



# Regulation of Care (Scotland) Act 2001

## 2001 asp 8

### PART 5

#### PROVISIONS COMMON TO COMMISSION AND COUNCIL

##### *Grants and guarantees*

#### **60 Grants**

- (1) The Scottish Ministers may make grants to the Commission or to the Council towards expenses incurred, or to be incurred, by it in connection with—
  - (a) the initial establishment of the body in question; and
  - (b) the discharge by that body of its functions.
- (2) Any grant made under subsection (1) above may be made on such terms and subject to such conditions (including conditions as to repayment) as the Scottish Ministers think fit; and the Scottish Ministers may from time to time after the grant is made vary such terms and conditions.

#### **61 Guarantees**

- (1) The Scottish Ministers may guarantee, in such manner and on such conditions as they think fit, the discharge of any financial obligation in connection with any sum which the Commission or the Council borrows from any person.
- (2) Where the Scottish Ministers give a guarantee under this section they shall forthwith lay a statement of the guarantee before the Parliament.
- (3) Where any sum is paid out in fulfilment of a guarantee under this section, the Scottish Ministers shall, as soon as reasonably practicable after the end of each financial year (beginning with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged), lay before the Parliament a statement relating to that sum.
- (4) Where any sum is paid out in fulfilment of a guarantee under this section, the Commission, or as the case may be the Council, shall make to the Scottish Ministers, at such times and in such manner as they may from time to time direct—

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- (a) payments of such amounts as they may so direct in or towards repayment of the sum so paid out; and
- (b) payment of interest, at such rate as they may so direct, on what is outstanding for the time being in respect of that sum.

*Duty to consult*

**62 Duty of Commission and Council to consult each other**

The Commission and the Council shall each, in the exercise of its functions, consult the other in every case in which it appears to the body exercising the function appropriate that there should be such consultation.

VALID FROM 01/10/2001

**63 Guidance as to consultation**

The Scottish Ministers shall issue guidelines to the Commission and to the Council as to the fulfilment, by the body in question, of any requirement under this Act to consult any person or group of persons.

*Complaints, inquiries and maladministration*

VALID FROM 01/10/2001

**64 Complaints procedure**

- (1) The Commission and the Council shall each establish a procedure by which a person, or someone acting on a person's behalf, may make complaints (or other representations) in relation to the exercise by the body in question of, or failure by it to exercise, any of its functions under this Act in respect of the person.
- (2) Before establishing a procedure under subsection (1) above, the body in question shall consult the Scottish Ministers on its proposals for such a procedure and shall require to obtain their consent to those proposals.
- (3) The body in question shall keep the procedure so established by it under review and shall vary that procedure whenever, with such consent, it considers it appropriate to do so.
- (4) The body in question shall give such publicity to that procedure (including that procedure as varied under subsection (3) above) as it considers appropriate and shall give a copy of the procedure to any person who requests it.

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VALID FROM 01/10/2001

## 65 Inquiries

- (1) The Scottish Ministers may cause an inquiry to be held into any matter connected with—
  - (a) the exercise by the Commission or by the Council of its functions; or
  - (b) the provision of a care service.
- (2) The Commission may cause an inquiry to be held into any matter connected with—
  - (a) the exercise of its functions; or
  - (b) the provision of a care service.
- (3) The Council may cause an inquiry to be held into any matter connected with the exercise of its functions.
- (4) Before there is commenced an inquiry—
  - (a) under subsection (1) above, the Scottish Ministers;
  - (b) under subsection (2) above, the Commission; or
  - (c) under subsection (3) above, the Council,may direct that it be held in private; but where no such direction has been given the person holding the inquiry may if that person thinks fit hold it, or any part of it, in private.
- (5) Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c.65) (provisions relating to local inquiries) shall apply in relation to an inquiry under subsection (1) above as they apply in relation to a local inquiry under that section.
- (6) Subsections (2) to (6) of that section shall apply in relation to an inquiry under subsection (2) or (3) above as they apply in relation to such a local inquiry; except that, for the purposes of an inquiry under—
  - (a) subsection (2) above, any reference in those subsections which, by virtue of the Scotland Act 1998 (c.46), falls to be construed as a reference to—
    - (i) the Scottish Ministers, shall be construed as a reference to the Commission; and
    - (ii) a member of the staff of the Scottish Ministers, as a reference to an officer of the Commission; or
  - (b) subsection (3) above, any such reference in those subsections shall be construed as a reference to the Council or, as the case may be, to an officer of the Council.
- (7) The expenses incurred by the Commission or by the Council in relation to an inquiry under subsection (2), or as the case may be (3), above (including such reasonable sum as the body in question may determine for the services of any of its officers engaged in the inquiry) shall, unless that body is of the opinion that those expenses should be defrayed in whole or in part by it, be paid by such party to the inquiry as it may direct; and the body may certify the amount of the expenses so incurred.
- (8) Any sum certified under subsection (7) above and to be defrayed in accordance with a direction under that subsection shall be a debt due by the party directed and shall be recoverable accordingly.

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(9) In relation to an inquiry under—

(a) subsection (2) above, the Commission; or

(b) subsection (3) above, the Council,

may make an award as to the expenses of the parties and as to the parties by whom such expenses shall be paid.

## 66 Maladministration

The Commission and the Council shall each be subject to investigation by the Scottish Parliamentary Commissioner for Administration appointed in accordance with article 4 of the Scotland Act 1998 (Transitory and Transitional Provisions) (Complaints of Maladministration) Order 1999 (S.I. 1999/1351); and accordingly, in Schedule 1 to that Order (Scottish public authorities subject to investigation by the Scottish Commissioner), at the appropriate places there shall be inserted the words “ Scottish Commission for the Regulation of Care ” and “Scottish Social Services Council”.

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