



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART VII

MISCELLANEOUS AND GENERAL

Supplementary

93 Transitional provisions.

The transitional provisions set out in Schedule 7 to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

94 Interpretation.

(1) In this Act, except where otherwise expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

“approved school” means a school approved by the Secretary of State under section 79 of the ^{M1}Children and Young Persons Act 1933,

“approved school order” has the meaning assigned to it by section 107(1) of the ^{M2}Children and Young Persons Act 1933,

“children’s panel” and “children’s hearing” have the meanings respectively assigned to them by sections 33(1) and 34(1) of this Act,

“compulsory measures of care” means, in relation to a child, such measure of care as may be imposed upon him by a children’s hearing,

“constable” means a constable of a police force within the meaning of the ^{M3}Police (Scotland) Act 1967,

“contributor” and “contribution order” have the meanings respectively assigned to them by sections 78 and 80 of this Act,

[^{F1}“domiciliary services” means any services, being services provided in the home, which appear to a local authority to be necessary for the purpose

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of enabling a person to maintain as independent an existence as is practicable in his home;]

“establishment” means an establishment managed by a local authority, voluntary organisation or any other person, which provides non-residential accommodation for the purposes of this Act, whether for reward or not,

“functions” shall include powers and duties,

“guardian” means a person appointed by deed or will or by order of a court of competent jurisdiction to be [^{F2}the ^{F3}. . . guardian,] of a child, or in relation to a child includes any person who, in the opinion of the court or children’s hearing having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the [^{F2}custody or charge] of or control over the child,

“hospital” means—

- (a) any hospital vested in the Secretary of State under the ^{M4}National Health Service (Scotland) Act [^{F4}1978],
 - [^{F5}(aa) any hospital managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978;]
 - (b) any private hospital registered under the [^{F6}Mental Health (Scotland) Act 1984], and
 - (c) any State hospital, within the meaning of [^{F6}Part VIII of the said Act of 1984],
- “local authority”, in relation to Scotland, has the meaning assigned to it by section 1(2) of this Act,

“maintainable child” has the meaning assigned to it by section 78 of this Act,

“mental disorder” has the meaning assigned to it by [^{F7}section 1(2) of the Mental Health (Scotland) Act 1984],

“mental health officer” means an officer of a local authority appointed to act as a mental health officer for the purposes of the [^{F8}said Act of 1984],

“parent” means either or both parents and,—

- (a) ^{F9}
- (b) in relation to a child who is illegitimate, means his mother to the exclusion of his father,

“performance”, in relation to functions, includes the exercise of powers as well as the performance of duties, and “perform” shall be construed accordingly,

“persons in need” means persons who,

- (a) are in need of care and attention arising out of infirmity, youth or age; or
- (b) suffer from illness or mental disorder or are substantially handicapped by any deformity or disability; or
- (c) ^{F10}
- (d) being persons prescribed by the Secretary of State who have asked for assistance, are, in the opinion of a local authority, persons to whom the authority may appropriately make available the services and facilities provided by them under this Act,

“place of safety” means any residential or other establishment provided by a local authority, a police station, or any hospital, surgery or other suitable place, the occupier of which is willing temporarily to receive a child,

[^{F11}“prescribed” means—

- (a) in [^{F12}sections 3 and 36,] prescribed by regulations,

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- (b) in section 44, prescribed by rules, and
- (c) in sections [F13]27A, 27B,] 62(2), [F14]64A(3),] 66(1) and (2), 94, paragraphs 2(2) and (3), 4(3) and (4) of Schedule 7, prescribed by order, [F15]and “prescribe” shall be construed accordingly.]]

“probation order”, in relation to an order imposed by a court in England or Wales, has the meaning assigned to it by [F16]section 2 of the M5Powers of Criminal Courts Act 1973], and in relation to such an order, imposed by a court in Northern Ireland, has the same meaning as in the M6Probation Act (Northern Ireland) 1950,

“residential establishment” means an establishment managed by a local authority, voluntary organisation or any other person, which provides residential accommodation for the purposes of this Act, whether for reward or not,

[F17]“school age” shall be construed in accordance with section [F18]31 of the M7Education (Scotland) Act 1980]],

“supervision order”, in relation to an order imposed by a court in England or Wales, has the meaning assigned to it by section 5 of the M8Children and Young Persons Act 1963 [F19]and includes a supervision order within the meaning of the M9Children and Young Persons Act 1969] , and in relation to an order imposed by a court in Northern Ireland has the meaning assigned to it by section 63(1)(d) of the Children and Young Persons Act (Northern Ireland) 1950,

“supervision requirement” has the meaning assigned to it by section 44(1) of this Act,

“training school” means a school approved by the Ministry of Home Affairs for Northern Ireland under section 106 of the M10Children and Young Persons Act (Northern Ireland) 1950,

“training school order” means an order made by a court in Northern Ireland sending a child or young person to a training school,

“voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority,

“welfare authority” means a welfare authority constituted under the M11Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946.

- (2) Unless the context otherwise requires, any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied by or under any other enactment including this Act.
- (3) Without prejudice to the last foregoing subsection, any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modifications.

Textual Amendments

- F1** Definition 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\(14\)\(a\)](#)

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- F2** Words substituted by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(1), **Sch. 1 para. 9(6)**
- F3** Words in s. 94(1) repealed (25. 09. 1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), ss. 10(2), 11(2), **Sch. 2** (with s. 1(3)).
- F4** Words substituted by National Health Service (Scotland) Act 1978 (c. 29, SIF 113:2), **Sch. 16 para. 29(3)**
- F5** Para. (aa) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 10(14)(b)**
- F6** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 17(a)**
- F7** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 17(b)**
- F8** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 17(c)**
- F9** Para. (a) repealed by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 4 Pt. I**
- F10** Para (c) repealed by Housing (Homeless Persons) Act 1977 (c. 48, SIF:61), **Sch.**
- F11** Definition inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 64(1)**
- F12** Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 27 Pt. II para. 186**
- F13** Words in s. 94(1) inserted (01. 04. 1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1), s. 61(7); S.I. 1991/850, **art. 3 Sch.**
- F14** “64A(3),” inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 6(2)(a)
- F15** Words inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 6(2)(b)
- F16** Words substituted by Powers of Criminal Courts Act 1973 (c. 62, SIF 39:1), s. 56(1), **Sch. 5 para. 30**
- F17** Definition substituted by Education (Scotland) Act 1976 (c. 20), **Sch. 1 para. 14**
- F18** Words substituted by Education (Scotland) Act 1980 (c. 44, SIF 41:2), **Sch. 4 para. 5**
- F19** Words inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 64(2)**

Marginal Citations

- M1** 1933 c. 12.
M2 1933 c. 12.
M3 1967 c. 77.
M4 1978 c. 29.
M5 1973 c. 62.
M6 1950 c. 7 (N.I.)
M7 1980 c. 44.
M8 1963 c. 37.
M9 1969 c. 54.
M10 1950 c. 5 (N.I.)
M11 1946 c. 19 (N.I.)

95 Minor and consequential amendments, repeals and savings.

- (1) The enactments described in Schedule 8 to this Act shall have effect subject to the amendments therein specified, being minor amendments and amendments consequential on the foregoing provisions of this Act.
- (2) The enactments described in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Subject to any expression in this Act to the contrary, in so far as any appointment, agreement or any provision in a regulation or order made or any notice, direction, consent, approval, warrant or certificate given under any enactment repealed by this Act or registration effected, or deemed to have been effected, proceedings instituted

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or other thing done under any such enactment could have been made, passed, given, granted, effected, instituted or done under a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as if it had been made, passed, given, granted, effected, instituted or done to that corresponding provision and may be amended, varied, revoked or enforced accordingly, and, in the case of any legal proceedings, may be continued and appealed against as if this Act had not been passed.

Modifications etc. (not altering text)

C1 The text of ss. 2(4), 3(9), 14(4), 27(7), 95(2), Sch. 2 Pt. II paras. 7, 18, Sch. 8 paras. 6, 7(1)(3), 8–16, 32–34, 37–43, 59A, 60, 68, 73, Sch. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

96 ^{F20}

Textual Amendments

F20 S. 96 repealed by [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 6 Pt. I](#)

97 Extension of certain provisions of Act to England and Wales, Northern Ireland and the Channel Islands.

- (1) The following provisions of this Act shall extend to England and Wales, that is to say—
 ^{F21}section 44(1) (except head (b) and (1A))
 section 58
 sections 86 and 87
 Part V
 ^{F21}section 98(3) and Schedule 2 paragraphs 7 and 13]
 Schedule 8
 Part II of Schedule 9.
- (2) The following provisions of this Act shall extend to Northern Ireland, that is to say—
 Part V . . . ^{F22}
 Schedule 8.
- (3) The following provisions of this Act shall extend to the Channel Islands, that is to say
 sections 69 to 71.
- (4) Save as aforesaid, and except in so far as it relates to the interpretation or commencement of the provisions, this Act shall extend only to Scotland.

Textual Amendments

F21 Words inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), [Sch. 5 para. 65](#)
F22 Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 6 Pt. I](#)

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98 Commencement.

- (1) This Act (except this section) shall come into operation on such date as the Secretary of State may by order appoint.
- (2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.
- [^{F23}(3) An order under this section may make such transitional provisions as appear to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or of any provision of this Act then in force as appear to the Secretary of State necessary or expedient for the purposes or in consequence of the operation of any provision of this Act before the coming into force of any other provision of this Act or of the ^{M12}Children and Young Persons Act 1969.]

Textual Amendments

F23 S. 98(3) inserted by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c), **Sch. 5 para. 66**

Marginal Citations

M12 1969 c. 54.

99 Short title.

This Act may be cited as the Social Work (Scotland) Act 1968.

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