

Draft Regulations laid before the Scottish Parliament under section 6(4) of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2006 No.

SOCIAL CARE

The Social Work Inspections (Scotland) Regulations 2006

<i>Made</i>	- - - -	<i>2006</i>
<i>Coming into force</i>	- -	<i>2006</i>

The Scottish Ministers, in exercise of the powers conferred by sections 5(3) and 6(1) and (2) of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 6(4) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as the Social Work Inspections (Scotland) Regulations 2006 and shall come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

“the Act” means the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006;

“inspection or investigation” means an inspection or investigation under section 5 of the Act;

“personal records” includes medical records.

Types of inspection or investigation

3.—(1) In carrying out their functions under paragraph (a) of section 5(1) of the Act, the inspectors may conduct—

(a) an inspection of the provision of all social work services in the relevant area;

(b) an inspection of the provision of certain social work services in the relevant area;

(1) 2006 asp 3.

(c) an investigation into the provision of social work services to a particular person or particular people.

(2) In sub paragraphs (a) and (b) of paragraph (1), the “relevant area” is the whole of Scotland or such part of Scotland as the inspectors think fit.

Sharing of information

4. Where an inspector—

- (a) has obtained information for the purposes of an inspection or investigation; and
- (b) considers that holding that information would assist—
 - (i) a person or body listed in, or specified under, subsection (7) of section 1 of the Act;
 - (ii) Audit Scotland; or
 - (iii) the Mental Welfare Commission for Scotland,to carry out their functions,

the inspector may disclose that information to the person or body in question.

Disclosure of information held by certain persons and bodies

5.—(1) A person or body referred to in paragraph (b) of regulation 4 may disclose to an inspector any information which the person or body—

- (a) holds for the purposes, or in consequence, of the performance of their functions; and
- (b) considers would assist the inspector for the purposes of an inspection or investigation.

(2) A person or body disclosing information in terms of paragraph (1) shall, so far as it is practical to do so, remove from that information any particulars which identify the person to whom that information relates and which are not required for the purposes of the inspection or investigation.

Power of entry

6.—(1) If an inspector considers it necessary or expedient for the purposes of an inspection or investigation, that person may at any reasonable time enter and inspect any premises owned or controlled by a social work service provider.

(2) An inspector who proposes to exercise any power of entry or inspection conferred by this regulation must if so requested produce some duly authenticated document showing that he or she is an inspector.

Power of entry: supplementary

7.—(1) An inspector exercising the power of entry and inspection conferred by regulation 6 may, if that person considers it necessary or expedient for the purposes of an inspection or investigation, inspect, take copies of and remove from the premises any documents or records (including, subject to paragraph (5), personal records) held by the social work service provider.

(2) The power in paragraph (1) includes—

- (a) power to require the social work service provider to produce documents or records kept on the premises; and
- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(3) When inspecting records under paragraph (1), an inspector is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been used in connection with the records in question.

(4) An inspector exercising the power of entry and inspection conferred by regulation 6 may—

(a) require any person to afford such facilities and assistance with respect to matters within the person's control as are necessary to enable the inspector to exercise powers under regulation 6 or this regulation; and

(b) take such measurements and photographs and make such recordings as the inspector considers necessary to enable exercise of those powers.

(5) The powers conferred by paragraphs (1) and (2) are not exercisable in relation to relevant medical records.

Power to require information

8.—(1) Subject to paragraph (2), an inspector may at any time require any social work service provider to provide to the inspector any documents, records (including personal records) or other items—

(a) which relate to the provision of a social work service; and

(b) which the inspector considers it necessary or expedient to have for the purposes of an inspection or investigation.

(2) A requirement to provide relevant medical records under paragraph (1) can only be made by an inspector who is a medically qualified inspector.

(3) The power in paragraph (1) to require the provision of records includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.

Power to require explanation

9.—(1) If an inspector considers it necessary or expedient for the purposes of an inspection or investigation, that person may require a person falling within the description in paragraph (2) to provide an explanation of—

(a) any documents, records or other items inspected, copied, removed or provided under regulation 7 or 8; or

(b) any other information provided under those regulations.

(2) A person falls within the description in this paragraph if the inspector considers that person to be, or to have been, responsible—

(a) for compiling any part of the document, record, item or information in question; or

(b) for holding the document, record, item or information in question.

Disposal of personal records

10.—(1) Where an inspector is in possession of personal records which have been obtained for the purposes of an inspection or investigation and which are no longer required for those purposes, that person shall, not later than the date specified in paragraph (2)—

(a) in the case of principal records, return them to the person or body from whom they were obtained; or

(b) in any other case, destroy them.

(2) The date specified for the purposes of paragraph (1) is the later of one year after—

- (a) the date upon which the report of the inspection or investigation is submitted to the Scottish Ministers; or
- (b) if the report is published, the date of publication.

Offences

11. Any person who without reasonable excuse—

- (a) obstructs the exercise of any power conferred by regulation 6(1) or 7;
- (b) fails to comply with any requirement of, or imposed by virtue of, regulation 6(1), 7, 8 or 9;

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

St. Andrew's House,
Edinburgh
2006

Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision concerning inspections and investigations carried out by social work inspectors under Part 2 of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006.

Regulation 3 provides as to the types of inspection and investigation which may be carried out. Regulations 4 and 5 concern the sharing of information between social work inspectors and other persons, either for the purposes of a Part 2 inspection or investigation or to assist the carrying out of functions by those other persons.

Regulations 6 to 9 provide inspectors with powers to enter premises and obtain information or explanations. Regulation 10 concerns the disposal of personal records held by an inspector in consequence of an inspection or investigation. Regulation 11 creates criminal offences in respect of obstructing an inspector or failing to comply with certain requirements in the Regulations.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business, charities or voluntary bodies.