



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART IV

RESIDENTIAL AND OTHER ESTABLISHMENTS

Registration of certain residential and other establishments

61 Restriction on carrying on of establishments.

^{F1} In so far as the context admits, the following provisions of this Part of this Act apply—

- ^{F2}(1) (a) except in the case mentioned in paragraph (b) below, to any residential or other establishment the whole or a substantial part of whose functions is to provide persons with such personal care or support, whether or not combined with board and whether for reward or not, as may be required for the purposes of this Act or of the Children (Scotland) Act 1995;
- (b) in the case of a residential establishment which is a grant-aided or independent school (as respectively defined in section 135(1) of the ^{M1}Education (Scotland) Act 1980), to that establishment if any part of its functions are as described in paragraph (a) above.]
- ^{F3}(c) [to any establishment the whole or a substantial part of whose functions is to provide persons with accommodation and personal care or support otherwise than for the purposes of this Act or Part II of the ^{M2}Children (Scotland) Act 1995, whether or not combined with board, and whether for reward or not;
- (d) to any grant-aided or independent school if—
- (i) it provides residential accommodation; and
 - (ii) any part of its functions relates to such personal care or support as is described in paragraph (c) above;
- (e) to any other establishment a substantial part of whose functions is made up of activities falling within paragraphs (a) and (c) above.]

(1A) For the purposes of subsection (1) above—
“establishment” does not include

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) ^{F4}any establishment controlled or managed by a Government department or by a local authority or, subject to [^{F5}section] 63B below, required to be registered, or in respect of which a person is required to be registered, with a Government department or a local authority under any other enactment, [^{F6}; or
- (b) any establishment providing residential accommodation with nursing falling within section 13A of this Act; [^{F7}but an establishment is not excluded for those purposes by paragraph (a) above by reason only of its being registrable by the Registrar of Independent Schools in Scotland;] “personal care” includes the provision of appropriate help with physical and social needs; and
“support” means counselling or other help provided as part of a planned programme of care.]
- (2) [^{F8}Subject to [^{F9}sections 61A(1) and 62(8) and (8A) of this Act]] An establishment shall not be carried on by any person unless he is for the time being registered in respect of it in a register kept for the purposes of this section by a local authority or, as the case may be, by the Secretary of State.
- (3) Any person who carries on an establishment in contravention of the provisions of subsection (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F10}level 4 on the standard scale] and in the case of a second or subsequent conviction to imprisonment for a term not exceeding three months or to a fine not exceeding [^{F10}level 4 on the standard scale] or to both such imprisonment and such fine.

Textual Amendments

- F1** S. 61(1)(1A) substituted for subsection (1) by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\), s. 1\(1\)](#)
- F2** S. 61(1) substituted (1.4.1997) by [1995 c. 36, s. 34\(2\)\(a\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F3** S. 61(1)(c)-(e) inserted (9.7.1998) by [1998 c. 25, s. 1\(1\)](#)
- F4** Word in s. 61(1A) inserted (1.4.1993) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 10\(8\)\(a\)](#); S.I. 1992/2975, [art. 2 \(2\)](#), Sch.
- F5** S. 61(1A): words in the definition of “establishment” substituted (1.4.1997) by [1995 c. 36, s. 34\(2\)\(b\)\(i\)](#) (with ss. 90, 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F6** Words in s. 61(1A) inserted (1.4.1993) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), ss. 66\(1\), Sch. 9 para. 10\(8\)\(b\)](#); S.I. 1992/2975, [art. 2 \(2\)](#), Sch.
- F7** S. 61(1A): words in the definition of “establishment” added (1.4.1997) by [1995 c. 36, s. 34\(2\)\(b\)\(ii\)](#) (with ss. 90, 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F8** Words inserted by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\), s. 1\(2\)](#)
- F9** Words in s. 61(1A) substituted (1.4.1997) by [1995 c. 36, s.34\(2\)\(c\)](#) (with ss. 90, 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F10** 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. 61(3) 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 £50 for a first offence and £100 for a second or subsequent offence

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C1** S. 61(3): Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289E (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 54) (liability on first and subsequent convictions) applies (S.)

Marginal Citations

- M1** 1980 c.44.
M2 1995 c.36.

[^{F11}61A Voluntary registration.

- (1) A grant-aided or independent school, which—
- (a) is not a school such as is described in paragraph (b) or (d) of section 61(1) of this Act; and
 - (b) does not provide such personal care or support as is described in paragraphs (a) or (c) of that section as the whole or a substantial part of its functions,]
- may be carried on by a person without his being registered in respect of it as mentioned in subsection (2) of that section; but he may if he wishes apply in accordance with section 62, or as the case may be 63, of this Act for such registration.
- (2) Sections 62(8) and (8A) and 65 of this Act shall not apply in relation to establishments as respects which registration has been by virtue of subsection (1) above.

Textual Amendments

- F11** S. 61A substituted (1.4.1997) by 1995 c. 36, s. 34(3) (with ss. 90, 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))

62 Registration.

- (1) Subject to the next following section, an application for registration in respect of an establishment under this section shall be made by the person intending to carry on the establishment to the local authority in the area of which the establishment is situated.
- (2) The application shall be in such form and shall include information about such matters as may be prescribed by the Secretary of State, and the Secretary of State may prescribe different requirements for the applications for different classes of establishments.
- (3) Subject to the provisions of this section, the local authority shall, on receipt of an application under subsection (1) of this section, register the applicant in respect of the establishment named in the application and issue to him a certificate of registration:
- Provided that the local authority may refuse to register the applicant if they are satisfied—
- (a) that he or any person employed or proposed to be employed by him in the management of the establishment or any part thereof is not a fit person, whether by reason of age or otherwise, to carry on or to be so employed at an establishment of such a description as the establishment named in the application; or
 - (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the establishment or any premises

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- used in connection therewith are not fit to be used for an establishment of such a description as aforesaid; or
- (c) that the way in which it is proposed to conduct the establishment is such as not to provide services or facilities reasonably required by persons resorting to such an establishment.
- [^{F12}(4) Without prejudice to subsection (2) of this section, where the person registered in respect of an establishment proposes to employ a manager, that is, a person engaged to run the establishment from day to day, he shall
- (a) include in the application for registration a note of the proposed manager's name; and
- (b) inform the authority, within 28 days in either case, of—
- (i) the departure of the manager presently employed, or
- (ii) the employment of a new manager.
- (4A) Where any person registered in respect of an establishment employs a manager at the date when this enactment comes into force, he shall within 28 days of that date inform the local authority of the manager's name.
- (4B) Where any person registered in respect of an establishment intends to cease to carry on the establishment, he shall give the local authority at least 28 day's notice of that fact.
- (4C) The local authority may at any time cancel the registration of a person in respect of an establishment—
- (a) on any ground which would entitle them to refuse an application for the registration of that person in respect of an establishment; or
- (b) on the ground that that person—
- (i) has failed to notify the authority of a change in manager under subsection (4) above, or
- (ii) has been convicted of an offence against this section or against any regulations under this Part of this Act relating to the conduct of an establishment; or
- (c) on the ground that any other person has been convicted of such an offence as is mentioned in subparagraph (b)(ii) above in respect of that establishment; or
- (d) on the ground that the annual fee for the continuation of registration has not been paid on the due date.]
- [^{F13}(5) It shall be a condition of the registration of any person in respect of an establishment that he shall comply with such reasonable conditions with regard to the proper operation of the establishment as the local authority may impose, and such conditions shall include conditions as to—
- (a) the maximum number of persons (excluding persons carrying on or employed in the establishment and their families) who may be accommodated at any one time in the establishment, and
- (b) the categories of persons who may be admitted to the establishment.
- (5A) The local authority may, at their own instance or at that of the person registered in respect of the establishment, at any time—
- (a) impose any new condition with regard to the operation of the establishment; or
- (b) vary any condition imposed under subsection (5) or paragraph (a) above.]
- (6) If any [^{F14}condition, new condition or variation of condition imposed by or under subsection (5) or (5A) above or section 63A(7) below] is not complied with, the person

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

carrying on the establishment shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F15}level 4 on the standard scale] or, in the case of a second or subsequent conviction, to a fine not exceeding [^{F15}level 4 on the standard scale] or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment, and without prejudice to the foregoing provision the power of the local authority to cancel registration under subsection (4) of this section shall include power to cancel the registration on the ground that any such condition has not been complied with.

[^{F16}(6A) The certificate of registration issued under this section in respect of any premises shall include the following information—

- (a) the name of the person registered in respect of the establishment;
- (b) the name of any manager appointed by the person mentioned in paragraph (a) above;
- (c) the address of the premises at which the establishment is to be carried on;
- (d) the maximum number of persons who may be accommodated in the establishment under subsection (5)(a) above;
- (e) the categories of persons who may be admitted to the establishment under subsection (5)(b) above,

and where any material change occurs in any of the information mentioned in this subsection the local authority shall issue a new certificate.

(6B) Where an establishment to which the provisions of this Part of this Act apply is being carried on on the date when this enactment comes into force the local authority shall, within 60 days of that date, issue to the person carrying on that establishment a new certificate including the information mentioned in subsection (6A) above.]

(7) The certificate of registration under this section issued in respect of any establishment shall be kept affixed in a conspicuous place in the establishment; and if default is made in complying with this subsection the person carrying on the establishment shall be liable on summary conviction to a fine not exceeding [^{F17}level 1 on the standard scale] and to a further fine not exceeding two pounds in respect of each day during which the offence continues after conviction.

(8) Notwithstanding anything in subsection (1) of this section, where the person registered under this section in respect of an establishment dies, his executor or his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the local authority may sanction, carry on the establishment without being registered in respect thereof.

[^{F18}(8A) Notwithstanding anything in subsection (1) of this section, where for any reason the person registered in respect of an establishment ceases to be so registered, the local authority may allow another person to carry on the establishment for such period not exceeding 60 days as the authority may sanction, and subject to such conditions as the authority think appropriate.]

(9) Where an offence against this or the last foregoing section or any regulations under this Part of this Act relating to establishments has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

- (10) The registers kept for the purposes of this section shall be available for inspection at all reasonable times, and a person inspecting any such register shall be entitled to make copies of entries therein.

Textual Amendments

- F12** S. 62(4)(4A)(4B)(4C) substituted for s. 62(4) by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 3(1)
- F13** S. 62(5)(5A) substituted for s. 62(5) by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 3(2)
- F14** Words substituted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 3(3)
- F15** 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 £50 for a first offence and £100 for a second or subsequent offence
- F16** S. 62(6A)(6B) inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 3(4)
- F17** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 54)
- F18** S. 62(8A) inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 3(5)

Modifications etc. (not altering text)

- C2** S. 62(6): Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289(E) (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39(1)), s. 54) (liability on first and subsequent convictions) applies (S.)

[^{F19}62A Certificate of registration as respects grant-aided or independent school.

A certificate of registration granted under section 62 of this Act as respects an establishment which is a grant-aided, or independent, school shall relate to the whole of the establishment except so much as is used exclusively for educational purposes.]

Textual Amendments

- F19** S. 62A inserted (1.4.1997) by 1995 c. 36, s. 34(4) (with ss. 90, 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))

63 Special provisions for registration by Secretary of State.

- (1) The Secretary of State may direct that applications for registration in respect of any establishment or any class of establishment shall be made to him and accordingly the provisions of the last foregoing section shall apply in relation to any such registration and to an application therefor with the substitution for any reference to a local authority of a reference to the Secretary of State.

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Where in pursuance of this section the Secretary of State registers a person in respect of an establishment, or cancels such a registration, he shall notify the local authority in whose area the establishment is situated.
- (3) The Secretary of State may direct that persons registered with him in respect of any establishment or class of establishment under this section shall cease to be so registered and shall be registered by the appropriate local authority under this Part of this Act.

[^{F20}63A Appeals against conditions imposed on registration or subsequently.

- (1) Not less than fourteen days before determining—
 - (a) the conditions intended to be imposed under section 62(5) above in respect of the registration of any person in respect of an establishment; or
 - (b) any new condition or variation of an existing condition intended to be imposed under section 62(5A) above,the Secretary of State or, as the case may be, the local authority shall send by recorded delivery service to the applicant or the person registered, as the case may be, notice of their intention.
- (2) Every notice under subsection (1) above shall contain an intimation that if within fourteen days after the receipt of the notice the applicant or, as the case may be, the person registered informs the authority or the Secretary of State in writing of his desire—
 - (a) to show cause, in person or by a representative, why the proposed conditions, new conditions or variation of existing conditions should not be imposed;
 - (b) to make representations as to what conditions, new conditions or variation of conditions should be imposed in substitution for those proposed,the authority or the Secretary of State shall, before carrying out their intention, afford him an opportunity so to do.
- (3) The local authority or the Secretary of State, after giving the applicant or the person registered, as the case may be, an opportunity of being heard by them, shall send a notice to him by recorded delivery service informing him of what conditions, new conditions or variation of conditions they have decided to impose.
- (4) A person aggrieved by a notice of a local authority or of the Secretary of State under subsection (3) above may appeal to an appeal tribunal established by Schedule 5 to this Act, and any such appeal shall be brought within twenty-one days of the date of that notice.
- (5) Where an appeal under subsection (4) above relates to the imposition of conditions on the initial registration of a person in respect of an establishment, the registration shall not take effect until—
 - (a) the appeal has been determined; or
 - (b) the time for bringing an appeal has elapsed without—
 - (i) an appeal having been brought, or
 - (ii) an appeal which has been intimated having been proceeded with,and in either of the cases mentioned in paragraph (b) above the registration shall be subject to the conditions proposed in the notice sent to the applicant under subsection (3) above.

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) Where an appeal under subsection (4) above relates to the proposed imposition of new conditions or of a variation of existing conditions, the new conditions or variation shall not take effect until—
- (a) the appeal has been determined; or
 - (b) the time for bringing an appeal has elapsed without—
 - (i) an appeal having been brought, or
 - (ii) an appeal which has been intimated having been proceeded with.
- (7) On any appeal under subsection (4) above the tribunal may confirm or vary any condition, new condition or variation of a condition against which the appeal is brought.]

Textual Amendments

F20 S. 63A inserted by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\)](#), s. 4

[^{F21} 63B Special provisions for jointly registrable establishments.

- (1) Subject to the provisions of this section, where a person registered or intending to be registered under section 1 of the Nursing Homes Registration (Scotland) Act ^{M3}1938 (which relates to the registration of nursing homes) in respect of an establishment intends that that establishment should also carry out functions in respect of which registration is required under this Act, the provisions of this Part of this Act shall apply in relation to the registration of that person for the purpose of carrying out those functions in that establishment.
- (2) In this Part of this Act “jointly registrable establishment” means an establishment required to be registered under both this Part of this Act and the said Act of ^{M4}1938.
- (3) Any certificate of registration issued by a local authority to such a person as is described in subsection (1) above shall relate to the whole of the establishment, excepting any part thereof which is used exclusively for the purpose of carrying out functions under the said Act of 1938.
- (4) Where a local authority cancel the registration of a jointly registrable establishment under section 62(4) above they shall inform the Health Board responsible under the 1938 Act for the registration of that establishment of the fact of and the reasons for the cancellation.
- (5) Any person who, on the date when this enactment comes into force, is carrying on a jointly registrable establishment which is not registered under this Part of this Act shall within 3 months of that date apply for such registration.
- (6) No fee shall be chargeable by a local authority under section 64A below in respect of any application made by virtue of subsection (5) above.]

Textual Amendments

F21 S. 63B inserted after s. 63 by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\)](#), s. 5(1)

Marginal Citations

M3 1938 c.73(113:3).

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

M4 1938 c.73(113:3).

64 Appeals against refusal or cancellation of registration.

- (1) Not less than fourteen days before refusing an application for registration or cancelling any registration under this Part of this Act, the local authority or, as the case may be, the Secretary of State shall send by recorded delivery service to the applicant or to the person registered, as the case may be, notice of their intention.
- (2) Every such notice shall state the grounds on which the local authority or the Secretary of State intend to refuse or cancel the registration and shall contain an intimation that if within fourteen days after the receipt of the notice the applicant or person registered, as the case may be, informs the authority or the Secretary of State in writing of his desire to show cause, in person or by a representative, why the registration should not be refused or cancelled, as the case may be, the authority or the Secretary of State shall, before carrying out their intention, afford him an opportunity so to do.
- (3) If the local authority or the Secretary of State, after giving the applicant or person registered, as the case may be, an opportunity of being heard by them, decide to refuse the application for registration, or to cancel the registration, they shall send a notice to that effect by recorded delivery service to the applicant or person registered, as the case may be.
- (4) A person aggrieved by a notice of a local authority or of the Secretary of State refusing an application for registration under this Part of this Act or cancelling any registration thereunder may appeal to an appeal tribunal established by Schedule 5 to this Act; and the cancellation of any registration shall not take effect until the expiration of the time within which an appeal may be brought under this subsection or, where such an appeal is brought, before the determination of the appeal.
- (5) Any appeal under this section shall be brought within twenty-one days from the date of the notice to which the appeal relates.

[^{F22}64A Registration fees.

- (1) Subject to the provisions of this section, a local authority shall impose fees in respect of—
 - (a) an application for registration made by any person in respect of the carrying on of any establishment to which this section applies;
 - (b) the annual continuation of any such registration;
 - (c) an application made by the person registered in respect of the establishment for a variation in any condition imposed under section 62(5) or (5A) of this Act; and
 - (d) the issuing of a new certificate following any change in the information mentioned in section 62(6A) above made at the instance of or resulting from an application by the person registered in respect of the establishment.
- (2) This section applies to any establishment such as is mentioned in section 61(1) of this Act which is a residential establishment other than any establishment—
 - (a) the whole or a substantial part of whose function is to accommodate children for the purposes of this Act; or
 - (b) such as is mentioned in section 61A above.

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The Secretary of State may prescribe—
- (a) the maximum fees which may be imposed by local authorities under this section; and
 - (b) the times at which fees may be charged.
- (4) Subject to subsection 3(a) above, a local authority shall have regard to their reasonable expenses in carrying out their functions under this Part of this Act in fixing fees under this section:
- Provided that where it appears to the authority to be appropriate they may charge a nominal fee, or remit the fee altogether.
- (5) Where an application for registration in respect of an establishment has been made to a local authority before the coming into force of this section no fee shall be payable in respect of that registration.]

Textual Amendments

F22 S. 64A inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 6(1)

65 Removal of persons from establishments.

- (1) Where—
- (a) an establishment is carried on in contravention of section 61 of this Act; or
 - (b) notice of intention to cancel the registration in respect of an establishment has been given in pursuance of the last foregoing section;
- a local authority where the person carrying on the establishment is registered, or ought ^{F23}(by virtue of subsections (2) and (3)) of section 61 of this Act] to be so registered, with them may, notwithstanding that the time for any appeal under the last foregoing section has not expired or that such an appeal is pending, forthwith remove from the establishment all or any of the persons for whom accommodation is being provided therein; or, in the case of an establishment in respect of which the person carrying it on is registered with him or ought ^{F23}(by virtue of the said subsections (2) and (3))] to be so registered, the Secretary of State may in the like circumstances require the local authority in whose area the establishment is situated so to act, and the local authority shall comply with that requirement.
- (2) In any case of urgent necessity the Secretary of State may exercise the power conferred on him by the foregoing subsection in respect of any establishment.
- (3) For the performance of the functions of a local authority under subsection (1) of this section, any person authorised in that behalf by the authority may, on producing, if so required, a duly authenticated document showing his authority to do so, enter any premises in which the establishment in question is being carried on.
- (4) Any person who ^{F24}—
- (a)] obstructs the exercise of a power conferred by the last foregoing subsection ^{F25}; or—
 - (b) re-occupies the premises for the purpose of carrying on the establishment without any appeal under section 64 above having been decided in his favour,]

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

shall be liable on summary conviction to a fine not exceeding [F26]level 4 on the standard scale] in the case of a first offence or [F26]level 4 on the standard scale] in the case of a second or any subsequent offence.

Textual Amendments

- F23** Words in s. 65(1) inserted (1.4.1997) by 1995 c. 36, s. 34(5)(a)(b) (with ss. 90, 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))
- F24** “-(a)” inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 7(1)(a)
- F25** S. 65(4)(b) and the word “; or—” immediately preceding it inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 7(1)(b)
- F26** 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

66 Duty to furnish particulars of establishments.

- (1) Subject to the next following subsection, it shall be the duty of the person in charge of an establishment to send to the local authority or, as the case may be, the Secretary of State such particulars of the establishment and the persons accommodated or to be accommodated therein as the Secretary of State may from time to time prescribe, and the Secretary of State may prescribe different particulars for different classes of establishments.
- (2) A person in charge of an establishment shall comply with the provisions of the foregoing subsection—
 - (a) within three months from the date on which the establishment was first carried on; and
 - (b) in every year (other than the year in which the establishment was first carried on) before such date as may be prescribed.
- (3) Where the Secretary of State varies the prescribed particulars to be furnished under subsection (1) of this section as respects establishments, then—
 - (a) the person in charge of an establishment shall send the prescribed particulars to the local authority or, as the case may be, to the Secretary of State within three months from the date of the variation; and
 - (b) as respects an establishment which was first carried on before, but not more than three months before, the date of the variation, paragraph (a) of the foregoing subsection shall not apply; and
 - (c) paragraph (b) of the foregoing subsection shall not apply as respects the year in which the variation is made.
- (4) A person who fails to furnish particulars in accordance with the foregoing provisions of this section shall be liable on summary conviction to a fine not exceeding [F27]level 1 on the standard scale] and to a further fine not exceeding two pounds in respect of each day during which the failure continues after conviction.

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F27** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**)

[^{F28}67 Entry to examine state and management of establishments etc.

- (1) A person duly authorised by a local authority may in the area of that authority, at all reasonable times, enter, for a relevant purpose—
- (a) any establishment as regards which a person is registered, or ought (by virtue of subsections (2) and (3) of section 61 of this Act) to be registered, under section 62 of this Act; or
 - (b) any place which the person so authorised has reasonable cause to believe is being used as such an establishment,
- and subsections (2A) to (2D), (4) and (5) of section 6 of this Act shall apply in respect of a person so authorised as they apply in respect of a person duly authorised under subsection (1) of that section.
- (2) “Relevant purpose” in subsection (1) above means—
- (a) the purpose of making such examinations into the state and management of the establishment or place, and the condition and treatment of the persons in it, as the person so authorised thinks necessary; or
 - (b) the purpose of inspecting any records, or registers (in whatever form they are held) relating to the place, or to any person for whom, under or by virtue of this Act, section 7 (functions of local authorities) or 8 (provision of after-care services) of the ^{M5}Mental Health (Scotland) Act 1984, or Part II of the ^{M6}Children (Scotland) Act 1995, services are being or have been provided in the place.]

Textual Amendments

- F28** [S. 67](#) substituted (1.4.1997) by [1995 c. 36, s. 34\(6\)](#) (with [ss. 90, 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** [1984 c.36.](#)
M6 [1995 c.36.](#)

68 Visiting of persons in establishments on behalf of local authorities.

- (1) It shall be the duty of local authorities from time to time to cause persons in establishments in their area to be visited in the interests of the well-being of the persons, and any person authorised in that behalf by a local authority may on producing if so required a duly authenticated document showing his authority to do so, enter any establishment in the area of the authority for the purpose of visiting the persons in the establishment.
- (2) Any person authorised in that behalf by a local authority may, on producing, if so required, such a document as aforesaid, enter any establishment outside the area

Status: Point in time view as at 09/07/1998.

Changes to legislation: Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

of the authority for the purpose of visiting children in the establishment who are [F²⁹being looked after by the authority] or persons who are receiving assistance from the authority under this Act.

- (3) Any person who obstructs the exercise of a power conferred by this section shall be liable on summary conviction to a fine not exceeding [F³⁰level 3 on the standard scale] in the case of a first offence or [F³⁰level 3 on the standard scale] in the case of a second or any subsequent offence.

[F³¹(4) In subsection (2) of this section, the reference to children being looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.]

Textual Amendments

- F29** Words in s. 68(2) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(16)(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**))
- F30** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289E—289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)
- F31** S. 68(4) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(16)(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**))

Status:

Point in time view as at 09/07/1998.

Changes to legislation:

Social Work (Scotland) Act 1968, Cross Heading: Registration of certain residential and other establishments is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.