



# 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 <sup>M1</sup>Children and Young Persons Act 1933,

“approved school order” has the meaning assigned to it by section 107(1) of the <sup>M2</sup>Children and Young Persons Act 1933,

<sup>F1</sup>  
...

<sup>F2</sup>  
...

<sup>F3</sup>  
...

“constable” means a constable of a police force within the meaning of the <sup>M3</sup>Police (Scotland) Act 1967,

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

[<sup>F4</sup> “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 [<sup>F5</sup>or of Part II of the Children (Scotland) Act 1995,] whether for reward or not,

“functions” shall include powers and duties,

<sup>F6</sup> . . .

[<sup>F7</sup>“hospital” has the meaning assigned to it by section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003]

“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,

[<sup>F8</sup> “mental health officer” means a person appointed under subsection (1) of section 32 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13); and includes a person deemed, by virtue of subsection (3) of that section, to be so appointed;]

“mental health officer” means an officer of a local authority appointed to act as a mental health officer for the purposes of the [<sup>F9</sup>said Act of 1984],

[<sup>F10</sup> “parent” means either parent or both parents, except that where the child was born out of wedlock and the parents have not subsequently married each other it means the natural mother but not the natural 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) . . . . . <sup>F11</sup>

(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,

<sup>F12</sup> . . .

[<sup>F13</sup> “prescribed” means—

(a) in [<sup>F14</sup>section 3] prescribed by regulations,

(b) <sup>F15</sup> . . . . .

(c) in sections [<sup>F16</sup>12(3A),][<sup>F17</sup>27A, 27B,]. . . , 94, paragraphs 2(2) and (3), 4(3) and (4) of Schedule 7, prescribed by order,

[<sup>F18</sup> and “prescribe” shall be construed accordingly.]]

[<sup>F19</sup> “probation order”, in relation to an order imposed by a court in Northern Ireland, has the same meaning as in the Criminal Justice (Northern Ireland) Order 1996,]

“residential establishment” means an establishment managed by a local authority, voluntary organisation or any other person, which provides

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residential accommodation for the purposes of this Act [<sup>F20</sup>or of Part II of the Children (Scotland) Act 1995], whether for reward or not,

<sup>F21</sup>  
...

“supervision order”, in relation to an order imposed by a court in England or Wales, [<sup>F22</sup>means a supervision order under <sup>F23</sup>... the Children Act 1989], and in relation to an order imposed by a court in Northern Ireland [<sup>F24</sup>means a supervision order under the Children and Young Persons Act (Northern Ireland) 1968 or the Children (Northern Ireland) Order 1995],

“supervision requirement” has the meaning assigned to it by [<sup>F25</sup>section 70(1) of the Children (Scotland) Act 1995],

[<sup>F26</sup>“training school” has the meaning assigned to it by section 180(1) of the Children and Young Persons Act (Northern Ireland) 1968;]

“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 <sup>M4</sup>Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946.

[<sup>F27</sup>“youth rehabilitation order” means an order made under section 1 of the Criminal Justice and Immigration Act 2008.]

- (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** S. 94(1): definition of “children's panel” and “children's hearing” repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(28)(a), 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))
- F2** S. 94(1): definition of “compulsory measures of care” repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(28)(b), 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))
- F3** Words in s. 94(1) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(d) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F4** 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)
- F5** S. 94(1): words in the definition of “establishment” inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), Sch. 4 para. 15(28)(e) (with s. 103(1)); S.I. 1996/3201,

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- 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**))
- F6** S. 94(1): definition of “guardian” repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(28) (d), **Sch. 5**; S.I. 1996/2203, art. 3(3), **Sch.**, Table (with arts. 4-7)
- F7** Words in s. 94(1) 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(4)(a)**
- F8** Words in s. 94(1) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), s. 333(2), **sch. 4 para. 1(8)**; 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)
- F9** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1) , **Sch. 3 para. 17 (c)**
- F10** S. 94(1): definition of “parent” substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(28)(e)** (with s. 103(1)); S.I. 1996/2203, art. 3, **Sch.** (with arts. 4-7)
- F11** Para (c) repealed by Housing (Homeless Persons) Act 1977 (c. 48, SIF:61), **Sch.**
- F12** S. 94(1): definition of “place of safety” repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(28)(f), **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**))
- F13** Definition inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 64(1)**
- F14** S.94(1): words in the definition of “prescribed” in para. (a) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(28)(g)(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**))
- F15** S. 94(1): para. (b) in the definition of “prescribed” repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(28)(g)(ii), **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (S.) (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F16** Words in s. 94(1) inserted (1.7.2002) by Community Care and Health (Scotland) Act 2002 (asp 5), s. 25, **Sch. 2 para. 1(5)**; S.S.I. 2002/170, **art. 2**
- F17** 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.**
- F18** Words inserted by Registered Establishments (Scotland) Act 1987 (c. 40, SIF 81:3), s. 6(2)(b)
- F19** Words in s. 94(1) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 13(a)** (with Sch. 27 paras. 1 , 5); S.I. 2009/3074, art. 2(p)(iii)
- F20** S. 94(1): words in the definition of “residential establishment” inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(28)(h)** (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**))
- F21** S. 94(1): definition of “school age” repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(28)(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**))
- F22** Words in s. 94(1) substituted (14. 10. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 36**; S.I. 1991/1883, **art. 3 Sch.**
- F23** Words in s. 94(1) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 4 para. 13(b), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1 , 5); S.I. 2009/3074, art. 2(p)(iii)(u)
- F24** S. 94(1): words in the definition of “supervision order” substituted (4.11.1996) by S.I. 1995/756, **art. 5(6)**; S.R. 1996/297, **art. 3**
- F25** S. 94(1): words in the definition of “supervision requirement” (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(28)(j)** (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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- F26** S. 94(1): definition of “training school” substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(28)(k)** (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**))
- F27** Definition in s. 94(1) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 13(c)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(iii)

**Marginal Citations**

- M1** 1933 c. 12.  
**M2** 1933 c. 12.  
**M3** 1967 c. 77.  
**M4** 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 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** ..... **F28**

**Textual Amendments**

- F28** 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—

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F29 . . . .  
F29 . . . .  
sections 86 and 87  
F29 . . . .  
[<sup>F30</sup>section 98(3) and Schedule 2 paragraphs 7 and 13]  
Schedule 8  
Part II of Schedule 9.

<sup>F31</sup>(2) . . . . .

<sup>F31</sup>(3) . . . . .

(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

**F29** Words in s. 97 repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(29)(a), 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))

**F30** Words inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), Sch. 5 para. 65

**F31** S. 97(2)(3) repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 15(29)(b), 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))

## 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.

[<sup>F32</sup>(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 <sup>M5</sup>Children and Young Persons Act 1969.]

#### Textual Amendments

**F32** 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

**M5** 1969 c. 54.

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**99 Short title.**

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

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