



Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006

2006 asp 3

PART 3

GENERAL

6 Regulations and orders

- (1) Any regulations under this Act shall be made by the Scottish Ministers and the power to make regulations is exercisable by statutory instrument.
- (2) Any power to make an order or regulations includes power to make—
 - (a) such incidental, supplementary or consequential provision as the Scottish Ministers think necessary or expedient;
 - (b) different provision for different cases.
- (3) A statutory instrument containing an order under this Act (except, where subsection (4) applies, an order under section 9) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4) No statutory instrument containing—
 - (a) regulations under this Act; or
 - (b) an order under section 9 which adds to, replaces or omits any part of the text of an Act,may be made unless a draft of the statutory instrument has been laid before and approved by a resolution of the Parliament.

7 Interpretation

- (1) In this Act—

“child” means a person under 18 years of age;

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“children’s services” means services provided predominantly to, or for the benefit of, children to which the provisions of section 15(1) of the Local Government in Scotland Act 2003 (asp 1) apply;

“inspector” means a person appointed under section 4;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“medical records” means records relating to the physical or mental health of an individual;

“medically qualified inspector” means an inspector who is a registered medical practitioner;

“registered medical practitioner” shall be construed in accordance with section 2 of the Medical Act 1983 (c. 54);

“relevant medical records” means medical records which have been prepared by a registered medical practitioner who is, or has been, responsible for the clinical care of the individual to whom the records relate;

“social work service” means—

- (a) a service which is provided by a local authority in the exercise of any of their social work services functions; or
- (b) a service which is provided by another person pursuant to arrangements made by a local authority in the exercise of their social work services functions;

“social work services functions” means functions under the enactments specified in subsection (2).

(2) The enactments referred to in the definition of “social work services functions” in subsection (1) are—

- (a) Part IV of the Children and Young Persons (Scotland) Act 1937 (c. 37);
- (b) sections 22(2) to (5A) and (8), 26(2) to (4), 43, 45, 47 and 48 of the National Assistance Act 1948 (c. 29);
- (c) the Disabled Persons (Employment) Act 1958 (c. 33);
- (d) section 11 of the Matrimonial Proceedings (Children) Act 1958 (c. 40);
- (e) the Social Work (Scotland) Act 1968 (c. 49);
- (f) the Social Work (Scotland) Act 1968 as read with sections 1 and 2(1) of the Chronically Sick and Disabled Persons Act 1970 (c. 44) and the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33);
- (g) the Children Act 1975 (c. 72);
- (h) the Adoption (Scotland) Act 1978 (c. 28);
- (i) sections 21 to 23 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41);
- (j) the Foster Children (Scotland) Act 1984 (c. 56);
- (k) sections 38(b) and 235 of the Housing (Scotland) Act 1987 (c. 26);
- (l) Part II of the Children (Scotland) Act 1995 (c. 36);
- (m) section 51 of the Criminal Procedure (Scotland) Act 1995 (c. 46);
- (n) section 10 of the Adults with Incapacity (Scotland) Act 2000 (asp 4);
- (o) the Community Care and Health (Scotland) Act 2002 (asp 5);
- (p) the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

(3) The list of enactments in subsection (2) may be amended by regulations.

- (4) For the purposes of this Act, information is “confidential information” where—
- (a) the identity of an individual is ascertainable—
 - (i) from that information; or
 - (ii) from that information and other information which is in the possession of, or is likely to come into the possession of, the person holding that information; and
 - (b) the information was obtained or generated by a person who, in the circumstances, owed an obligation of confidence to that individual.

8 Consequential amendments and repeals

- (1) In section 36(5) of the Children (Scotland) Act 1995 (c. 36) (welfare of certain children in hospitals and nursing homes etc.)—
- (a) after “inspection)” insert “(as in force immediately prior to their repeal by section 8 of the Joint Inspection of Children’s Services and Inspection of Social Work Services (Scotland) Act 2006)”; and
 - (b) for “apply” where it occurs for the second time substitute “applied”.
- (2) In paragraph 19 of schedule 1 to the Freedom of Information (Scotland) Act 2002 (asp 13) (Scottish public authorities), for the words from “(that is to say” to “(c.49))” substitute “appointed under section 4 of the Joint Inspection of Children’s Services and Inspection of Social Work Services (Scotland) Act 2006 (asp 3)”.
- (3) In the Management of Offenders etc. (Scotland) Act 2005 (asp 14)—
- (a) for paragraph (c) of section 2(2) (co-operation for purposes of inspections) substitute—

“(c) a social work inspector”; and
 - (b) for paragraph (a) of section 6(2) (power of Scottish Ministers to require action by community justice authority) substitute—

“(a) a social work inspector”.
- (4) The following enactments are repealed—
- (a) section 6 of the Social Work (Scotland) Act 1968 (c. 49);
 - (b) paragraph 50 of Schedule 3 to the Children Act 1975 (c. 72);
 - (c) paragraph 10 of Schedule 3 to the Adoption (Scotland) Act 1978 (c. 28);
 - (d) paragraph 5 of Schedule 2 to the Foster Children (Scotland) Act 1984 (c. 56);
 - (e) section 53 of, and paragraph 10(4) of Schedule 9 to, the National Health Service and Community Care Act 1990 (c. 19);
 - (f) paragraph 15(6) of Schedule 4 to the Children (Scotland) Act 1995 (c. 36);
 - (g) in Part II of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), the entry relating to section 6 of the Social Work (Scotland) Act 1968; and
 - (h) paragraph 1(5) of schedule 4 to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

9 Ancillary provision

- (1) The Scottish Ministers may by order made by statutory instrument make any supplementary, incidental or consequential provision which they consider necessary

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or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.

- (2) The provision which can be made under subsection (1) includes provision amending or repealing any enactment.

10 Short title and commencement

- (1) This Act may be cited as the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006.
- (2) This Act comes into force on the day after Royal Assent