



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

### PART I

#### ADMINISTRATION

##### *Performance of their duties by local authorities*

#### **1 Local authorities for the administration of the Act.**

- (1) It shall be the duty of a local authority to enforce and execute within their area the provisions of this Act [<sup>F1</sup>or Part II of the Children (Scotland) Act 1995] with respect to which the duty is not expressly, or by necessary implication, imposed on some other authority.
- (2) The local authorities for the purposes of this Act shall be [<sup>F2</sup>councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994]
- (3) ..... <sup>F3</sup>
- (4) The functions of local health authorities in respect of their areas under the following enactments—
  - (a) <sup>F4</sup> . . .
  - (b) [<sup>F5</sup>Mental Health (Care and Treatment) (Scotland) Act 2003] . . . <sup>F6</sup>, <sup>F7</sup> . . .
  - <sup>F8</sup>(c) . . . . .

are hereby transferred to the local authorities of those areas.

- (5) On the date of the commencement of Part III of this Act the functions of education authorities in relation to the establishments which immediately before that date were approved schools and the children resident therein shall be transferred to the local authorities in whose areas the said children are ordinarily resident or, in the case of children who have no ordinary residence in Scotland, such local authorities as the Secretary of State may determine.
- (6) ..... <sup>F3</sup>

Status: Point in time view as at 05/10/2005.

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**Textual Amendments**

- F1** Words in s. 1(1) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(2)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F2** Words in s. 1(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(2)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F3** S. 1(3)(6) repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**
- F4** S. 1(4)(a) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **s. 108(7) Sch. 15**; S.I. 1991/828, **art. 3(2)**
- F5** Words in s. 1(4)(b) substituted (27.9.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **sch. 1 para. 4(2)**
- F6** Words repealed by National Health Service (Scotland) Act 1972 (c. 58, SIF 113:2), **Sch. 7 Pt. II**
- F7** Word repealed (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**
- F8** S. 1(4)(c) repealed (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**

**F9**2 .....

**Textual Amendments**

- F9** S. 2 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**[F10** **F10** Chief social work officer.

- (1) For the purposes of their functions under this Act and the enactments mentioned in section 5(1B) of this Act, a local authority shall appoint an officer to be known as the chief social work officer.
- (2) The qualifications of the chief social work officer shall be such as may be prescribed by the Secretary of State.]

**Textual Amendments**

- F10** S. 3 substituted (1.4.1996) by 1994 c. 39, s. 45; S.I. 1996/323, art. 4(1)(a), **Sch. 1**

**4 Provisions relating to performance of functions by local authorities.**

Where a function is assigned to a local authority under this Act <sup>[F11]</sup>or <sup>[F12]</sup>section 25 (provision of care and support services for persons who have or have had a mental disorder), 26 (provision of services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) <sup>[F13]</sup>or Part II of the Children (Scotland) Act 1995],] and a voluntary organisation or other person, including another local authority, is able to assist in the performance of that function, the local authority may make arrangements with such an organisation or other person for the provision of such assistance as aforesaid.

*Status: Point in time view as at 05/10/2005.*

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### Textual Amendments

- F11** Words inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(2), [Sch. 9 para. 10\(3\)](#)
- F12** Words in s. 4 substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 4 para. 1\(2\)](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F13** Words in s. 4 inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36](#), s. 105(4), [Sch. 4 para. 15\(3\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(6\)\(7\)](#) (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, [art. 2](#) (with transitional provisions inserted into S.I. 1996/3201 by [art. 3](#)))

### Central Authority

## 5 Powers of Secretary of State.

(1) Local authorities shall perform their functions under this Act [<sup>F14</sup>and Part II of the Children (Scotland) Act 1995]under the general guidance of the Secretary of State.

[<sup>F15</sup>(1A) Without prejudice to subsection (1) above, the Secretary of State may issue directions to local authorities, either individually or collectively, as to the manner in which they are to exercise any of their functions under this Act or any of the enactments mentioned in [<sup>F16</sup>subsection (1B) below]; and a local authority shall comply with any direction made under this subsection.]

[<sup>F17</sup>(1B) The enactments referred to in subsection (1A) above are—

- (a) this Act as read with sections 1 and 2(1) of the <sup>M1</sup>Chronically Sick and Disabled Persons Act 1970 and the <sup>M2</sup>Disabled Persons (Services, Consultation and Representation) Act 1986;
- (b) Part IV of the <sup>M3</sup>Children and Young Persons (Scotland) Act 1937;
- (c) section 22(2) to (5A), (7) and (8), section 26(2) to (4) and sections 43, 45, 47 and 48 of the <sup>M4</sup>National Assistance Act 1948;
- (d) the Disabled Persons (Employment) Act 1958;
- (e) sections 10 to 12 of the <sup>M5</sup>Matrimonial Proceedings (Children) Act 1958, and sections 11 and 12 of the <sup>M6</sup>Guardianship Act 1973;

[ section 51 of the Criminal Procedure (Scotland) Act 1995;]

[<sup>F18</sup>(f)

- (g) the Children Act 1975;
- (h) the Adoption Act 1976;
- (i) the Adoption (Scotland) Act 1978;
- (j) sections 21 to 23 of the <sup>M7</sup>Health and Social Services and Social Security Adjudications Act 1983;

[<sup>F19</sup>(k) the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13);]

- (l) the Foster Children (Scotland) Act 1984;
- (m) sections 38(b) and 235 of the <sup>M8</sup>Housing (Scotland) Act 1987;
- (n) the Access to Personal Files Act 1987; <sup>F20</sup> . . .
- (o) <sup>F21</sup> . . . . .
- (p) Part II of the Children (Scotland) Act 1995.]

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- [<sup>F22</sup>(2) The Secretary of State may make regulations in relation to—
- (a) the performance of the functions assigned to local authorities by this Act;
  - (b) the activities of voluntary organisations in so far as those activities are concerned with the like purposes;
  - [ the performance of the functions of local authorities under any of the
  - <sup>F23</sup>(c) enactments mentioned in paragraphs (b), (d), (e), (g), (h), (i), (l) [<sup>F24</sup>, (o) and (p)]of subsection (1B) above]
  - (d) . . .]
- [<sup>F25</sup>(3) Without prejudice to the generality of subsection (2) above, regulations under this section may make such provision as is mentioned in subsection (4) of this section as regards—
- (a) the boarding out of persons other than children by local authorities and voluntary organisations, whether under any enactment or otherwise; and
  - (b) the placing of children under paragraph (a), or the making of arrangements in respect of children under paragraph (c), of section 26(1) of the Children (Scotland) Act 1995, by local authorities.
- (4) The provision referred to in subsection (3) of this section is—
- (a) for the recording—
    - (i) by local authorities and voluntary organisations, of information relating to those with whom persons are so boarded out, or who are willing to have persons so boarded out with them; and
    - (ii) by local authorities, of information relating to those with whom children are so placed or with whom such arrangements are made or who are willing to have children so placed with them or to enter into such arrangements;
  - (b) for securing that—
    - (i) persons are not so boarded out in any household unless it is for the time being approved by such local authority or voluntary organisation as may be prescribed by the regulations; and
    - (ii) children are not so placed or, in accordance with such arrangements, provided with accommodation, in any household unless it is for the time being approved by the local authority placing the child or as the case may be making the arrangements;
  - (c) for securing that, where possible, the person with whom a child is so placed or with whom such arrangements are made is either of the same religious persuasion as the child or gives an undertaking that the child shall be brought up in that persuasion;
  - (d) for securing—
    - (i) that a person who is, and the place in which he is, so boarded out by a local authority or voluntary organisation is supervised and inspected by that authority or organisation; and
    - (ii) that a child who is, and the place in which he is, so placed or, in accordance with such arrangements, provided with accommodation, by a local authority is supervised and inspected by that authority,
 and that he shall be removed from the place in question if his welfare appears to require it.

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(5) In subsections (3) and (4) of this section, “ child ” has the same meaning as in Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995. ]

#### Textual Amendments

- F14** Words in s. 5(1) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(4)(a)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F15** S. 5(1A) inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 51**
- F16** Words in s. 5(1A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(3)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F17** S. 5(1B) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(3)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F18** S. 5(1B)(f) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 6(2)**
- F19** S. 5(1B)(k) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), s. 333(2), **sch. 4 para. 1(3)**; S.S.I. 2005/161, **art. 3** (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F20** Word in s. 5(1B) before para. (o) repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(4)(b)(i)**, **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**)) and said word expressed to be repealed (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2** (subject to arts. 3-13)
- F21** S. 5(1B)(o) repealed (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2** (subject to arts. 3-13)
- F22** S. 5(2) substituted by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 3 para. 49**
- F23** S. 5(2)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(3)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F24** Words in s. 5(2)(c) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(4)(c)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F25** S. 5(3)-(5) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) for s. 5(3) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(4)(d)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

#### Marginal Citations

- M1** 1970 c. 44.  
**M2** 1986 c. 33.  
**M3** 1937 c. 37.  
**M4** 1948 c. 29.  
**M5** 1958 c. 40.  
**M6** 1973 c. 29.  
**M7** 1983 c. 41.  
**M8** 1987 c. 26.

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## **[<sup>F26</sup>5A Local authority plans for community care services.**

- (1) Within such period after the day appointed for the coming into force of this section as the Secretary of State may direct, and in accordance with the provisions of this section, each local authority shall prepare and publish a plan for the provision of community care services in their area.
- (2) Each local authority shall from time to time review any plan prepared by them under subsection (1) above, and shall, in the light of any such review, prepare and publish—
  - (a) any modifications to the plan under review; or
  - (b) if the case requires, a new plan.
- (3) In preparing any plan or carrying out any review under subsection (1) or, as the case may be, subsection (2) above the authority shall consult—
  - (a) any Health Board providing services under the National Health Service (Scotland) Act <sup>M9</sup> 1978 in the area of the authority;
  - <sup>F27</sup>(b) .....
  - (c) such voluntary organisations as appear to the authority to represent the interests of persons who use or are likely to use any community care services within the area of the authority or the interests of private carers who, within that area, provide care to persons for whom, in the exercise of their functions under this Act or any of the enactments mentioned in [<sup>F28</sup>5(1B)] of this Act, the local authority have a power or a duty to provide, or to secure the provision of, a service;
  - (d) such voluntary housing agencies and other bodies as appear to the authority to provide housing or community care services in their area; and
  - (e) such other persons as the Secretary of State may direct.
- (4) In this section—

“community care services” means services, other than services for children, which a local authority are under a duty or have a power to provide, or to secure the provision of, under Part II of this Act or [<sup>F29</sup>section 25 (provision of care and support services for persons who have or have had a mental disorder), 26 (provision of services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)]; and

“private carer” means a person who is not employed to provide the care in question by any body in the exercise of its functions under any enactment.]

### **Textual Amendments**

- F26** Ss. 5A, 5B inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 52**
- F27** S. 5A(3)(b) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 76\(4\)\(a\), Sch. 14](#); [S.I. 1996/323, art. 4\(1\)\(b\)-\(d\), Sch. 2](#)
- F28** Words in s. 5A(3)(c) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 76\(4\)\(b\)](#); [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)](#)
- F29** Words in s. 5A(4) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), s. 333\(2\), sch. 4 para. 1\(4\)](#); [S.S.I. 2005/161, art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375, art. 2](#) and as amended (22.9.2005) by [S.S.I. 2005/459, art. 2](#))

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#### Marginal Citations

M9 1978 c. 29 (113:2).

### 5B Complaints procedure.

- (1) Subject to the provisions of this section, the Secretary of State may by order require local authorities to establish a procedure whereby a person, or anyone acting on his behalf, may make representations (including complaints) in relation to the authority's discharge of, or failure to discharge, any of their functions under this Act, or any of the enactments [<sup>F30</sup>mentioned in section 5(1B)] of this Act, in respect of that person.
- (2) For the purposes of subsection (1) of this section, "person" means any person for whom the local authority have a power or a duty to provide, or to secure the provision of, a service, and whose need or possible need for such a service has (by whatever means) come to the attention of the authority.
- (3) An order under subsection (1) of this section may be commenced at different times in respect of such different classes of person as may be specified in the order.
- (4) In relation to a child, representations may be made by virtue of subsection (1) above by the child, or on his behalf by—
  - (a) his parent;
  - (b) any person having parental [<sup>F31</sup>responsibilities and parental rights (within the meaning of section 1(3) and section 2(4) respectively of the Children (Scotland) Act 1995) in relation to] him;
  - (c) any local authority foster parent; or
  - (d) any other person appearing to the authority to have a sufficient interest in the child's wellbeing to warrant his making representations on the child's behalf.
- (5) In this section—

"child" means a child under the age of 18 years; <sup>F32</sup> . . .
- (6) A local authority shall comply with any directions given by the Secretary of State as to the procedure to be adopted in considering representations made as mentioned in subsection (1) of this section and as to the taking of such action as may be necessary in consequence of such representations.
- (7) Every local authority shall give such publicity to the procedure established under this section as they consider appropriate.

#### Textual Amendments

- F30** Words in s. 5B(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(5)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F31** Words in s. 5B(4)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(5)(a)** (with s. 103(1)); S.I. 1996/2203, **art. 3, Sch.** (with transitional provisions in arts. 4-6)
- F32** Words in s. 5B(5) repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(5)(b), Sch. 5** (with s. 103(1)); S.I. 1996/2203, **art. 3, Sch.** (with transitional provisions in arts. 4-6)

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6 Supervision of establishments providing accommodation for persons and inspection of records etc.

(1) Any [F33] person duly authorised by] the Secretary of State may enter any of the following places for the purpose of making such examinations into the state and management of the place [F34] the facilities and services provided therein], and the condition and treatment of the persons in it, as he thinks necessary and for the purpose of inspecting any records or registers [F35] (in whatever form they are held) relating to the place or to any person for whom services have been or are provided there] by virtue of this Act [F36] or [F37] section 25 (provision of care and support services for persons who have or have had a mental disorder) or 26 (provision of services designed to promote well-being and social development of such persons) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)]], that is to say—

- (a) any residential or other establishment provided by a local authority or a voluntary organisation or other person for the purposes of this Act [F38] or [F39] section 25 or 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003], [F40] or Part II of the Children (Scotland) Act 1995];
(b) any place where there is being maintained—
(i) a foster child within the meaning of the [F41] Foster Children (Scotland) Act 1984],
F42(ii) .....
[F43](iii) a child who has been placed for adoption by an adoption agency (within the meaning of section 1 of the M10[F44] Adoption Act 1978)];]
(c) any place where any person [F45], other than a child,] is for the time being boarded out by a local authority or a voluntary organisation;
[F46](cc) any place where a child is for the time being accommodated under paragraph (a) of, or by virtue of paragraph (c) of, section 26(1) of the Children (Scotland) Act 1995.]
(d) ..... F47

(2) Any such [F48] person] as aforesaid may at all reasonable times enter the offices of a local authority or of a voluntary organisation for the purpose of inspecting any records or registers relating to any establishment or place mentioned in the foregoing subsection or relating to any persons to whom the authority or organisation has made available advice, guidance or assistance in pursuance of this Act [F49] or [F50] section 25 or 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003]] [F51] or Part II of the Children (Scotland) Act 1995], or who may require such advice, guidance or assistance, and may carry out that inspection.

[F52](2A) Any such person may require the owner of, or any person employed in, the establishment or place in question to furnish him with such information as he may request.

(2B) In exercising the power to inspect records and registers under this section a person—

- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or register in question; and
(b) may require—
(i) the person by whom or on whose behalf the computer is or has been so used; or
(ii) any person having charge of or otherwise concerned with the operation of the computer, apparatus or material,



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to give him such reasonable assistance as he may require.

- (2C) In exercising the power to inspect places under this section a person—
- (a) may interview any person residing there in private—
    - (i) for the purpose of investigating any complaint as to that place or the services provided there; or
    - (ii) if he has reason to believe that the services being provided there for that person are not satisfactory; and
  - (b) may examine any such person in private.
- (2D) No person may—
- (a) exercise the power to inspect records or registers under subsection (1) and (2) above so as to inspect medical records; or
  - (b) exercise the power conferred by subsection (2C)(b) above, unless he is a registered medical practitioner and, in the case of the power conferred by subsection (1) or (2) above, the records or register relate to medical treatment given at the place in question.]
- (3) The power conferred by subsection (1) of this section may be exercised in respect of any place which an [<sup>F53</sup>authorised person] has reasonable cause to believe to be used as an establishment in respect of which the person carrying on the establishment is registrable under Part IV of this Act.
- (4) [<sup>F54</sup>A person] who proposes to exercise any power of entry or inspection conferred by this section shall, if so required, produce a duly authenticated document showing his authority to exercise the power.
- (5) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F55</sup>level 4 on the standard scale].

#### Textual Amendments

- F33** Words in s. 6(1) substituted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 10(4)(a)(i)**; S.I. 1990/2510, art. 2, **Sch.**
- F34** Words in s. 6(1) inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 53(2); S.I. 1990/2510, art. 2, **Sch.**
- F35** Words in s. 6(1) substituted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 53(3); S.I. 1990/2510, art. 2, **Sch.**
- F36** Words in s. 6(1) inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 10(4)(a)(ii)**; S.I. 1990/2510, art. 2, **Sch.**
- F37** Words in s. 6(1) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), **sch. 4 para. 1(5)(a)(i)**; S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F38** Words in s. 6(1)(a) inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 10(4)(b)**; S.I. 1990/2510, art. 2, **Sch.**
- F39** Words in s. 6(1)(a) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), **sch. 4 para. 1(5)(a)(ii)**; S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F40** Words in s. 6(1)(a) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36, s. 105\(4\)](#), **Sch. 4 para. 15(6)(a)(i)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

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- F41** Words substituted by **Foster Children (Scotland) Act 1984 (c. 56, SIF 20)**, s. 22, **Sch. 2 para. 5**
- F42** S. 6(1)(b)(ii) repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 15(6)(a)(ii)**, **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F43** S. 6(1)(b)(iii) inserted by **Children Act 1975 (c. 72, SIF 49:9, 10)**, **Sch. 3 para. 50**
- F44** Words substituted by **Adoption (Scotland) Act 1978 (c. 28, SIF 49:11)**, s. 67(2), **Sch. 2 paras. 3, 5**, **Sch. 3 para. 10(b)**
- F45** Words in s. 6(1)(c) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(6)(a)(iii)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F46** S. 6(1)(cc) added (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(6)(a)(iv)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F47** S. 6(1)(d) repealed by **Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2)**, **Sch. 4 Pt. II**
- F48** Words in s. 6(2) substituted (1.4.1991) by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2)**, s. 66(1), **Sch. 9 para. 10(4)(c)(i)**; S.I. 1990/2510, art. 2, **Sch.**
- F49** Words in s. 6(2) inserted (1.4.1991) by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2)**, s. 66(1), **Sch. 9 para. 10(4)(c)(ii)**; S.I. 1990/2510, art. 2, **Sch.**
- F50** Words in s. 6(2) substituted (5.10.2005) by **Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)**, s. 333(2), **sch. 4 para. 1(5)(b)**; S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F51** Words in s. 6(2) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(6)(b)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F52** S. 6(2A)–(2D) inserted (1.4.1991) by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2)**, s. 53(4); S.I. 1990/2510, art. 2, **Sch.**
- F53** Words in s. 6(3) substituted (1.4.1991) by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2)**, s. 66(1), **Sch. 9 para. 10(4)(d)**; S.I. 1990/2510, art. 2, **Sch.**
- F54** Words in s. 6(4) substituted (1.4.1991) by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2)**, s. 66(1), **Sch. 9 para. 10(4)(e)**; S.I. 1990/2510, art. 2, **Sch.**
- F55** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1)**, s. 289C(1), **Sch. 7C** (as inserted by **Criminal Law Act 1977 (c. 45, SIF 39:1)**, s. 63(1), **Sch. 11 paras. 5, 13**) and s. 289G (as inserted by **Criminal Justice Act 1982 (c. 48, SIF 39:1)**, s. 54) (and the said **Criminal Procedure (Scotland) Act 1975** was repealed (S.) (1.4.1996) by 1995 c. 40, s. 6, **Sch. 5**); and by 1995 c. 40, ss. 3, 7(2), **Sch. 1 para. 3(1)**, **Sch. 2 Pt. II** it is provided (1.4.1996) that s. 6(5) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine of £10 for a first offence and £50 for a second or subsequent offence

#### Modifications etc. (not altering text)

- C1** S. 6(2A)–(2D)(4) applied (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 36(5) (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

#### Marginal Citations

- M10** 1978 c. 28.

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## [<sup>F56</sup>6A Inquiries.

[ Without prejudice to section 6B(1) of this Act, the Secretary of State may cause an <sup>F57</sup>(1) inquiry to be held into—

- (a) the functions of a local authority under this Act or any of the enactments mentioned in section 5(1B) of this Act;
- (b) the functions of an adoption society, within the meaning of section 65 of the <sup>M11</sup>Adoption (Scotland) Act 1978;
- (c) <sup>F58</sup> .....
- (d) the detention of a child under—
  - (i) section 57 of the <sup>M12</sup>Children and Young Persons (Scotland) Act 1937;  
or  
[ section 44 or 208 of the <sup>M13</sup>Criminal Procedure (Scotland) Act <sup>F59</sup>(ii) 1995;]or
- (e) the functions of the Principal Reporter under Part III of the <sup>M14</sup>Local Government (Scotland) Act 1994, the Children (Scotland) Act 1995 or any other enactment.]

(2) The Secretary of State may, before an inquiry is commenced, direct that it shall be held in private, but where no such direction has been given the person holding the inquiry may if he thinks fit hold it or any part of it in private.

(3) Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act <sup>M15</sup>1973 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section.]

### Textual Amendments

- F56** S. 6A inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 54](#)
- F57** S. 6A(1) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36, s. 105\(4\), Sch. 4 para. 15\(7\)](#) (with [s. 103\(1\)](#)); [S.I. 1996/3201, art. 3\(6\)\(7\)](#) (which said art. 3(7) was substituted (7.3.1997) by [S.I. 1997/744, art. 2](#) (with transitional provisions inserted into [S.I. 1996/3201](#) by [art. 3](#)))
- F58** S. 6A(1)(c) repealed (1.4.2002) by [2001 asp 8, s. 80\(1\)\(2\), Sch. 4](#); [S.S.I. 2002/162, art. 2](#) (with arts. 3-13)
- F59** S. 6A(1)(d)(ii) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 6\(3\)](#)

### Marginal Citations

- M11** 1978 c.28.  
**M12** 1937 c.37.  
**M13** 1995 c.40.  
**M14** 1994 c.39.  
**M15** 1973 c. 65 (81:2).

## [<sup>F60</sup>6B Local authority inquiries into matters affecting children.

(1) Without prejudice to section 6A(1) of this Act, a local authority may cause an inquiry to be held into their functions under this Act, or any of the enactments mentioned in section 5(1B) of this Act, in so far as those functions relate to children.

*Status: Point in time view as at 05/10/2005.*

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- (2) The local authority may, before an inquiry under this section is commenced, direct that it be held in private; but where no such direction is given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.
- (3) Subsections (2) to (6) of section 210 of the <sup>M16</sup>Local Government (Scotland) Act 1973 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section, so however that, for the purposes of the application, any reference in those subsections to a Minister shall be construed as a reference to the local authority and any reference to an officer of his Department as a reference to an officer of that authority.
- (4) The expenses incurred by a local authority in relation to an inquiry under this section (including such reasonable sum as the authority may determine for the services of any of their officers engaged in the inquiry) shall, unless the authority are of the opinion that those expenses should be defrayed in whole or in part by them, be paid by such party to the inquiry as they may direct; and the authority may certify the amount of the expenses so incurred.
- (5) Any sum certified under subsection (4) above and to be defrayed in accordance with a direction under that subsection shall be a debt due by the party directed and shall be recoverable accordingly.
- (6) The local authority may make an award as to the expenses of the parties at the inquiry and as to the parties by whom such expenses shall be paid.]

**Textual Amendments**

**F60** S. 6B inserted (1.4.1997) by 1995 c. 36, s. 100 (with s. 103(1)); S.I. 1996/3201, art. 3(7) (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, art. 2 (with transitional provisions inserted into S.I. 1996/3201 by art. 3))

**Marginal Citations**

**M16** 1973 c.45.

7 ..... F61

**Textual Amendments**

**F61** S. 7 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), Sch. 4

*Research, training courses and financial and other assistance*

**8 Research.**

- (1) The Secretary of State may conduct or assist other persons in conducting research into any matter connected with his functions or the functions of local authorities in relation to social welfare, and with the activities of voluntary organisations connected with those functions.

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- (2) Any local authority may conduct or assist other persons in conducting research into any matter connected with their functions in relation to social welfare.
- (3) The Secretary of State and any local authority may make financial assistance available in connection with any research which they may conduct or which they may assist other persons in conducting under the provisions of this section.

## 9 Training courses and grants for training in social work.

- (1) The Secretary of State may provide courses of training for persons with a view to, or in the course of, their employment or the use of their services for the purposes of this Act [<sup>F62</sup>or Part II of the Children (Scotland) Act 1995].
- (2) The Secretary of State may make grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards any fees or expenses incurred by persons undergoing training for any of the purposes of this Act [<sup>F62</sup>or Part II of the Children (Scotland) Act 1995] in circumstances such that it appears to the Secretary of State requisite that the grants should be made, and may defray or contribute towards the cost of maintenance of persons undergoing such training.
- (3) The Secretary of State may make grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred by any body of persons in providing training as aforesaid.

### Textual Amendments

**F62** Words in s. 9(1)(2) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), Sch. 4 para. 15(8) (with s. 103(1)); S.I. 1996/3201, art. 3(6)(7) (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, art. 2 (with transitional provisions inserted into S.I. 1996/3201 by art. 3))

## 10 Financial and other assistance to voluntary organisations etc., for social work.

- (1) The Secretary of State may make grants and loans of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred by voluntary organisations or other persons engaged in any activity connected
  - (a) his functions; [<sup>F63</sup>with—
  - (b) the functions of local authorities,under this Act or under the [<sup>F64</sup>mentioned in paragraphs (b),(d),(e),(g),(h),(i), [<sup>F65</sup>(l) and (p)] of section 5(1B) of this Act], in circumstances where it appears to the Secretary of State that such grants or loans should be made.]

[<sup>F66</sup>(1A) The Scottish Ministers may make grants and loans of such amounts, and subject to such conditions, as they may determine to a voluntary organisation engaged as is mentioned in subsection (1) above to enable that organisation (in this section referred to as the “primary organisation”) to make grants and loans (in this section referred to as “secondary grants and loans”) to other voluntary organisations, or other persons, so engaged, in circumstances where it appears to the primary organisation that the secondary grants and loans should be made; and the Scottish Ministers may require that any secondary grant be subject to such conditions (including conditions for securing the repayment in whole or in part of that grant) as they may specify. ]

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- (2) The conditions on which any grants are paid [<sup>F67</sup>by the Scottish Ministers under subsection (1) or (1A) above] may include conditions for securing the repayment in whole or in part of such grants.
- (3) A local authority may make contributions by way of grant or loan to any voluntary organisation the sole or primary object of which is to promote social welfare.
- [<sup>F68</sup>(3A) In subsection (3) above, “ voluntary organisation the sole or primary object of which is to promote social welfare ” includes [<sup>F69</sup>a person providing, as mentioned in section 2(11)(b) of the Regulation of Care (Scotland) Act 2001 (asp 8), an adoption service registered under Part 1 of that Act ] . ]
- (4) A local authority may also make available to such a voluntary organisation as aforesaid the use of premises belonging to the authority on such terms as may be agreed, and furniture, vehicles or equipment (whether by way of gift, loan or otherwise) and the services of any staff employed by the authority in connection with the premises or other things belonging to the local authority which the voluntary organisation is permitted to use.
- (5) On the commencement of this Act, the power of the Secretary of State to give financial assistance and of local authorities to give financial and other assistance under [<sup>F70</sup>section] 65 of the <sup>M17</sup>Health Services and Public Health Act 1968 [<sup>F71</sup>and section 16B of the <sup>M18</sup>National Health Service (Scotland) Act 1978] shall cease in so far as any such assistance may be given under this section.

#### Textual Amendments

- F63** Words substituted by [Children Act 1975 \(c. 72, SIF 49:9, 10\)](#), [Sch. 3 para. 51\(a\)](#)
- F64** By [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 76\(7\)](#) and [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)](#) it is provided (1.4.1996) that for the words from “enactments” to “of this Act” there shall be substituted “mentioned in paragraphs (b), (d), (e), (g), (h), (i) and (l) of section 5(1B) of this Act”
- F65** Words in s. 10(1) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36, s. 105\(4\)](#), [Sch. 4 para. 15\(9\)](#) (with s. 103(1)); [S.I. 1996/3201, art. 3\(6\)\(7\)](#) (which said art. 3(7) was substituted (7.3.1997) by [S.I. 1997/744, art. 2](#) (with transitional provisions inserted into [S.I. 1996/3201](#) by [art. 3](#)))
- F66** S. 10(1A) inserted (19.7.2001) by [2001 asp 8, ss. 69\(a\)](#), 81(2)
- F67** Words in s. 10(2) substituted (19.7.2001) by [2001 asp 8, ss. 69\(b\)](#), 81(2)
- F68** S. 10(3A) inserted by [Children Act 1975 \(c. 72, SIF 49:9, 10\)](#), [Sch. 2 para. 51\(b\)](#)
- F69** Words in s. 10(3A) substituted (1.4.2004) by [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#), s. 81(2), [sch. 3 para. 4\(2\)](#); [S.S.I. 2004/100, art. 2\(e\)](#) (with arts. 34) (as amended (30.9.2004) by [S.S.I. 2004/377](#), art. 2)
- F70** Word substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 9 Pt. I para. 8 \(a\)](#)
- F71** Words inserted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 9 Pt. I para. 8\(b\)](#)

#### Marginal Citations

- M17** [1968 c. 46](#).
- M18** [1978 c. 29](#).



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## *Acquisition of land*

### **11 Acquisition of land.**

- (1) A local authority may be authorised by the Secretary of State to purchase compulsorily any land, whether situated in or outside their area for the purposes of any of their functions under this Act [<sup>F72</sup>or Part II of the Children (Scotland) Act 1995].
- (2) The <sup>M19</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land under this section as if the last foregoing subsection had been in force immediately before the commencement of that Act.

#### **Textual Amendments**

**F72** Words in s. 11(1) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(10)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

#### **Marginal Citations**

**M19** 1947 c. 42.

**Status:**

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**Changes to legislation:**

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