in writing of his

desire to show cause, in person or by a representative, why the registration should not be refused or cancelled, as the case may be, the authority or the Secretary of State shall, before carrying out their intention, afford him an opportunity so to do.

- (3) If the local authority or the Secretary of State, after giving the applicant or person registered, as the case may be, an opportunity of being heard by them, decide to refuse the application for registration, or to cancel the registration, they shall send a notice to that effect by recorded delivery service to the applicant or person registered, as the case may be.
- (4) A person aggrieved by a notice of a local authority or of the Secretary of State refusing an application for registration under this Part of this Act or cancelling any registration thereunder may appeal to an appeal tribunal established by Schedule 5 to this Act; and the cancellation of any registration shall not take effect until the expiration of the time within which an appeal may be brought under this subsection or, where such an appeal is brought, before the determination of the appeal.
- (5) Any appeal under this section shall be brought within twenty-one days from the date of the notice to which the appeal relates.

65 Removal of persons from establishments

- (1) Where—
 - (a) an establishment is carried on in contravention of section 61 of this Act; or
 - (b) notice of intention to cancel the registration in respect of an establishment has been given in pursuance of the last foregoing section;a local authority where the person carrying on the establishment is registered, or ought to be so registered, with them may, notwithstanding that the time for any appeal under the last foregoing section has not expired or that such an appeal is pending, forthwith remove from the establishment all or any of the persons for whom accommodation is being provided therein ; or, in the case of an establishment in respect of which the person carrying it on is registered with him or ought to be so registered, the Secretary of State may in the like circumstances require the local authority in whose area the establishment is situated so to act, and the local authority shall comply with that requirement.
- (2) In any case of urgent necessity the Secretary of State may exercise the power conferred on him by the foregoing subsection in respect of any establishment.
- (3) For the performance of the functions of a local authority under subsection (1) of this section, any person authorised in that behalf by the authority may, on producing, if so required, a duly authenticated document showing his authority to do so, enter any premises in which the establishment in question is being carried on.
- (4) Any person who obstructs the exercise of a power conferred by the last foregoing subsection shall be liable on summary conviction to a fine not exceeding ten pounds in the case of a first offence or fifty pounds in the case of a second or any subsequent offence.

66 Duty to furnish particulars of establishments

- (1) Subject to the next following subsection, it shall be the duty of the person in charge of an establishment to send to the local authority or, as the case may be, the Secretary of State such particulars of the establishment and the persons accommodated or to

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be accommodated therein as the Secretary of State may from time to time prescribe, and the Secretary of State may prescribe different particulars for different classes of establishments.

- (2) A person in charge of an establishment shall comply with the provisions of the foregoing subsection—
 - (a) within three months from the date on which the establishment was first carried on ; and
 - (b) in every year (other than the year in which the establishment was first carried on) before such date as may be prescribed.
- (3) Where the Secretary of State varies the prescribed particulars to be furnished under subsection (1) of this section as respects establishments, then—
 - (a) the person in charge of an establishment shall send the prescribed particulars to the local authority or, as the case may be, to the Secretary of State within three months from the date of the variation; and
 - (b) as respects an establishment which was first carried on before, but not more than three months before, the date of the variation, paragraph (a) of the foregoing subsection shall not apply ; and
 - (c) paragraph (b) of the foregoing subsection shall not apply as respects the year in which the variation is made.
- (4) A person who fails to furnish particulars in accordance with the foregoing provisions of this section shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine not exceeding two pounds in respect of each day during which the failure continues after conviction.

67 Inspection of establishments by local authorities

- (1) Any duly authorised officer of a local authority may in the area of that authority enter any establishment where the person carrying on the establishment is registrable under section 62 of this Act for the purpose of making such examinations into the state and management of the place, and the condition and treatment of the persons in it, as he thinks necessary, and for the purpose of inspecting any records or registers required to be kept therein by virtue of this Part of this Act, and the provisions of subsections (2), (4) and (5) of section 6 of this Act shall apply in relation to an officer acting in pursuance of this section as they apply in relation to an officer of the Secretary of State acting in pursuance of that section.
- (2) Any such officer as aforesaid may at all reasonable times exercise the like powers of entry and inspection conferred on him by the foregoing subsection in respect of any place in the area of the local authority which is used or which that officer has reasonable cause to believe is being used as an establishment in respect of which the person carrying it on is registrable under section 62 of this Act.

68 Visiting of persons in establishments on behalf of local authorities

- (1) It shall be the duty of local authorities from time to time to cause persons in establishments in their area to be visited in the interests of the well-being of the persons, and any person authorised in that behalf by a local authority may on producing if so required a duly authenticated document showing his authority to do so, enter any establishment in the area of the authority for the purpose of visiting the persons in the establishment.

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- (2) Any person authorised in that behalf by a local authority may, on producing, if so required, such a document as aforesaid, enter any establishment outside the area of the authority for the purpose of visiting children in the establishment who are in the care or under the supervision of the authority under Part II or Part III of this Act or persons who are receiving assistance from the authority under this Act.
- (3) Any person who obstructs the exercise of a power conferred by this section shall be liable on summary conviction to a fine not exceeding ten pounds in the case of a first offence or fifty pounds in the case of a second or any subsequent offence.