



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **84 Transfer of assets and liabilities**

Where any functions are transferred to a local authority by virtue of this Act all property, rights, liabilities and obligations relating to the performance of those functions which immediately before the date of transfer were the property, rights, liabilities and obligations of the body or person from which the functions are transferred shall on that date be transferred to and vest in the local authority or, as the case may be, the local authorities to which the functions have been transferred, and the provisions of Schedule 6 to this Act shall have effect for the purposes of this section.

#### **85 Transfer and compensation of officers**

- (1) The Secretary of State shall provide by regulations for the transfer of existing officers of local authorities and of probation committees affected by the coming into operation of this Act and such regulations shall contain such provisions for the protection of the interests of any such existing officers as he may consider necessary.
- (2) Without prejudice to their generality, regulations under the foregoing subsection may include provision for the determination by the Secretary of State of questions arising out of the allocation of existing officers of a probation committee to any of the local authorities in whose area the area, or part of the area, of that committee is situated immediately before the commencement of this Act.
- (3) The Secretary of State may make regulations for the extending, with such modifications as may be specified in the regulations, of the provisions of the Local Government Superannuation (Scotland) Acts 1937 to 1953, or of any local Act scheme within the meaning of those Acts, to such existing officers of local authorities and

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of probation committees as are transferred by virtue of this Act or for modifying in respect of such officers, as may be so specified, the provisions of the said Acts or any such scheme.

- (4) The Secretary of State shall make regulations providing for the payment by such authorities or other persons as may be prescribed by, or determined under the regulations, but subject to such exceptions or conditions as may be so prescribed, of compensation to or in respect of persons who are the holders of any such place, situation or employment as may be so prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to the provisions of this Act.
- (5) Regulations under the last foregoing subsection may include provision as to the manner in which and the person to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations.
- (6) Different regulations may be made under this section in relation to different classes of persons and different circumstances, and any such regulations may be so framed as to have effect as from a date earlier than the making thereof, so however that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person (other than the person responsible for the payment of compensation) in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date of the making thereof.
- (7) Any regulations made under this section may apply to such officers of approved school managers as the Secretary of State may specify in the regulations.
- (8) In this section—
  - " existing officer " means an officer serving on such date or dates as may be specified in the regulations relating to him;
  - " officer " includes the holder of any place, situation or employment.

## **86 Adjustments between authority providing accommodation etc., and authority of area of residence**

- (1) Any expenditure which apart from this section would fall to be borne by a local authority—
  - (a) in the provision under this Act of accommodation for a person ordinarily resident in the area of another local authority, or
  - (b) in the provision under Part II of this Act of services and facilities for a person ordinarily so resident (including, in the case of a child, any expenses incurred after he has ceased to be a child, and, in the event of his care being taken over by virtue of section 15(4) of this Act including also any travelling or other expenses incurred in connection with the taking over), or
  - (c) for the conveyance of a person ordinarily resident as aforesaid, or
  - (d) in administering a supervision requirement in respect of a person ordinarily resident as aforesaid,

shall be recoverable from the other local authority, and in this subsection any reference to another local authority includes a reference to a local authority in England or Wales.

- (2) Any question arising under this section as to the ordinary residence of a person shall be determined by the Secretary of State, and the Secretary of State may determine that a person has no ordinary residence.
- (3) In determining for the purposes of subsection (1) of this section the ordinary residence of any person or child, any period during which he was a patient in a hospital forming part of the hospital and specialist services provided under Part II of the National Health Service Act 1946 or Part II of the National Health Service (Scotland) Act 1947 or, in the case of a child, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a supervision requirement, supervision order or probation order or the conditions of a recognizance, or while boarded out under this Act or under the Children Act 1948, the Children and Young Persons Act 1933 or the Children and Young Persons (Scotland) Act 1937 by a local authority or education authority shall be disregarded.

## **87 Charges that may be made for services and accommodation**

- (1) Subject to the provisions of section 14 of this Act, and of this section, a local authority may recover from persons availing themselves of any service provided under this Act such charges (if any) as, having regard to the cost of the service, the authority may determine, whether generally or in the circumstances of any particular case.
- (2) Persons, other than maintainable children, for whom accommodation is provided under this Act, shall be required to pay for that accommodation in accordance with the subsequent provisions of this section.
- (3) Subject to the following provisions of this section, accommodation provided under this Act shall be regarded as accommodation provided under Part III of the National Assistance Act 1948, and sections 22(2) to (9) and 26(2) to (4) (charges for accommodation and provision of accommodation in premises maintained by voluntary organisations) and sections 42 to 44 of the said Act of 1948 (which make provision for the mutual maintenance of wives and husbands and the maintenance of their children by recovery of assistance from persons liable for maintenance and for affiliation orders, etc.) shall apply accordingly.
- (4) In the application of the said section 22, for any reference to the Minister there shall be substituted a reference to the Secretary of State, and in the application of the said section 26, any references to arrangements under a scheme for the provision of accommodation shall be construed as references to arrangements made by a local authority with a voluntary organisation for the provision of accommodation under this Act.
- (5) The Secretary of State may, with the consent of the Treasury, make regulations for modifying or adjusting the rates at which payments under this section are made, where such a course appears to him to be justified, and any such regulations may provide for the waiving of any such payment in whole or in part in such circumstances as may be specified in the regulations.
- (6) A local authority may refer to the Supplementary Benefits Commission for investigation any question arising as to the resources or other circumstances of a person applying for accommodation under this Act or for whom such accommodation is being provided.

## **88 Duty of parents to notify change of address**

- (1) Where—
  - (a) a child is received into the care of a local authority under Part II of this Act; or
  - (b) he is subject to a supervision requirement,the parents of the child shall keep the local authority responsible for the supervision or care of the child informed of the parents' address.
- (2) The parent of a child to whom the foregoing subsection relates and who knowingly fails to comply with the requirements of that subsection shall be liable on summary conviction to a fine of ten pounds; but in any proceedings under this section it shall be a defence that the accused was at the material time residing at the same address as the other parent and had reasonable cause to believe that the other parent kept the local authority responsible for the supervision or the care of the child informed of the address of both parents.
- (3) A father who is making any payment to a local authority by virtue of any order or decree under Part VI of this Act shall be regarded as a parent for the purposes of this section.

## **89 Application of Tribunals and Inquiries Act 1958**

Part II of Schedule 1 to the Tribunals and Inquiries Act 1958 shall have effect as if—

- (a) any children's hearing constituted and arranged in pursuance of this Act, and
- (b) any appeal tribunal established under Schedule 5 to this Act,

were specified therein.

## **90 Orders, regulations etc.**

- (1) Any power to make regulations or orders (other than orders under sections 52 and 58 and Part V of this Act), or to prescribe any matter, or to make rules conferred on the Secretary of State by this Act shall be exercisable by statutory instrument.
- (2) Any statutory instrument made in the exercise of any power to make regulations conferred by this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make orders shall include a power, exercisable in the like manner and subject to the same conditions, to vary or revoke any such order.

## **91 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of the Secretary of State under this Act, and
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

## **92 Effect of Act on rate support grant**

- (1) The Secretary of State shall have power, by an order made in the like manner and subject to the like provisions as a rate support grant order, to vary the provisions of

any rate support grant order made before the commencement of this Act for a grant period ending after the commencement of this Act.

- (2) Any order made by virtue of this section may be made for all or any of the years comprised in the said rate support grant period, as may be specified in the order, and in respect of the year or years so specified shall increase the annual aggregate amount of the rate support grants to such extent as may appear to the Secretary of State to be appropriate having regard to any additional expenditure incurred or likely to be incurred by councils of counties or of large burghs in consequence of the passing of this Act.
- (3) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by section 4 of the Local Government (Scotland) Act 1966 (which confers power to vary rate support grant orders in consequence of unforeseen increases in the level of prices, costs or remuneration).
- (4) In this section the expressions " rate support grant order " and " grant period " have the meanings respectively assigned to them by subsection (1) and subsection (3) of section 3 of the Local Government (Scotland) Act 1966.

### *Supplementary*

## **93 Transitional provisions**

The transitional provisions set out in Schedule 7 to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

## **94 Interpretation**

- (1) In this Act, except where otherwise expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—
  - " approved school " means a school approved by the Secretary of State under section 79 of the Children and Young Persons Act 1933,
  - " approved school order " has the meaning assigned to it by section 107(1) of the Children and Young Persons Act 1933,
  - " children's panel " and " children's hearing " have the meanings respectively assigned to them by sections 33(1) and 34(1) of this Act,
  - " compulsory measures of care " means, in relation to a child, such measure of care as may be imposed upon him by a children's hearing,
  - " constable " means a constable of a police force within the meaning of the Police (Scotland) Act 1967,
  - " contributor " and " contribution order " have the meanings respectively assigned to them by sections 78 and 80 of this Act,
  - " establishment " means an establishment managed by a local authority, voluntary organisation or any other person, which provides non-residential accommodation for the purposes of this Act, whether for reward or not,
  - " functions " shall include powers and duties,
  - " guardian " means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child, or in relation to a

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child includes any person who, in the opinion of the court or children's hearing having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the charge of or control over the child,

" hospital " means—

- (a) any hospital vested in the Secretary of State under the National Health Service (Scotland) Act 1947,
- (b) any private hospital registered under the Mental Health (Scotland) Act 1960, and
- (c) any State hospital, within the meaning of Part VII of the said Act of 1960,

" local authority ", in relation to Scotland, has the meaning assigned to it by section 1(2) of this Act,

" maintainable child " has the meaning assigned to it by section 78 of this Act,

" mental disorder " has the meaning assigned to it by section 6 of the Mental Health (Scotland) Act 1960,

" mental health officer " means an officer of a local authority appointed to act as a mental health officer for the purposes of the said Act of 1960,

" parent " means either or both parents and.—

- (a) in relation to a child adopted in pursuance of any enactment, means the person or persons by whom he was adopted to the exclusion of his natural parents,
- (b) in relation to a child who is illegitimate, means his mother to the exclusion of his father,

" performance ", in relation to functions, includes the exercise of powers as well as the performance of duties, and " perform " shall be construed accordingly,

" persons in need " means persons who,

- (a) are in need of care and attention arising out of infirmity, youth or age ; or
- (b) suffer from illness or mental disorder or are substantially handicapped by any deformity or disability ; or
- (c) have been rendered homeless and are in need of temporary accommodation; or
- (d) being persons prescribed by the Secretary of State who have asked for assistance, are, in the opinion of a local authority, persons to whom the authority may appropriately make available the services and facilities provided by them under this Act,

" place of safety " means any residential or other establishment provided by a local authority, a police station, or any hospital, surgery or other suitable place, the occupier of which is willing temporarily to receive a child,

" probation order ", in relation to an order imposed by a court in England or Wales, has the meaning assigned to it by section 3 of the Criminal Justice Act 1948, and in relation to such an order, imposed by a court in Northern Ireland, has the same meaning as in the Probation Act (Northern Ireland) 1950,

" residential establishment " means an establishment managed by a local authority, voluntary organisation or any other person, which provides residential accommodation for the purposes of this Act, whether for reward or not,

" school age " has the meaning assigned to it by section 32(1) of the Education (Scotland) Act 1962,

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" supervision order ", in relation to an order imposed by a court in England or Wales, has the meaning assigned to it by section 5 of the Children and Young Persons Act 1963, and in relation to an order imposed by a court in Northern Ireland has the meaning assigned to it by section 63(1)(d) of the Children and Young Persons Act (Northern Ireland) 1950,

" supervision requirement " has the meaning assigned to it by section 44(1) of this Act,

" training school " means a school approved by the Ministry of Home Affairs for Northern Ireland under section 106 of the Children and Young Persons Act (Northern Ireland) 1950,

" training school order " means an order made by a court in Northern Ireland sending a child or young person to a training school,

" voluntary organisation " means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority,

" welfare authority " means a welfare authority constituted under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946.

- (2) Unless the context otherwise requires, any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied by or under any other enactment including this Act.
- (3) Without prejudice to the last foregoing subsection, any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modifications.

## **95 Minor and consequential amendments, repeals and savings**

- (1) The enactments described in Schedule 8 to this Act shall have effect subject to the amendments therein specified, being minor amendments and amendments consequential on the foregoing provisions of this Act.
- (2) The enactments described in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Subject to any expression in this Act to the contrary, in so far as any appointment, agreement or any provision in a regulation or order made or any notice, direction, consent, approval, warrant or certificate given under any enactment repealed by this Act or registration effected, or deemed to have been effected, proceedings instituted or other thing done under any such enactment could have been made, passed, given, granted, effected, instituted or done under a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as if it had been made, passed, given, granted, effected, instituted or done to that corresponding provision and may be amended, varied, revoked or enforced accordingly, and, in the case of any legal proceedings, may be continued and appealed against as if this Act had not been passed.

**96 Power of Parliament of Northern Ireland to make consequential amendments of this Act**

Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act 1920, that Parliament may, by any Act re-enacting (with or without modifications) or amending the law in force in Northern Ireland with respect to children requiring compulsory measures of care, make such amendments of the provisions of this Act which extend to Northern Ireland as may be necessary for the purpose of bringing the said provisions into conformity with the provisions of that Act.

**97 Extension of certain provisions of Act to England and Wales, Northern Ireland, and the Channel Islands**

- (1) The following provisions of this Act shall extend to England and Wales, that is to say—
  - section 58
  - sections 86 and 87
  - Part V
  - Schedule 8
  - Part II of Schedule 9.
- (2) The following provisions of this Act shall extend to Northern Ireland, that is to say—
  - Part V
  - section 96
  - Schedule 8.
- (3) The following provisions of this Act shall extend to the Channel Islands, that is to say sections 69 to 71.
- (4) Save as aforesaid, and except in so far as it relates to the interpretation or commencement of the provisions, this Act shall extend only to Scotland.

**98 Commencement**

- (1) This Act (except this section) shall come into operation on such date as the Secretary of State may by order appoint.
- (2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.

**99 Short title**

This Act may be cited as the Social Work (Scotland) Act 1968.