



# Regulation of Care (Scotland) Act 2001

## 2001 asp 8

### PART 2

#### LOCAL AUTHORITY ADOPTION AND FOSTERING SERVICES ETC.

#### **42 Default powers of Scottish Ministers**

- (1) If the Scottish Ministers (having received a report under section 41 of this Act or otherwise) are satisfied that a local authority providing a care service registered under this Part are, without reasonable excuse—
  - (a) failing to comply with an improvement notice; or
  - (b) carrying on the service other than in accordance with the relevant requirements,they may take the action mentioned in subsection (2) below in respect of the matter.
- (2) The action is—
  - (a) to make an order declaring the authority to be in default; and
  - (b) to take such steps to remedy the matter as may be specified in the direction within such reasonable period as may be so specified.
- (3) If the authority fail to comply with a direction under subsection (2) above—
  - (a) the Scottish Ministers may—
    - (i) take the steps specified in the direction themselves; or
    - (ii) make arrangements for any other person to take those steps on their behalf; or
  - (b) the Court of Session may, on the application of the Lord Advocate, order specific performance of those steps.
- (4) All expenses of the Scottish Ministers under subsection (3) above shall be recoverable as a debt due by the authority to them.