

REGULATION OF CARE (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Overview

16. The Act is in seven Parts:
- **Part 1** provides for the establishment of the Scottish Commission for the Regulation of Care and for the regulatory procedures, including inspections, that it will follow. Scottish Ministers are given a duty to issue national care standards applicable to all registered care services and powers to make regulations in relation to the care services regulated under this Part;
 - **Part 2** provides registration and enforcement procedures for local authority adoption and fostering services. Local authorities are under a statutory duty to provide adoption and fostering services which means that, unlike care services registered under Part 1, the Commission will not be able to take direct enforcement action. Part 2 also provides for other individual care services where non-registration or cancellation of registration would result in a local authority being in breach of a statutory duty;
 - **Part 3** provides for the establishment of the Scottish Social Services Council and sets out its functions and the procedures to be followed in the exercise of these functions;
 - **Part 4** sets out the “general principles” of the Act and provides that Ministers, the Commission and the Council should exercise their functions under the Act in accordance with these principles;
 - **Part 5** concerns provisions that are common to both the Commission and the Council, for example a power for Scottish Ministers to make grants to either body;
 - **Part 6** contains provisions relating to minor amendments and a number of other policy issues (as outlined in the previous paragraph); and
 - **Part 7** contains general provisions, including interpretation of terminology for the purposes of the Act and commencement powers.
17. The Act provides for the Council to have rule making powers on administrative and procedural matters in relation to the exercise of the functions granted to them by the Act. These will not be subject to Parliamentary scrutiny but the Act requires that all the rules made under Part 3 will require the consent of the Scottish Ministers. These are in contrast to the use of regulations for functions of the Commission. A measure of self-regulation is normal for professional bodies like the Council whereas the measures being implemented by the Commission will have a wider application and so need greater public scrutiny.