



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

### PART II

#### PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES

*Supervision and care of persons put on probation or released from prisons etc.*

#### **27 Supervision and care of persons put on probation or released from prisons etc.**

(1) [<sup>F1</sup>Subject to any order or determination under section 8 of the Management of Offenders etc. (Scotland) Act 2005 (asp 14),]it shall be a function of every local authority under this Part of this Act to provide a service for the following purposes, that is to say—

(a) making available to any court such social background reports and other reports relating to persons appearing before the court which the court may require for the disposal of a case

[<sup>F2</sup>(aa) making available to any children's hearing such reports relating to persons aged 16 and 17 years in relation to the commission of an offence, as the hearing may require for the disposal of a case;]

[<sup>F3</sup>(ab) making available to any procurator fiscal or the Lord Advocate such reports as the procurator fiscal or the Lord Advocate may request in relation to persons who are charged with an offence;]

[<sup>F4</sup>(ac) the provision of advice, guidance and assistance for persons who are in prison or subject to any other form of detention and who—

(i) resided in their area immediately prior to such imprisonment or detention; or

(ii) intend to reside in their area on release from such imprisonment or detention,

and who on release from such imprisonment or detention, it appears to the local authority, will be required to be under supervision under any enactment or by the terms of an order or licence of the Scottish Ministers or of a condition or requirement imposed in pursuance of an enactment;]

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- [<sup>F5</sup>(ad) making available, for the purposes of parenting orders under section 13 or 102 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), such services as are required to enable requirements imposed by or under such orders to be carried out in respect of persons in their area;]
- [<sup>F6</sup>(ae) making available to the Scottish Ministers such background and other reports as the Scottish Ministers may request in relation to the exercise of their functions under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9);]
- (b) the supervision of, and the provision of advice, guidance and assistance for—
- (i) persons in their area who are under supervision by order of a court made in exercise of its criminal jurisdiction by virtue of any enactment, and
- (ii) persons in their area who, following on release from prison or any other form of detention, are required to be under supervision under any enactment or by the terms of an order or licence of the Secretary of State or of a condition or requirement imposed in pursuance of any enactment.
- [<sup>F7</sup>(and) without prejudice to sub-paragraphs (i) and (ii) above, persons in the area who are subject to a [<sup>F8</sup>community payback order imposed under section 227A or 227M of the Criminal Procedure (Scotland) Act 1995 imposing an unpaid work or other activity requirement]]
- <sup>F9</sup>[<sup>F10</sup>(iv)] . . . . .
- [<sup>F11</sup>(v) without prejudice to sub-paragraphs (i) to (iv) above, persons in their area who are subject to a supervision and treatment order made under section 57(2)(d) of the Criminal Procedure (Scotland) Act 1995;]
- <sup>F12</sup>[<sup>F13</sup>(va)] . . . . .
- (vb) without prejudice to sub-paragraph (i) above, persons in their area who are under 16 years of age and subject to restriction of liberty orders under section 245A of the said Act of 1995;]
- <sup>F14</sup>(vi) persons in their area aged 16 and 17 years who are subject to a supervision requirement imposed in relation to the commission of any offence by that person;
- <sup>F15</sup>(vii) persons in their area who are charged with, but not prosecuted for, any offence and are referred to the local authority by the procurator fiscal or the Lord Advocate; <sup>F16</sup> ...
- [<sup>F17</sup>(viii) persons in their area who are subject to work orders under section 303ZA(6) of the said Act of 1995;]
- [<sup>F18</sup>(c) the provision of advice, guidance and assistance for persons in their area who, within 12 months of their release from prison or any other form of detention, request such advice, guidance or assistance.]
- [<sup>F19</sup>(1A) A local authority may provide advice, guidance or assistance for any person who—
- (a) would fall to be provided for under paragraph (ac) of subsection (1) above but for the fact that it appears to the local authority that he will not be required to be under any form of supervision on release as mentioned in that paragraph; and
- (b) requests such advice, guidance or assistance.
- (1B) Where as respects any person more than one local authority is required by paragraph (ac) of subsection (1) to make such provision as is mentioned in that

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paragraph, they may agree between themselves that only one of them shall do so; and where there is such agreement the paragraph shall apply accordingly.]

[<sup>F20</sup>(1C) In paragraphs (ac) and (b)(i) and (ii) of subsection (1) above, “enactment” includes an Act of the Scottish Parliament.

(1D) The Scottish Ministers may by order amend subsection (1) above so as (any or all)—

- (a) to add to the functions for the time being described;
- (b) to omit any of those functions;
- (c) to alter any of those functions.]

(2) For the purposes of [<sup>F21</sup> subsection (1) above] every local authority shall, <sup>F22</sup> ..., prepare a scheme (hereinafter referred to as a [<sup>F23</sup> community justice][<sup>F24</sup> scheme]) and submit it by such date, as he may require, to the Secretary of State for his approval.

(3) A [<sup>F25</sup> community justice][<sup>F24</sup> scheme] shall make provision with regard to the following matters—

- (a) the manner in which any report requested by the court from the local authority is to be prepared and submitted to the court;
- [<sup>F26</sup>(aa) the matters to be included in such a report;]
- (b) arrangements for the attendance of officers of the local authority at the court;
- (c) arrangements for the co-operation of the local authorities with the courts, and such arrangements may include the appointment of one or more sheriffs having jurisdiction in their areas to [<sup>F27</sup>a committee or sub-committee of such authorities];
- (d) arrangements for the keeping of adequate records and statistics regarding the performance of functions under this section; and
- (e) such other matters as the local authority considers relevant to the service to be provided.

(4) The Secretary of State may approve a [<sup>F28</sup> community justice][<sup>F24</sup> scheme] with or without modifications.

(5) A local authority may apply to the Secretary of State for the revision of a [<sup>F29</sup> community justice][<sup>F24</sup> scheme] and, if the Secretary of State so requires, shall prepare and submit to the Secretary of State for his approval a revised scheme or a modification of an existing scheme.

[<sup>F30</sup>(5A) Before including in a community justice scheme which is made, revised or modified under this section provision for the purposes of subsection (1)(b)(va)[<sup>F31</sup> or (viii)], a local authority shall consult such persons or class or classes of person as the Scottish Ministers may by regulations prescribe.

(5B) The Scottish Ministers may give local authorities directions in writing as to the content of community justice schemes; and authorities shall comply with any such directions.

(5C) The power conferred by subsection (5B) above to give a direction shall include power to vary or revoke the direction.]

(6) Any function required by any enactment to be performed by a probation officer shall, after the coming into operation of this Part of this Act, be performed by an officer of the appropriate local authority.

(7) Section 11 of and Schedule 3 to the <sup>M1</sup> Criminal Justice (Scotland) Act 1949 (administrative provisions as to probation) shall cease to have effect.

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### Textual Amendments

- F1** Words in s. 27(1) inserted (3.4.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(1\)\(a\)\(i\)](#), 24(2); S.S.I. 2006/48, art. 3(2), sch. Pt. 2
- F2** S. 27(1)(aa) inserted after paragraph (a) (1.8.1997) by 1997 c. 48, [s. 32\(a\)](#); S.I. 1997/1712, art. 3, [Sch.](#)
- F3** S. 27(1)(ab) inserted after paragraph (a) (1.8.1997) by 1997 c. 48, [s. 32\(b\)](#); S.I. 1997/1712, art. 3, [Sch.](#)
- F4** S. 27(1)(ac) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 71\(2\)](#), 89(2); S.S.I. 2003/288, art. 2, sch.
- F5** S. 27(1)(ad) inserted (4.4.2005) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), [sch. 4 para. 1\(a\)\(i\)](#); S.S.I. 2004/420, art. 3, sch. 5
- F6** S. 27(1)(ae) inserted (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(1\)\(a\)\(ii\)](#), 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F7** Word and s. 27(1)(b)(iii) added by [Community Service by Offenders \(Scotland\) Act 1978 \(c. 49, SIF 39:1\)](#), [Sch. 2 para. 1\(a\)](#)
- F8** Words in s. 27(1)(b)(iii) substituted (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 2 para. 31\(2\)\(a\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F9** S. 27(1)(b)(iv) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 2 para. 31\(2\)\(b\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F10** S. 27(1)(b)(iv) and the word “; and” immediately preceding it inserted (1.4.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 39:1\)](#), s. 62(5), [Sch. 6 para. 8\(a\)](#); S.I. 1991/850, art. 3, [Schedule](#)
- F11** S. 27(1)(b)(v) inserted after sub-paragraph (iv) of paragraph (b) (1.8.1997) by 1997 c. 48, [s. 32\(c\)](#); S.I. 1997/1712, art. 3, [Sch.](#)
- F12** S. 27(1)(b) (va) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 2 para. 31\(2\)\(b\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F13** S. 27(1)(b)(va)(vb) inserted (28.10.2004 for specified purposes, 4.4.2005 in so far as not already in force) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), [sch. 4 para. 1\(a\)\(ii\)](#); S.S.I. 2004/420, art. 3, sch. 1, sch. 5
- F14** S. 27(1)(b)(vi) inserted after sub-paragraph (iv) of paragraph (b) (1.8.1997) by 1997 c. 48, [s. 32\(d\)](#); S.I. 1997/1712, art. 3, [Sch.](#)
- F15** S. 27(1)(b)(vii) inserted after sub-paragraph (iv) of paragraph (b) (1.8.1997) by 1997 c. 48, [s. 32\(e\)](#); S.I. 1997/1712, art. 3, [Sch.](#)
- F16** Word in s. 27(1)(b) repealed (2.6.2008 for specified purposes, 1.4.2011 for specified purposes) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), s. 84(1), [sch. para. 3\(a\)\(i\)](#); S.S.I. 2008/192, art. 3, sch.; S.S.I. 2011/188, art. 2
- F17** S. 27(1)(b)(viii) inserted (2.6.2008 for specified purposes, 1.4.2011 for specified purposes) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), s. 84(1), [sch. para. 3\(a\)\(ii\)](#); S.S.I. 2008/192, art. 3, sch.; S.S.I. 2011/188, art. 2
- F18** S. 27(1)(c) and the word “; and” immediately preceding it added (1.4.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 39:1\)](#), [s. 61\(4\)\(a\)](#); S.I. 1991/850, art. 3, [Schedule](#)
- F19** S. 27(1A) (1B) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 71\(3\)](#), 89(2); S.S.I. 2003/288, art. 2, sch.
- F20** S. 27(1C)(1D) inserted (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(1\)\(b\)](#), 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F21** Words in s. 27(2) substituted (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(1\)\(c\)](#), 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F22** Words in s. 27(2) repealed (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), [sch. 5](#); S.S.I. 2004/420, art. 3, sch. 1
- F23** Words in s. 27(2) substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), [sch. 4 para. 1\(b\)](#); S.S.I. 2004/420, art. 3, sch. 1

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- F24** Words in s. 27(4) substituted (1.4.1991) by virtue of Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1), s. 62(5), **Sch. 6 para. 8(b)**; S.I. 1991/850, art. 3, **Schedule**
- F25** Words in s. 27(3) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F26** S. 27(3)(aa) inserted (1.4.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 39:1), s. 61(4)(b); S.I. 1991/850, art. 3, **Schedule**
- F27** Words in s. 27(3)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 76(9)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F28** Words in s. 27(4) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F29** Words in s. 27(5) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 145(2), **sch. 4 para. 1(b)**; S.S.I. 2004/420, art. 3, sch. 1
- F30** S. 27(5A)-(5C) inserted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 145(2), **sch. 4 para. 1(c)**; S.S.I. 2004/420, art. 3, sch. 1
- F31** Words in s. 27(5A) inserted (2.6.2008 for specified purposes, 1.4.2011 for specified purposes) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), s. 84(1), **sch. para. 3(c)**; S.S.I. 2008/192, art. 3, sch.; S.S.I. 2011/188, art. 2

#### **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, 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.

#### **Marginal Citations**

- M1** 1949 c. 94.

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