



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

### PART II

#### PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES

##### *General*

#### **12 General social welfare services of local authorities.**

- (1) It shall be the duty of every local authority to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for their area, and in that behalf to make arrangements and to provide or secure the provision of such facilities (including the provision or arranging for the provision of residential and other establishments) as they may consider suitable and adequate, and such assistance may <sup>F1</sup>, subject to subsections (3) to (5) of this section, be given in kind or in cash to, or in respect of, any relevant person..
- (2) A person is a relevant person for the purposes of this section if, not being less than eighteen years of age, he is] in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash, where the giving of assistance in either form would avoid the local authority being caused greater expense in the giving of assistance in another form, or where probable aggravation of the person's need would cause greater expense to the local authority on a later occasion.

<sup>F2</sup>[( 2A ) A person to whom section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) applies is not to receive assistance under subsection (1) of this section (whether by way of residential accommodation or otherwise) if his need for assistance has arisen solely—

- (a) because he is destitute; or
- (b) because of the physical effects, or anticipated physical effects, of his being destitute.

<sup>F2</sup>( 2B ) Subsections (3) and (5) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of subsection (2A)

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as they apply for the purposes of that section, but for the references in subsections (5) and (7) of that section and in that paragraph to the Secretary of State substitute references to a local authority.]

- (3) Before giving assistance to, or in respect of, a person in cash under subsection (1) of this section a local authority shall have regard to his eligibility for receiving assistance from any other statutory body and, if he is so eligible, to the availability to him of that assistance in his time of need.
- [<sup>F3</sup>(3A) In determining, for the purposes of this section, whether to make available assistance by providing, or securing the provision of, residential accommodation to a person, a local authority shall disregard so much of the person’s resources—
- (a) as may be prescribed; or
  - (b) as is determined by them in such a way as may be prescribed,
- and any order made by virtue of this subsection may make different provision for different cases and for different persons.
- (3B) An order made by virtue of paragraph (a) of subsection (3A) of this section may prescribe circumstances in which assistance such as is mentioned in that subsection is to be made available disregarding entirely a person’s resources.
- (3C) In subsections (3A) and (3B) of this section, references to a person’s resources are to resources within the meaning of the order prescribing the amount, or as the case may be the way, in question.
- (3D) A statutory instrument made in exercise of the power conferred by paragraph (a) or (b) of subsection (3A) of this section shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.]
- (4) Assistance given in kind or in cash to, or in respect of, persons under this section may be given unconditionally or subject to such conditions as to the repayment of the assistance, or of its value, whether in whole or in part, as the local authority may consider reasonable having regard to the means of the person receiving the assistance and to the eligibility of the person for assistance from any other statutory body.
- (5) Nothing in the provisions of this section shall affect the performance by a local authority of their functions under any other enactment.
- [<sup>F4</sup>(6) For the purposes of subsection (2) of this section “person in need” includes a person who is in need of care and attention arising out of drug or alcohol dependency or release from prison or other form of detention.]

#### Textual Amendments

- F1** Words in s. 12(1)(2) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(11)** (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**))
- F2** S. 12(2A)(2B) inserted (1.3.2000 for specified purposes and otherwise 3.4.2000) by 1999 c. 33, s. **120(1)** (with **Sch. 15 para. 7**); S.I. 2000/464, **art. 2, Sch.**
- F3** S. 12(3A)-(3D) substituted (1.7.2002) for s. 12(3A)(3B) by **Community Care and Health (Scotland) Act 2002 (asp 5), s. 3**; S.S.I. 2002/170, **art. 2**
- F4** S. 12(6) 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(5)**

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

- C1** S. 12 restricted (8.1.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), s. 54, **Sch. 3 para. 1(1)(c)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch.
- C2** S. 12 modified (24.6.2015) by The Community Care (Provision of Residential Accommodation Outwith Scotland) (Scotland) Regulations 2015 (S.S.I. 2015/202), regs. 1(1), **2(2)**
- C3** S. 12(1) modified (prosp.) by Community Care and Health (Scotland) Act 2002 (asp 5), **ss. 5(1)**, 27(2)
- C4** S. 12(1) modified (11.5.2015 for specified purposes, 24.6.2015 in so far as not already in force) by Community Care and Health (Scotland) Act 2002 (asp 5), **ss. 5(1)**, 27(2); S.S.I. 2015/179, art. 2(1)

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**Changes and effects yet to be applied to :**

- s. 12(2B) substituted by [2002 c. 41 s. 46\(1\)](#) (This amendment is repealed (prosp.) by [2016 c. 19, Sch. 11 para. 41](#))

**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. 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](#)