

## SCHEDULE

### Consequential Amendments

## PART 1

### PRIMARY LEGISLATION

#### **Social Work (Scotland) Act 1968**

1.—(1) The Social Work (Scotland) Act 1968(1) is amended as follows.

(2) In section 6B(2) (local authority inquiries into matters affecting children), after subsection (1) insert—

“(1A) Where a function mentioned in subsection (1) is delegated by a local authority to a person in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014, this section applies to that person as it applies to a local authority (but subject to the modification in subsection 1B).

(1B) The modification is that the reference in subsection (3) to an officer of the local authority must be construed as if it were a reference to a member of staff of the person to whom the function is delegated.”

(3) In section 12A(3) (duty of local authority to assess needs), in subsection (8), for the definition of “community care services” substitute—

““community care services” means services, other than services for children, which a local authority is under a duty or has a power to provide, or to secure the provision of, under—

- (a) Part 2 of this Act; or
- (b) any of the following provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003(4)—
  - (i) section 25 (care and support services etc.);
  - (ii) section 26 (services designed to promote well-being and social development);
  - (iii) section 27 (assistance with travel);”.

(4) In section 87(5) (charges that may be made for services and accommodation)—

(a) after subsection (1B) insert—

“(1C) Despite section 25(3) of the Public Bodies (Joint Working) (Scotland) Act 2014, where a local authority delegates a function in pursuance of an integration scheme under that Act to a person in pursuance of which a service mentioned in subsection (1) is provided by (or under the direction of) that person, subsections (1) to (1B) apply subject to the modifications in subsection (1D).

(1D) The modifications are—

- (a) subsection (1) applies as if—

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(1) 1968 c.49.

(2) Section 6B was inserted by the Children (Scotland) Act 1995 (c. 36), section 100.

(3) Section 12A was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 55.

(4) 2003 asp 13.

(5) Section 87 was relevantly amended by the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 15(25), the Community Care and Health (Scotland) Act 2002 (asp 5), section 1(6) and the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), section 28(1).

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- (i) the reference to a local authority providing a service mentioned in that subsection were to a person mentioned in subsection (1C) to whom a function is delegated (or another person under the direction of that person) providing the service, and
    - (ii) the reference to a local authority recovering a charge for a service provided by it were to a local authority recovering a charge for a service that is provided by (or under the direction of) a person mentioned in subsection (1C) to whom a function is delegated, and
  - (b) subsection (1A) applies as if the reference to the authority providing the service were to a local authority mentioned in subsection (1C).”, and
- (b) after subsection (4) insert—
  - “(4A) Despite section 25(3) of the Public Bodies (Joint Working) (Scotland) Act 2014, where a local authority delegates a function in pursuance of an integration scheme under that Act to a person in pursuance of which accommodation mentioned in subsection (3) is provided by (or under the direction of) that person, subsections (3) and (4) apply subject to the modifications in subsection (4B).
  - (4B) The modifications are that subsection (4) applies as if—
    - (a) after “Secretary of State” there were inserted—
      - “and that section 22 applies as if—
        - (a) in subsection (2), the reference to the authority managing premises in which the accommodation is provided were to a local authority mentioned in subsection (4A) of this section,
        - (b) in subsection (3)—
          - (i) the reference to accommodation provided in premises managed by a local authority were to accommodation provided in premises managed by (or under the direction of) a person mentioned in subsection (4A) of this section to whom a function is delegated, and
          - (ii) the reference to the local authority were to a local authority mentioned in subsection (4A) of this section, and
        - (c) in subsection (5A)—
          - (i) the reference to an authority managing premises in which accommodation is provided were to a local authority mentioned in subsection (4A) of this section, and
          - (ii) the reference to the authority providing accommodation were to a person mentioned in subsection (4A) of this section to whom a function is delegated,
        - (d) in subsection (8), the reference to a local authority providing accommodation were to a local authority mentioned in subsection (4A) of this section.”,
      - (b) at the end of the subsection there were inserted—
        - “and that section 26 applies as if—
          - (a) in subsection (2)—
            - (i) the reference to the local authority making payments to the organisation with whom the arrangements are made to provide the accommodation were to a person mentioned in

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- subsection (4A) of this section to whom a function is delegated (or another person under the direction of that person) making those payments, and
- (ii) the reference to the local authority recovering an amount of refund were to a local authority mentioned in subsection (4A) of this section recovering that amount,
- (b) in subsection (3), the reference to the refund of any payments to the local authority were to the refund of any such payments to the local authority mentioned in subsection (4A) of this section,
- (c) in subsection (3A)—
- (i) the reference to the making of arrangements by the local authority were to the making of arrangements by (or under the direction of) a person mentioned in subsection (4A) of this section to whom a function is delegated,
  - (ii) in paragraphs (a) and (c), the references to the local authority were to a person mentioned in subsection (4A) of this section to whom a function is delegated , and
  - (iii) in paragraph (b) the reference to the local authority were to a local authority mentioned in subsection (4A) of this section,” and
- (d) for subsection (4) there were substituted—
- “(4) Section 22(5A) of this Act applies for the purposes of subsection (3A) as it applies for the purposes of that section but as if—
- (a) the reference to an authority managing premises in which accommodation is provided were to a local authority mentioned in section 87(4A) of the Social Work (Scotland) Act 1968, and
  - (b) the reference to the authority providing accommodation were to a person mentioned in section 87(4A) of the Social Work (Scotland) Act 1968 to whom a function is delegated.””