

Status: Point in time view as at 23/02/2006.

Changes to legislation: Children (Scotland) Act 1995, Cross Heading: Social Work (Scotland) Act 1968 (c.49) is up to date with all changes known to be in force on or before 17 September 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)

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Social Work (Scotland) Act 1968 (c.49)

- 15 (1) The Social Work (Scotland) Act 1968 shall be amended in accordance with this paragraph.
- (2) In section 1(1) (duty of local authority to implement statutory duties not falling on other authorities), after the word “Act” insert “ or Part II of the Children (Scotland) Act 1995 ”.
- (3) In section 4 (arrangements for provision of assistance to local authorities by other bodies), after “1984” insert “ or Part II of the Children (Scotland) Act 1995 ”.
- (4) In section 5 (powers of the Secretary of State in relation to certain functions of local authorities)—
- (a) in subsection (1) after the word “Act” insert “ and Part II of the Children (Scotland) Act 1995 ”;
 - (b) in subsection (1B)—
 - (i) before paragraph (o), the word “and” shall cease to have effect; and
 - (ii) at the end add “; and
 - (p) Part II of the Children (Scotland) Act 1995.”;
 - (c) in subsection (2), in paragraph (c) for the words “and (o)” substitute “ , (o) and (p) ”; and
 - (d) for subsection (3) substitute—

“(3) Without prejudice to the generality of subsection (2) above, regulations under this section may make such provision as is mentioned in subsection (4) of this section as regards—

 - (a) the boarding out of persons other than children by local authorities and voluntary organisations, whether under any enactment or otherwise; and
 - (b) the placing of children under paragraph (a), or the making of arrangements in respect of children under paragraph (c), of section 26(1) of the Children (Scotland) Act 1995, by local authorities.
- (4) The provision referred to in subsection (3) of this section is—
- (a) for the recording—
 - (i) by local authorities and voluntary organisations, of information relating to those with whom persons are so boarded out, or who are willing to have persons so boarded out with them; and

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- (ii) by local authorities, of information relating to those with whom children are so placed or with whom such arrangements are made or who are willing to have children so placed with them or to enter into such arrangements;
- (b) for securing that—
 - (i) persons are not so boarded out in any household unless it is for the time being approved by such local authority or voluntary organisation as may be prescribed by the regulations; and
 - (ii) children are not so placed or, in accordance with such arrangements, provided with accommodation, in any household unless it is for the time being approved by the local authority placing the child or as the case may be making the arrangements;
- (c) for securing that, where possible, the person with whom a child is so placed or with whom such arrangements are made is either of the same religious persuasion as the child or gives an undertaking that the child shall be brought up in that persuasion;
- (d) for securing—
 - (i) that a person who is, and the place in which he is, so boarded out by a local authority or voluntary organisation is supervised and inspected by that authority or organisation; and
 - (ii) that a child who is, and the place in which he is, so placed or, in accordance with such arrangements, provided with accommodation, by a local authority is supervised and inspected by that authority,
 and that he shall be removed from the place in question if his welfare appears to require it.

(5) In subsections (3) and (4) of this section, “child” has the same meaning as in Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995.”

- (5) In section 5B (requirement to establish complaints procedures)—
 - (a) in subsection (4), in paragraph (b), for the words “rights in respect of” substitute “ responsibilities and parental rights (within the meaning of section 1(3) and section 2(4) respectively of the Children (Scotland) Act 1995) in relation to ”; and
 - (b) in subsection (5), at the end of the definition of “child”, the words from “ and ” to the end of the subsection shall cease to have effect.

(6) ^{F1}

(7) For subsection (1) of section 6A (power of the Secretary of State to hold inquiries), substitute—

“(1) Without prejudice to section 6B(1) of this Act, the Secretary of State may cause an inquiry to be held into—

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- (a) the functions of a local authority under this Act or any of the enactments mentioned in section 5(1B) of this Act;
 - (b) the functions of an adoption society, within the meaning of section 65 of the ^{M1}Adoption (Scotland) Act 1978;
 - (c) the functions of a voluntary organisation in so far as those functions relate to establishments to which sections 61 to 68 of this Act apply;
 - (d) the detention of a child under—
 - (i) section 57 of the ^{M2}Children and Young Persons (Scotland) Act 1937; or
 - (ii) section 206 or 413 of the ^{M3}Criminal Procedure (Scotland) Act 1975; or
 - (e) the functions of the Principal Reporter under Part III of the ^{M4}Local Government (Scotland) Act 1994, the Children (Scotland) Act 1995 or any other enactment.”
- (8) In section 9 (powers of the Secretary of State with regard to training etc.), in subsections (1) and (2), after the word “Act” insert “ or Part II of the Children (Scotland) Act 1995 ”.
- (9) In section 10(1) (making of grants and loans for social work), for the words “and (l)” substitute “ , (l) and (p) ”.
- (10) In section 11(1) (local authority authorised by Secretary of State to purchase compulsorily land), in subsection (1), after the word “Act” insert “ or Part II of the Children (Scotland) Act 1995 ”.
- (11) In section 12 (general social welfare services of local authorities), for the words from “be given” in subsection (1) to “a person” in subsection (2)(b) substitute—
- “, subject to subsections (3) to (5) of this section, be given in kind or in cash to, or in respect of, any relevant person.
- (2) A person is a relevant person for the purposes of this section if, not being less than eighteen years of age, he is”.
- (12) In section 28 (burial or cremation)—
- (a) in subsection (1), after the word “from,” insert “ or was a child being looked after by, ”; and
 - (b) after subsection (2) add—
- “(3) In subsection (1) of this section, the reference to a child being looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.”.
- (13) In section 29 (power of local authority to defray expenses of parents etc. visiting persons accommodated by a local authority or attending certain funerals)—
- (a) in subsection (1)—
 - (i) for the words from “a person” to “respect” substitute—
- “—
- (a) a person, other than a child, in the care of the authority or receiving assistance from the authority; or

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- (b) a child who is being looked after by the authority,
in respect ”;
(ii) after the words “visiting the person” insert “ or child ”; and
(iii) for the words “the person”, where they occur for the second time,
substitute “ him ”;
- (b) in subsection (2), for the words from “a person” to “for” substitute—
“—
(a) a person, other than a child, who had been in the care of the
authority or receiving assistance from the authority; or
(b) a child who had been looked after by the authority,
for ”; and
(c) after subsection (2), add—
“(3) In subsections (1) and (2) above, references to a child looked after by
a local authority shall be construed as is mentioned in subsection (3)
of section 28 of this Act.”.
- (14) Part III (children in need of compulsory measures of care) shall cease to have effect,
with the exception of subsections (1) and (3) of section 31 and the amendments
provided for by the said subsection (3) and contained in Schedule 2 to that Act.
- (15) In section 59(1) (provision and maintenance of residential and other establishments)
after the word “Act,” where it occurs for the second time, insert “ or under Part II
of the Children (Scotland) Act 1995, ”
- ^{F2}(16)
- (17) In section 78 (duty to make contributions in respect of children in care etc.)—
(a) in subsection (1)—
(i) for the words “has been received into care under Part II of this Act”
substitute “ is being looked after by a local authority ”; and
(ii) in paragraph (a), for the words “his father and mother” substitute
“ any natural person who has parental responsibilities (within the
meaning of section 1(3) of the Children (Scotland) Act 1995) in
relation to him ”; and
(b) for subsection (2) substitute—
“(2) This Part of this Act applies to any supervision requirement which,
under paragraph (a) of section 70(3) of the Children (Scotland) Act
1995, requires the child concerned to reside in a place or places other
than his own home.”.
- (18) In section 78A (recovery of contributions), in subsection (2)(a), for the words “in
their care or under their supervision” substitute “ looked after by them ”.
- (19) In section 79 (recipients of contributions)—
(a) in subsection (1), for the words “in the care or under the supervision of”
substitute “ looked after by ”; and
(b) in subsection (2), for the words “having the care or supervision of” substitute
“ looking after ”.

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- (20) In section 80 (enforcement of duty to make contributions)—
- (a) in subsection (1), for the words from “received” to “requirement” substitute “looked after by a local authority”;
 - (b) in subsection (4), for paragraphs (a) and (b) substitute “throughout the period during which he is looked after by a local authority”;
 - (c) in subsection (5), for the words “is the maintainable child’s father or mother” substitute “, being a natural person, has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to the maintainable child”; and
 - (d) in subsection (7), for the words “having the care or supervision of” substitute “looking after”.
- (21) In section 82(1) (recovery of arrears of contributions), for the words “having the care or supervision of” substitute “looking after”.
- (22) In section 83(2) (variation of trusts where person in whose care a child has been residing is for the time being residing in England, Wales or Northern Ireland), for the words “having the care or supervision of” substitute “looking after”.
- (23) After section 83 insert—

“83A References in this Part of this Act to child being looked after.

In this Part of this Act, references to a child being looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.”

- (24) In section 86 (adjustments between local authorities as regards certain expenditure)—
- (a) in subsection (1)—
 - (i) in paragraph (a), after the word “Act” insert “, or under section 25 of the Children (Scotland) Act 1995, ”; and
 - (ii) in paragraph (b), for the words from “of services” to “Act”, where it occurs for the second time, substitute “, or under or by virtue of Part II of the said Act of 1995, of services and facilities for a person ordinarily so resident (including, in the case of a child, any expenses incurred after he has ceased to be a child, and, in the event of another local authority taking over, under section 25(4) of that Act, the provision of accommodation for him, ”); and
 - (b) in subsection (3), after the words “1989” insert “ or provided with accommodation under paragraph (a) of, or by virtue of paragraph (c) of, section 26(1) of the Children (Scotland) Act 1995 ”.
- (25) In section 87 (charges which may be made for services and accommodation), in each of subsections (1) and (1A), after the words “1984” there shall be inserted “ or under or by virtue of Part II of the Children (Scotland) Act 1995 ”.
- (26) Section 88 (duty of parents to notify change of address) shall cease to have effect.
- (27) In section 90(1) (power to make regulations, orders or rules), the words “(other than orders under section 52 and 58 and Part V of this Act)” shall cease to have effect.
- (28) In section 94(1) (interpretation)—

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- (a) the definition of “children’s panel” and of “children’s hearing” shall cease to have effect;
- (b) the definition of “compulsory measures of care” shall cease to have effect;
- (c) in the definition of “establishment”, after the word “Act,” insert “ or of Part II of the Children (Scotland) Act 1995, ”;
- (d) the definition of “guardian” shall cease to have effect;
- (e) for the definition of “parent” substitute—

““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;”;

- (f) the definition of “place of safety” shall cease to have effect;
- (g) in the definition of “prescribed”—
 - (i) in paragraph (a), for the words “sections 3 and 36” substitute “ section 3 ”; and
 - (ii) paragraph (b) shall cease to have effect;
- (h) in the definition of “residential establishment”, after the word “Act” insert “ or of Part II of the Children (Scotland) Act 1995 ”;
- (i) the definition of “school age” shall cease to have effect;
- (j) in the definition of “supervision requirement”, for the words “section 44(1) of this Act” substitute “ section 70(1) of the Children (Scotland) Act 1995 ”.
- (k) for the definition of “training school” substitute—

““training school” has the meaning assigned to it by section 180(1) of the Children and Young Persons Act (Northern Ireland) 1968;”

- (29) In section 97 (provisions of the Act which extend to England and Wales)—
 - (a) subsection (1), the words “section 44(1) (except head (b)) and (1A)”, “section 58” and “Part V” shall cease to have effect; and
 - (b) subsections (2) and (3) shall cease to have effect.
- (30) In Schedule 2 (general adaptations of Part IV of ^{M5}Children and Young Persons (Scotland) Act 1937), for paragraph 1 substitute—
 - “1 Any reference to a child or to a young person shall be construed as a reference to a child as defined in section 93(2)(b) of the Children (Scotland) Act 1995.”

Textual Amendments

- F1** Sch. 4 para. 15(6) repealed (23.2.2006) by *Joint Inspection of Childrens Services and Inspection of Social Work Services (Scotland) Act 2006 (asp 3)*, **ss. 8(4)(f)**, 10(2)
- F2** Sch. 4 para. 15(16) repealed (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2** (g)(i) (subject to arts. 3-13)

Commencement Information

- I1** Sch. 4 para. 15 wholly in force at 1.4.1997; Sch. 4 para. 15 not in force at Royal Assent see s. 105(1); Sch. 4 para. 15(1)(5)(17(a)(ii)(20)(c)(28)(d)(e) in force at 1.11.1996 by S.I. 1996/2203, art. 3(3), **Sch.** (with arts. 4-7) (as amended (19.1.1997) by S.I. 1997/137, **art. 2**); Sch. 4 para. 15 in force at 1.4.1997 insofar as not already in force by S.I. 1996/3201, **art. 3(7)** (with arts. 4-6) (as amended (7.3.1997) by S.I. 1997/744, **arts. 2, 3**)

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Marginal Citations

M1 1978 c.28.

M2 1937 c.37.

M3 1975 c.21.

M4 1994 c.39.

M5 1937 c.37.

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