



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **84 Transfer of assets and liabilities.**

Where any functions are transferred to a local authority by virtue of this Act all property, rights, liabilities and obligations relating to the performance of those functions which immediately before the date of transfer were the property, rights, liabilities and obligations of the body or person from which the functions are transferred shall on that date be transferred to and vest in the local authority or, as the case may be, the local authorities to which the functions have been transferred, and the provisions of Schedule 6 to this Act shall have effect for the purposes of this section.

#### **85** .....<sup>F1</sup>

##### **Textual Amendments**

**F1** S. 85 repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 4 Pt. I](#)

#### **86 Adjustments between authority providing accommodation etc., and authority of area of residence.**

(1) Any expenditure which apart from this section would fall to be borne by a local authority—

- (a) in the provision under this Act [<sup>F2</sup>, or under [<sup>F3</sup> section [<sup>F3</sup> subsection]] 25 of the Children (Scotland) Act 1995,] of accommodation for a person ordinarily resident in the area of another local authority, or

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- (b) in the provision under Part II of this Act <sup>[F4]</sup>, or under or by virtue of Part II of the said Act of 1995 <sup>[F5]</sup> or under or by virtue of the Children’s Hearings (Scotland) Act 2011], 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 <sup>[F6]</sup>the Act of 1995], the provision of accommodation for him,] including also any travelling or other expenses incurred in connection with the taking over),
- <sup>[F7]</sup>(ba) in making a <sup>[F8]</sup>payment under section 12B of this Act in relation to the provision of a service]] <sup>[F8]</sup>direct payment under the Social Care (Self-directed Support) (Scotland) Act 2013 for the purpose of arranging for the provision of support within the meaning of section 5 or 8 of that Act] for a person ordinarily so resident; or]
- (c) for the conveyance of a person ordinarily resident as aforesaid, or
- (d) in administering a <sup>[F9]</sup>compulsory supervision order or interim compulsory supervision order] in respect of a person ordinarily resident as aforesaid, <sup>[F10]</sup>or]
- <sup>[F11]</sup>(e) in the provision, for persons ordinarily so resident, of services under section 25 (care and support services for persons who have or who have had a mental disorder), 26 (services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13);]

shall be recoverable from the other local authority, and in this subsection any reference to another local authority includes a reference to a local authority in England or Wales <sup>[F12]</sup>and to a Health and Social Care trust in Northern Ireland].

- (2) Any question arising under this section as to the ordinary residence of a person shall <sup>[F13]</sup>, in a case where there is a dispute about the application of any of paragraphs 1 to 4 of Schedule 1 to the Care Act 2014 (cross-border placements), be determined in accordance with paragraph 5 of that Schedule; and in any other case, the question shall] be determined by the Secretary of State, and the Secretary of State may determine that a person has no ordinary residence.
- (3) In determining for the purposes of subsection (1) of this section the ordinary residence of any person or child, <sup>[F14]</sup>any period during which he is provided with accommodation under this Act or under sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13),] any period during which he was a patient in a <sup>[F15]</sup>hospital <sup>[F16]</sup>forming part of the hospital and specialist services] provided under <sup>[F17]</sup>sections 2 and 3 of the National Health Service Act 2006, sections 2 and 3 of the National Health Service (Wales) Act 2006] or <sup>[F18]</sup>Part II of the <sup>M1</sup>National Health Service (Scotland) Act 1978]] <sup>[F19]</sup>or in a hospital managed by a National Health Service trust established under <sup>[F20]</sup>the National Health Service Act 2006, the National Health Service (Wales) Act 2006] or section 12A of the National Health Service (Scotland) Act 1978]] <sup>[F15]</sup>health service hospital (within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29))]] or, in the case of a child, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a <sup>[F21]</sup>compulsory supervision order or interim compulsory supervision order], supervision order <sup>[F22]</sup>, community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995,]] <sup>[F23]</sup>, youth rehabilitation order] or probation order or the conditions of a recognizance, or while boarded out under this Act or under <sup>F24</sup> . . . the <sup>M2</sup>Children

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and Young Persons (Scotland) Act 1937 by a local authority or education authority [F25 or placed with local authority foster parents under the Children Act 1989][F26 or provided with accommodation under paragraph (a) of, or by virtue of paragraph (c) of, section 26(1) of the Children (Scotland) Act 1995] shall be disregarded.

[F27(4) This subsection applies where a local authority (“the responsible authority”) performs a function under—

- (a) this Act;
- (b) Part II of the Children (Scotland) Act 1995 (c. 36); F28 ...
- (c) section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13),

[ the Children’s Hearings (Scotland) Act 2011]

F29(d)

by making arrangements with a person (“the provider”) in terms of which the provider undertakes to accommodate, or to secure accommodation for, another person.

(5) Where subsection (4) applies—

- (a) any expenditure incurred under the arrangements by a provider which is a local authority is recoverable from the responsible authority; and
- (b) any period during which the person is accommodated under the arrangements is to be disregarded in determining the person's ordinary residence for the purposes of subsection (1) of this section.

(6) The Scottish Ministers may make regulations specifying circumstances in which a local authority (“the providing authority”) may recover from another local authority (“the other authority”) expenditure which the providing authority incurs in the provision of services or facilities under arrangements made with the other authority for the purpose of enabling that other authority to perform a function under—

- (a) this Act;
- (b) Part II of the Children (Scotland) Act 1995 (c. 36); F30 ...
- (c) section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

[ the Children’s Hearings (Scotland) Act 2011.]

F31(d)

(7) The Scottish Ministers may make regulations specifying circumstances which must be taken into account, or disregarded, when determining a person's ordinary residence for the purposes of subsection (1) of this section (and such regulations may modify subsection (2), (3) and (5)(b) of this section).

(8) Regulations made under subsection (6) or (7) of this section may—

- (a) make different provision for different cases and for different persons;
- (b) include such supplementary, incidental, consequential and transitional provisions and savings as the Scottish Ministers think fit.

(9) Despite section 90(2) of this Act, no statutory instrument containing regulations made under subsection (7) of this section which includes provisions which modify this section may be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.

(10) References in subsections (4) to (6) of this section to a local authority which is providing accommodation, service or facilities include references to a local authority in England or Wales [F32 and to a Health and Social Care trust in Northern Ireland].]

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[<sup>F33</sup>(10A) A person who, as a result of Schedule 1 to the Care Act 2014 (cross-border placements), is treated as ordinarily resident in an area in England, Wales or Northern Ireland (as the case may be) is to be treated as ordinarily resident in that area for the purposes of this section.

(10B) A person who, as a result of that Schedule, is not treated as ordinarily resident anywhere in England or Wales (as the case may be) is not to be treated as ordinarily resident there for the purposes of this section.]

[<sup>F34</sup>(11) In this section—

“compulsory supervision order” has the meaning given by section 83 of the Children’s Hearings (Scotland) Act 2011; and

“interim compulsory supervision order” has the meaning given by section 86 of that Act.]

#### Textual Amendments

- F2** Words in s. 86(1)(a) inserted (S.) (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(24)(a)(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**))
- F3** Word in s. 86(1) substituted (S.) (5.10.2007) by Adult Support and Protection (Scotland) Act 2007 (asp 10), **ss. 65(1)(a)(i), 79(3)**; S.S.I. 2007/334, art. 2(b), sch. 2
- F4** Words in s. 86(1)(b) substituted (S.) (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(24)(a)(ii)** (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**))
- F5** Words in s. 86(1)(b) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(a)(i)**
- F6** Words in s. 86(1)(b) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(a)(ii)**
- F7** S. 86(1)(ba) inserted (S.) (5.10.2007) by Adult Support and Protection (Scotland) Act 2007 (asp 10), **ss. 65(1)(a)(ii), 79(3)**; S.S.I. 2007/334, art. 2(b), sch. 2
- F8** Words in s. 86(1)(ba) substituted (S.) (1.4.2014) by The Social Care (Self-directed Support) (Scotland) Act 2013 (Consequential and Saving Provisions) Order 2014 (S.S.I. 2014/90), art. 1, **sch. Pt. 3** (with art. 3)
- F9** Words in s. 86(1)(d) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(b)**
- F10** S. 86(1)(e) and the word “or” immediately preceding it 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(11)**
- F11** S. 86(1)(e) substituted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), s. 333(2), **sch. 4 para. 1(7)**; 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)
- F12** Words in s. 86(1) inserted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 7(1)** (with Sch. 1 paras. 8, 14); S.I. 2015/993, art. 2(x)(i) (with transitional provisions in S.I. 2015/995)
- F13** Words in s. 86(2) inserted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 7(2)** (with Sch. 1 paras. 8, 14); S.I. 2015/993, art. 2(x)(i) (with transitional provisions in S.I. 2015/995)
- F14** Words in s. 86(3) inserted (S.) (5.10.2007) by Adult Support and Protection (Scotland) Act 2007 (asp 10), **ss. 65(1)(b)(i), 79(3)**; S.S.I. 2007/334, art. 2(b), sch. 2

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- F15** Words in s. 86(3) substituted (S.) (5.10.2007) by Adult Support and Protection (Scotland) Act 2007 (asp 10), **ss. 65(1)(b)(ii)**, 79(3); S.S.I. 2007/334, art. 2(b), sch. 2
- F16** Words repealed (S.) by National Health Service (Scotland) Act 1972 (c. 58, SIF 113:3), **Sch. 7 Pt. II**
- F17** Words in s. 86(3) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 42(a)** (with Sch. 3 Pt. 1)
- F18** Words substituted by National Health Service (Scotland) Act 1978 (c. 29, SIF 113:2), **Sch. 16 para. 29(2)**
- F19** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 10(12)**
- F20** Words in s. 86(3) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 42(b)** (with Sch. 3 Pt. 1)
- F21** Words in s. 86(3) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(c)**
- F22** Words in s. 86(3) inserted (S.) (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 2 para. 31(3)**; S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F23** Words in s. 86(3) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 12** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(iii)
- F24** Words in s. 86(3) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15**; S.I. 1991/828, **art. 3(2)**
- F25** Words in s. 86(3) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 23**; S.I. 1991/828, **art. 3(2)**
- F26** Words in s. 86(3) inserted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(24)(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**))
- F27** S. 86(4)-(10) inserted (S.) (5.10.2007) by Adult Support and Protection (Scotland) Act 2007 (asp 10), **ss. 65(1)(c)**, 79(3); S.S.I. 2007/334, art. 2(b), sch. 2
- F28** Word in s. 86(4)(b) omitted (24.6.2013) by virtue of The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(d)(i)**
- F29** S. 86(4)(d) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(d)(ii)**
- F30** Word in s. 86(6)(b) omitted (24.6.2013) by virtue of The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(e)(i)**
- F31** S. 86(6)(d) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(e)(ii)**
- F32** Words in s. 86(10) inserted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 7(1)** (with Sch. 1 paras. 8, 14); S.I. 2015/993, art. 2(x)(i) (with transitional provisions in S.I. 2015/995)
- F33** S. 86(10A) (10B) inserted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 7(3)** (with Sch. 1 paras. 8, 14); S.I. 2015/993, art. 2(x)(i) (with transitional provisions in S.I. 2015/995)
- F34** S. 86(11) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 3 para. 1(2)(f)(ii)**

**Marginal Citations**

- M1** 1978 c. 29.
- M2** 1937 c. 37.

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### Textual Amendments

**F35** S. 86A ceases to have effect (8.4.2002) by virtue of 2001 c. 15, s. 50(1), Sch. 6 Pt. III (with ss. 64(9), 65(4)); S.I. 2001/3752, art. 2(1); and s. 86A repealed (15.4.2002) by 2001 c. 15, s. 67, Sch. 6 Pt. 3; S.I. 2002/1312, art. 3(b)

## 87 Charges that may be made for services and accommodation.

[<sup>F36</sup>(1) Subject to sections 78 and 78A of this Act (contributions in respect of maintainable children) and to the following provisions of this section, a local authority providing a service under this Act <sup>F37</sup> ... [<sup>F38</sup>section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984][<sup>F38</sup>section 25 (care and support services for persons who have or have had a mental disorder), 26 (services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) [<sup>F39</sup> or [<sup>F40</sup> section 24(4) of the Carers (Scotland) Act 2016 ]][<sup>F41</sup> or under or by virtue of Part II of the Children (Scotland) Act 1995] may recover such charge (if any) for it as they consider reasonable.

(1A) If a person—

- (a) avails himself of a service provided under this Act <sup>F42</sup> ... [<sup>F43</sup> section 7 or 8 of the said Act of 1984][<sup>F43</sup> section 25, 26 or 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) [<sup>F44</sup> or [<sup>F45</sup> section 24(4) of the Carers (Scotland) Act 2016 ]][<sup>F41</sup> or under or by virtue of Part II of the Children (Scotland) Act 1995]; and
- (b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it,

the authority shall not require him to pay more for it than it appears to them that it is practicable for him to pay.]

[<sup>F46</sup>(1B) Subsections (1) and (1A) above do not apply as respects any amount required not to be charged by subsection (1) of section 1 of the Community Care and Health (Scotland) Act 2002 (asp 5)(charging and not charging for social care) or required to be charged or not to be charged by virtue of subsection (4) of that section.]

[<sup>F47</sup>(1C) Despite section 25(3) of the Public Bodies (Joint Working) (Scotland) Act 2014, where a local authority delegates a function in pursuance of an integration scheme under that Act to a person in pursuance of which a service mentioned in subsection (1) is provided by (or under the direction of) that person, subsections (1) to (1B) apply subject to the modifications in subsection (1D).

(1D) The modifications are—

- (a) subsection (1) applies as if—
  - (i) the reference to a local authority providing a service mentioned in that subsection were to a person mentioned in subsection (1C) to whom a function is delegated (or another person under the direction of that person) providing the service, and
  - (ii) the reference to a local authority recovering a charge for a service provided by it were to a local authority recovering a charge for a service that is provided by (or under the direction of) a person mentioned in subsection (1C) to whom a function is delegated, and

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- (b) subsection (1A) applies as if the reference to the authority providing the service were to a local authority mentioned in subsection (1C).]
- (2) Persons, other than maintainable children, for whom accommodation is provided under this Act [<sup>F48</sup>or]<sup>F49</sup>section 7 of the said Act of 1984]<sup>F49</sup>section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)], shall be required to pay for that accommodation in accordance with the subsequent provisions of this section.
- (3) Subject to the following provisions of this section, accommodation provided under this Act [<sup>F48</sup>or]<sup>F50</sup>section 7 of the said Act of 1984]<sup>F50</sup>section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)] shall be regarded as accommodation provided under Part III of the <sup>M3</sup>National Assistance Act 1948, and [<sup>F51</sup>sections 22(2) to (8)] and 26(2) to (4) [<sup>F52</sup>(as amended by any enactment within the meaning of the Scotland Act 1998 (c. 46)) of the said Act of 1948] shall apply accordingly.
- (4) In the application of the said section 22, for any reference to the Minister there shall be substituted a reference to the Secretary of State, and in the application of the said section 26, any references to arrangements under a scheme for the provision of accommodation shall be construed as references to arrangements made by a local authority with a voluntary organisation [<sup>F53</sup>or any other person or body] for the provision of accommodation under this Act [<sup>F54</sup>or]<sup>F55</sup>section 7 of the said Act of 1984]<sup>F55</sup>section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)].
- <sup>F56</sup>(4A) Despite section 25(3) of the Public Bodies (Joint Working) (Scotland) Act 2014, where a local authority delegates a function in pursuance of an integration scheme under that Act to a person in pursuance of which accommodation mentioned in subsection (3) is provided by (or under the direction of) that person, subsections (3) and (4) apply subject to the modifications in subsection (4B).
- (4B) The modifications are that subsection (4) applies as if—
- (a) after “Secretary of State” there were inserted—
- “and that section 22 applies as if—
- (a) in subsection (2), the reference to the authority managing premises in which the accommodation is provided were to a local authority mentioned in subsection (4A) of this section,
- (b) in subsection (3)—
- (i) the reference to accommodation provided in premises managed by a local authority were to accommodation provided in premises managed by (or under the direction of) a person mentioned in subsection (4A) of this section to whom a function is delegated, and
- (ii) the reference to the local authority were to a local authority mentioned in subsection (4A) of this section, and
- (c) in subsection (5A)—
- (i) the reference to an authority managing premises in which accommodation is provided were to a local authority mentioned in subsection (4A) of this section, and
- (ii) the reference to the authority providing accommodation were to a person mentioned in subsection (4A) of this section to whom a function is delegated,

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- (d) in subsection (8), the reference to a local authority providing accommodation were to a local authority mentioned in subsection (4A) of this section,”
- (b) at the end of the subsection there were inserted—
  - “and that section 26 applies as if—
    - (a) in subsection (2)—
      - (i) the reference to the local authority making payments to the organisation with whom the arrangements are made to provide the accommodation were to a person mentioned in subsection (4A) of this section to whom a function is delegated (or another person under the direction of that person) making those payments, and
      - (ii) the reference to the local authority recovering an amount of refund were to a local authority mentioned in subsection (4A) of this section recovering that amount,
    - (b) in subsection (3), the reference to the refund of any payments to the local authority were to the refund of any such payments to the local authority mentioned in subsection (4A) of this section,
    - (c) in subsection (3A)—
      - (i) the reference to the making of arrangements by the local authority were to the making of arrangements by (or under the direction of) a person mentioned in subsection (4A) of this section to whom a function is delegated,
      - (ii) in paragraphs (a) and (c), the references to the local authority were to a person mentioned in subsection (4A) of this section to whom a function is delegated , and
      - (iii) in paragraph (b) the reference to the local authority were to a local authority mentioned in subsection (4A) of this section,” and
    - (d) for subsection (4) there were substituted—
      - “(4) Section 22(5A) of this Act applies for the purposes of subsection (3A) as it applies for the purposes of that section but as if—
        - (a) the reference to an authority managing premises in which accommodation is provided were to a local authority mentioned in section 87(4A) of the Social Work (Scotland) Act 1968, and
        - (b) the reference to the authority providing accommodation were to a person mentioned in section 87(4A) of the Social Work (Scotland) Act 1968 to whom a function is delegated.”]
- (5) The Secretary of State may, with the consent of the Treasury, make regulations for modifying or adjusting the rates at which payments under this section are made, where such a course appears to him to be justified, and any such regulations may provide for the waiving of any such payment in whole or in part in such circumstances as may be specified in the regulations.
- (6) .....



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## Textual Amendments

- F36** S. 87(1)(1A) substituted for s. 87(1) by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\), s. 18](#)
- F37** Word in s. 87(1) repealed (S.) (17.2.2014) by [Social Care \(Self-directed Support\) \(Scotland\) Act 2013 \(asp 1\), ss. 18\(a\), 28\(2\); S.S.I. 2014/32, art. 2](#)
- F38** Words in s. 87(1) substituted (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), ss. 28\(1\)\(a\), 333\(2\); 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\)](#)
- F39** Words in s. 87(1) inserted (S.) (17.2.2014) by [Social Care \(Self-directed Support\) \(Scotland\) Act 2013 \(asp 1\), ss. 18\(b\), 28\(2\); S.S.I. 2014/32, art. 2](#)
- F40** Words in s. 87(1) substituted (31.5.2017) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 26\(a\), 45\(2\); S.S.I. 2017/152, reg. 2, sch. \(with reg. 5\)](#)
- F41** Words in s. 87(1)(1A) inserted (S.) (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36, s. 105\(4\), Sch. 4 para. 15\(25\) \(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 \(with transitional provisions inserted into S.I. 1996/3201 by art. 3\)\)](#)
- F42** Word in s. 87(1A)(a) repealed (S.) (17.2.2014) by [Social Care \(Self-directed Support\) \(Scotland\) Act 2013 \(asp 1\), ss. 18\(a\), 28\(2\); S.S.I. 2014/32, art. 2](#)
- F43** Words in s. 87(1A)(a) substituted (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), ss. 28\(1\)\(b\), 333\(2\); 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\)](#)
- F44** Words in s. 87(1A)(a) inserted (S.) (17.2.2014) by [Social Care \(Self-directed Support\) \(Scotland\) Act 2013 \(asp 1\), ss. 18\(b\), 28\(2\); S.S.I. 2014/32, art. 2](#)
- F45** Words in s. 87(1A)(a) substituted (31.5.2017) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 26\(b\), 45\(2\); S.S.I. 2017/152, reg. 2, sch. \(with reg. 5\)](#)
- F46** S. 87(1B) inserted (S.) (1.7.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 1\(6\); S.S.I. 2002/170, art. 2](#)
- F47** S. 87(1C)(1D) inserted (S.) (1.4.2015) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Consequential Modifications and Saving\) Order 2015 \(S.S.I. 2015/157\), art. 1\(1\), sch. para. 1\(4\)\(a\)](#)
- F48** Words 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\(13\)\(c\)](#)
- F49** Words in s. 87(2) substituted (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), ss. 28\(1\)\(c\), 333\(2\); 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\)](#)
- F50** Words in s. 87(3) substituted (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), ss. 28\(1\)\(c\), 333\(2\); 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\)](#)
- F51** Words substituted by [Social Security Act 1980 \(c. 30, SIF 113:1\), Sch. 4 para. 5\(1\)](#)
- F52** Words in s. 87(3) substituted (S.) (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\), ss. 62\(2\), 79\(3\); S.S.I. 2007/334, art. 2\(b\), sch. 2; and words in s. 87\(3\) substituted \(6.4.2009 except in relation to local authorities in W., 6.4.2009 for W.\) by \[Health and Social Care Act 2008 \\(c. 14\\), ss. 147\\(4\\), 170\\(3\\)\\(4\\) \\(with Sch. 13\\); S.I. 2009/462, art. 4\\(a\\); S.I. 2009/631, art. 2\\(a\\)\]\(#\)](#)
- F53** Words 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\(13\)\(d\)](#)
- F54** Words 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\(13\)\(c\)](#)
- F55** Words in s. 87(4) substituted (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), ss. 28\(1\)\(c\), 333\(2\); 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\)](#)
- F56** S. 87(4A)(4B) inserted (S.) (1.4.2015) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Consequential Modifications and Saving\) Order 2015 \(S.S.I. 2015/157\), art. 1\(1\), sch. para. 1\(4\)\(b\)](#)

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**F57** S. 87(6) repealed by [Social Security Act 1980 \(c. 30, SIF 113:1\)](#), **Sch. 5 Pt. II**

**Modifications etc. (not altering text)**

- C1** S. 87(2): power to modify conferred (S.) (1.4.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), **s. 2**; [S.S.I. 2002/170](#), **art. 2**
- C2** S. 87(3): power to modify conferred (S.) (1.4.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), **s. 2**; [S.S.I. 2002/170](#), **art. 2**

**Marginal Citations**

**M3** 1948 c. 29.

<sup>F58</sup>**88** .....

**Textual Amendments**

**F58** S. 88 repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36, s. 105\(4\)\(5\)](#), [Sch. 4 para. 15\(26\)](#), **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**))

**89** ..... <sup>F59</sup>

**Textual Amendments**

**F59** S. 89 repealed by [Tribunals and Inquiries Act 1971 \(c. 62, SIF 127\)](#), **Sch. 4 Pt. I**

**90 Orders, regulations etc.**

- (1) Any power to make regulations or orders <sup>F60</sup> . . . . . <sup>F61</sup>, or to make rules conferred on the Secretary of State by this Act shall be exercisable by statutory instrument.
- (2) Any statutory instrument made in the exercise of any power to make regulations conferred by this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make orders shall include a power, exercisable in the like manner and subject to the same conditions, to vary or revoke any such order.
- [<sup>F62</sup>(4) A statutory instrument containing an order under section 27(1D) or 27A(1A)(c) of this Act is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.]

**Textual Amendments**

**F60** Words in s. 90(1) repealed (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36, s. 105\(4\)\(5\)](#), [Sch. 4 para. 15\(27\)](#), **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**))

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- F61** Words repealed by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 73(4)(c)(d), Sch. 5 para. 63, [Sch. 6](#)
- F62** S. 90(4) added (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(4\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. pt. 1

## 91 Expenses.

There shall be defrayed out of moneys provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of the Secretary of State under this Act, and
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

## 92 Effect of Act on rate support grant.

- (1) The Secretary of State shall have power, by an order made in the like manner and subject to the like provisions as a rate support grant order, to vary the provisions of any rate support grant order made before the commencement of this Act for a grant period ending after the commencement of this Act.
- (2) Any order made by virtue of this section may be made for all or any of the years comprised in the said rate support grant period, as may be specified in the order, and in respect of the year or years so specified shall increase the annual aggregate amount of the rate support grants to such extent as may appear to the Secretary of State to be appropriate having regard to any additional expenditure incurred or likely to be incurred by councils of counties or of large burghs in consequence of the passing of this Act.
- (3) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by section 4 of the <sup>M4</sup>Local Government (Scotland) Act 1966 (which confers power to vary rate support grant orders in consequence of unforeseen increases in the level of prices, costs or remuneration).
- (4) In this section the expressions “rate support grant order” and “grant period” have the meanings respectively assigned to them by subsection (1) and subsection (3) of section 3 of the <sup>M5</sup>Local Government (Scotland) Act 1966.

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### Marginal Citations

- M4** 1966 c. 51.  
**M5** 1966 c. 51.

## [<sup>F63</sup>92A Powers of the Secretary of State to make grants.

The Secretary of State may, with the approval of the Treasury, make grants out of money provided by Parliament towards any expenses of local authorities in respect of their functions under—

- (a) Part II of this Act; and
- (b) [<sup>F64</sup> sections 25 to 31 of the Mental Health (Care and Treatment) (Scotland) Act 2003],

in relation to persons suffering from mental illness.]

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### Textual Amendments

- F63** S. 92A inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 58](#)
- F64** Words in s. 92A 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\(3\)](#)

### 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>M6</sup>Children and Young Persons Act 1933,

“approved school order” has the meaning assigned to it by section 107(1) of the <sup>M7</sup>Children and Young Persons Act 1933,

<sup>F65</sup> . . .

<sup>F66</sup> . . .

<sup>F67</sup> . . .

<sup>F68</sup> . . .

[<sup>F69</sup>“compulsory supervision order” has the meaning given by section 83 of the Children’s Hearings (Scotland) Act 2011 ([asp 1](#)),]

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

[<sup>F70</sup>“domiciliary services” means any services, being services provided in the home, which appear to a local authority to be necessary for the purpose 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>F71</sup>, Part 2 of the Children (Scotland) Act 1995 ([c.36](#)) or the Children’s Hearings (Scotland) Act 2011 ([asp 1](#))], whether for reward or not,

“functions” shall include powers and duties,

<sup>F72</sup> . . .

[<sup>F73</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,

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

[<sup>F74</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>F75</sup>said Act of 1984],

[<sup>F76</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>F77</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>F78</sup> . . .

[<sup>F79</sup>“prescribed” means—

- (a) in [<sup>F80</sup>section 3] prescribed by regulations,
- (b) <sup>F81</sup> . . . . .
- (c) in sections [<sup>F82</sup>12(3A),][<sup>F83</sup>27A, 27B,]. . . , 94, paragraphs 2(2) and (3), 4(3) and (4) of Schedule 7, prescribed by order,

[<sup>F84</sup> and “prescribe” shall be construed accordingly. ]]

[<sup>F85</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 residential accommodation for the purposes of this Act [<sup>F86</sup>, Part 2 of the Children (Scotland) Act 1995 (c.36) or the Children’s Hearings (Scotland) Act 2011 (asp 1)], whether for reward or not,

<sup>F87</sup> . . . ,

“supervision order”, in relation to an order imposed by a court in England or Wales, [<sup>F88</sup> means a supervision order under <sup>F89</sup>... Act or the Children Act 1989], and in relation to an order imposed by a court in Northern Ireland [<sup>F90</sup> means a supervision order under the Children and Young Persons Act (Northern Ireland) 1968 or the Children (Northern Ireland) Order 1995],

<sup>F91</sup> . . .

[<sup>F92</sup>“training school” has the meaning assigned to it by section 180(1) of the Children and Young Persons Act (Northern Ireland) 1968; ]

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“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>M8</sup>Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946.

[<sup>F93</sup> “youth rehabilitation order” means an order made under [<sup>F94</sup>Chapter 1 of Part 9 of the Sentencing Code]. ]

- (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

- F65** 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))
- F66** 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))
- F67** 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(l))
- F68** Words in s. 94 repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), sch. 8 Pt. 1; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F69** Words in s. 94(1) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, sch. 1 para. 1(12)(a)
- F70** 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)
- F71** Words in s. 94(1) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, sch. 1 para. 1(12)(b)
- F72** 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)
- F73** 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)
- F74** 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)
- F75** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), Sch. 3 para. 17 (c)

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- F76** 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)
- F77** Para (c) repealed by **Housing (Homeless Persons) Act 1977** (c. 48, SIF:61), **Sch.**
- F78** 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**))
- F79** Definition inserted by **Children and Young Persons Act 1969** (c. 54, SIF 20), s. 73(4)(c), **Sch. 5 para. 64(1)**
- F80** 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**))
- F81** 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**))
- F82** 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**
- F83** 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.**
- F84** Words inserted by **Registered Establishments (Scotland) Act 1987** (c. 40, SIF 81:3), s. 6(2)(b)
- F85** 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)
- F86** Words in s. 94(1) substituted (24.6.2013) by **The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013** (S.S.I. 2013/211), art. 1, **sch. 1 para. 1(12)(c)**
- F87** 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**))
- F88** 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.**
- F89** 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)
- F90** 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**
- F91** Words in s. 94(1) repealed (24.6.2013) by **The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013** (S.S.I. 2013/211), art. 1, **sch. 2**
- F92** 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**))
- F93** 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)
- F94** Words in s. 94(1) substituted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 21** (with Sch. 27); S.I. 2020/1236, reg. 2

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#### Marginal Citations

- M6** 1933 c. 12.  
**M7** 1933 c. 12.  
**M8** 1946 c. 19 (N.I.)

*Changes to legislation: Social Work (Scotland) Act 1968, Part VII is up to date with all changes known to be in force on or before 06 May 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) View outstanding changes*

**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)**

**C3** 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** ..... **F95**

**Textual Amendments**

**F95** 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—
  - F96**  
.....
  - F96**  
.....
  - [**F97** section 87]
  - F96**  
.....
  - [**F98** section 98(3) and Schedule 2 paragraphs 7 and 13]
  - Schedule 8
  - Part II of Schedule 9.

[**F99**(1A) Section 86 of this Act shall extend to England and Wales and to Northern Ireland.]

**F100**(2) .....

**F100**(3) .....



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- (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

- F96** 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))
- F97** Words in s. 97(1) substituted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), Sch. 1 para. 7(4)(a) (with Sch. 1 paras. 8, 14); S.I. 2015/993, art. 2(x)(i) (with transitional provisions in S.I. 2015/995)
- F98** Words inserted by Children and Young Persons Act 1969 (c. 54, SIF 20), s. 73(4)(c), Sch. 5 para. 65
- F99** S. 97(1A) inserted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), Sch. 1 para. 7(4)(b) (with Sch. 1 paras. 8, 14); S.I. 2015/993, art. 2(x)(i) (with transitional provisions in S.I. 2015/995)
- F100** 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>F101</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>M9</sup>Children and Young Persons Act 1969.]

#### Textual Amendments

- F101** 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

- M9** 1969 c. 54.

## 99 Short title.

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

**Changes to legislation:**

Social Work (Scotland) Act 1968, Part VII is up to date with all changes known to be in force on or before 06 May 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1)(za) inserted by [2023 asp 4 s. 1\(5\)](#)
- s. 29(3)(j) repealed by [2005 asp 3 Sch. 5 para. 1](#)
- s. 61B inserted by [2000 asp 4 s. 36](#) (This amendment not applied to legislation.gov.uk. S. 36 repealed (1.4.2002) without ever being in force by 2001 asp 8, Sch. 4; S.S.I. 2002/162, art. 2 (with arts. 3-13))
- s. 62(3)(d) inserted by [2000 asp 4 s. 38\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 38 repealed (1.4.2002) without ever being in force by 2001 asp 8, Sch. 4; S.S.I. 2002/162, art. 2 (with arts. 3-13))
- s. 64A(1)(e) and word inserted by [2000 asp 4 Sch. 5 para. 10](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 10 repealed (1.4.2002) without ever being in force by 2001 asp 8, Sch. 4; S.S.I. 2002/162, art. 2 (with arts. 3-13))
- s. 87A inserted by [2007 asp 10 s. 66](#)