



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART I

ADMINISTRATION

Central Authority

5 Powers of Secretary of State.

(1) Local authorities shall perform their functions under this Act under the general guidance of the Secretary of State.

[^{F1}(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 section 2(2) of this Act; and a local authority shall comply with any direction made under this subsection.]

[^{F2}(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;
- (c) the performance of the functions referred to social work committees under section 2(2)(b) to (e) [^{F3}(h) [^{F4}and (j)]] [^{F4}to (k)] of this Act;

[^{F5}(d) the performance of the functions transferred to local authorities by section 1(4) (a) of this Act.]

(3) Without prejudice to the generality of the foregoing subsection, regulations under this section may make provision for the boarding-out of persons by local authorities and voluntary organisations, whether under any enactment or otherwise, and may provide—

- (a) for the recording by local authorities and voluntary organisations of information relating to persons with whom persons are boarded out as

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aforesaid, and to persons who are willing to have persons boarded out with them;

- (b) for securing that persons shall not be boarded out in any household unless that household is for the time being approved by such local authority or voluntary organisation as may be prescribed by the regulations;
- (c) in the case of a child, for securing that, where possible, the person with whom any child is to be boarded out is either of the same religious persuasion as the child or gives an undertaking that the child shall be brought up in that religious persuasion;
- (d) for securing that persons boarded out as aforesaid, and the places in which they are boarded out, shall be supervised and inspected by a local authority or voluntary organisation, as the case may be, and that those persons shall be removed from those places if their welfare appears to require it.

Textual Amendments

- F1** S. 5(1A) inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 51**
- F2** S. 5(2) substituted by [Children Act 1975 \(c. 72, SIF 49:9, 10\)](#), **Sch. 3 para. 49**
- F3** Words substituted by [Adoption \(Scotland\) Act 1978 \(c. 28, SIF 49:11\)](#), s. 67(2), Sch. 2 paras. 3, 5, **Sch. 3 para. 9**
- F4** “to (k)” substituted (*prosp.*) for “and (j)” by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(5), **Sch. 13 para. 19**
- F5** S. 5(2)(d) repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(7), **Sch. 15**

[^{F6}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 ^{M1}1978 in the area of the authority;
 - (b) in so far as the plan or, as the case may be, the review may affect or be affected by the provision or availability of housing, every district council in the area of the authority;
 - (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 section 2(2) of this Act, the local authority have a power or a duty to provide, or to secure the provision of, a service;

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- (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 section 7 (functions of local authorities), 8 (provision of after-care services) or 11 (training and occupation of the mentally handicapped) of the Mental Health (Scotland) Act 1984; 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

F6 Ss. 5A, 5B inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 52

Marginal Citations

M1 [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 referred to in section 2(2) 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 rights in respect of 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; and
 - “parent” and “parental rights” have the same meaning as in section 8 (interpretation) of the Law Reform (Parent and Child) (Scotland) Act 1986.
- (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

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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.

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

(1) Any [^{F7}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 [^{F8}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 [^{F9}(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 [^{F10}or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984], 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 [^{F11}or section 7 or 8 of the said Act of 1984,];
- (b) any place where there is being maintained—
 - (i) a foster child within the meaning of the [^{F12}Foster Children (Scotland) Act 1984],
 - (ii) a protected child within the meaning of [^{F13}section 32 of the ^{M2}Adoption (Scotland) Act 1978];
 - [^{F14}(iii) a child who has been placed for adoption by an adoption agency (within the meaning of section 1 of the [^{F15M3}Adoption Act 1978]);]
- (c) any place where any person is for the time being boarded out by a local authority or a voluntary organisation;
- (d) ^{F16}

(2) Any such [^{F17}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 [^{F18}or section 7 or 8 of the said Act of 1984], or who may require such advice, guidance or assistance, and may carry out that inspection.

[^{F19}(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 [^{F20}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) [^{F21}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 [^{F22}level 4 on the standard scale].

Textual Amendments

- F7** 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.**
- F8** 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.**
- F9** 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.**
- F10** 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.**
- F11** 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.**
- F12** Words substituted by Foster Children (Scotland) Act 1984 (c. 56, SIF 20), s. 22, **Sch. 2 para. 5**
- F13** Words substituted by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), s. 67(2), Sch. 2 paras. 3, 5, **Sch. 3 para. 10(a)**
- F14** S. 6(1)(b)(iii) inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 3 para. 50**
- F15** 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)**
- F16** S. 6(1)(d) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **Sch. 4 Pt. II**
- F17** 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.**

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- F18** 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.**
- F19** 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.**
- F20** 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.**
- F21** 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.**
- F22** 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 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

Marginal Citations

- M2** 1978 c. 28.
M3 1978 c. 28.

[^{F23}6A Inquiries.

- (1) The Secretary of State may cause an inquiry to be held into the functions of a local authority under this Act or any of the enactments mentioned in section 2(2) of this Act, except in so far as those functions relate to persons under the age of 18.
- (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 ^{M4}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

- F23** S. 6A inserted(1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 54**

Marginal Citations

- M4** 1973 c. 65 (81:2).

VALID FROM 01/04/1997

[^{F24}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.

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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 ^{M5}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

F24 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

M5 1973 c.45.

7

F25

Textual Amendments

F25 S. 7 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), Sch. 4

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