

To: SOCIAL WORK COMMITTEE		Subject: REGULATION OF CARE (SCOTLAND) ACT 2001
From: DIRECTOR OF SOCIAL WORK		
Date: 25 October 2001	Ref: DOD/EOC	

## 1. PURPOSE OF REPORT / INTRODUCTION

- 1.1. This report outlines for Committee the major changes which arise from the Regulation of Care (Scotland) Act which received Royal assent on 5 July 2001. The Act marks the start of major changes in the way which social care and social care workers are regulated.

## 2. BACKGROUND

- 2.1. Members were previously advised regarding the transition of the Regulation of Care (Scotland) Bill through the Scottish Parliament. The Bill mainly sought to address perceived deficiencies in the regulation of care services and in the regulation of the social care workforce and sets out to establish two new non-departmental public bodies independent in their day to day running but accountable to Scottish Ministers in carrying out these functions.

## 3. MAIN PROVISIONS OF THE ACT

- 3.1. The Act establishes the Scottish Commission for the Regulation of Care and Scottish Social Services Council. Initially both bodies will be funded wholly through Government grants although in the longer term they will be expected to meet their own costs through the charging of registration fees.
- 3.2. **The Scottish Commission for the Regulation of Care** ("The Commission") will regulate care services in Scotland. The Commission will undertake the registration and inspection of care services against a set of national care standards (as published by Scottish Ministers) and the taking of any enforcement action. The Commission is scheduled to take on responsibility for regulating those services regulated at present from April 2002 and the remaining services as soon as possible thereafter – probably by April 2003.
- 3.3. The Commission replaces current arrangements whereby regulatory functions are split across 32 local authorities and 15 health boards – all potentially operating to different standards and procedures. It also shifts the emphasis in setting and measuring standards from inputs (numbers of staff; size of rooms, etc) to outputs (users' experience of services). The Act also addresses the problem that, besides different services being regulated in different ways, some very important services (including home care) are currently not being regulated at all. For example, until now, there has been no independent inspection of local authority services. Under the new system of regulation, all services will be independently regulated.
- 3.4. From April 2002 the Commission will take responsibility for inspecting and regulating almost all forms of residential and domiciliary care, as well as adoption and fostering agencies, schools,

nursing agencies and day centres. Inspection and support staff currently working for local and health authorities may be transferred to the employ of the new body.

- 3.5. **The Scottish Social Services Council** (“The Council”) will register social service workers and promote and regulate their education and training. It will be independent in its day-to-day running but accountable to Scottish Ministers. The Council will assume its responsibilities in October 2001.
- 3.6. The proposed role of the Social Services Council addresses the lack of comprehensive workforce regulation in the personal social services to bring them into line with other allied fields such as teaching, nursing and medicine. The Council will offer a formal mechanism to track people in the workforce who are unsuitable for the job they are doing, offering better protection to those who have suffered exploitation or abuse. It will also provide a framework to enhance the professionalism of the workforce.
- 3.7. Registration of staff will be phased in. Priority is likely to be given to:
  - Social workers;
  - All staff in residential child care;
  - All managers of residential homes;
  - All managers of adult day care services;
  - Registration & Inspection staff of the Scottish Commission for the Regulation of Care.

#### **4. OTHER KEY POINTS IN THE ACT**

- 4.1. The previous legislative distinction between nursing homes and residential care homes will cease. From April 2002, all existing homes and new homes will be known as “care homes”. One of the reasons for this was to change the law to allow homes which are currently residential homes to meet their residents’ nursing care needs.
- 4.2. Supported accommodation projects are not included within the definition. The Commission will review existing registered services but is not the intention to register projects whose primary aim is accommodation. However such projects may be monitored separately under different arrangements such as those being set up in relation to Supporting People grants.
- 4.3. It is not the Executive’s intention for the Commission to regulate field social work at present. However, there was provision made within the Act to extend the scope of the regulation should it be felt appropriate in the future.
- 4.4. To simplify the current system and improve consistency the Commission will base their registration assessment and inspections on new national standards. These standards are currently being developed by the Scottish Executive and are expected to be available in final form by the end of 2001 prior to the Commission’s duties starting in April 2002.
- 4.5. Care services covered by the Act
  - Care homes for adults
  - Residential care for children
  - Children’s early education
  - Day care at home
  - Nurse agencies
  - Independent health-care services
  - Day care services for adults
  - Housing support services
  - Care & welfare in boarding schools
  - School hostels

## 5. THE ACT

The Act is divided into five parts:

- 5.1. **Part 1 – The Commission and Care Services:** This section makes provision for the establishment of the Scottish Commission for the Regulation of Care which will regulate care services; lists services to be included as care services; provides for establishing care standards; provides the framework for establishing registration, inspection, enforcement, offences, fees, transfer of staff etc.
- 5.2. **Part 2 – The Council:** This section makes provision for the Scottish Social Services Council which will set up and administer a register of workers in the social services workforce; provides for the introduction of Codes of Conduct and Practice for workers and employers; provides a framework for registration, de-registration and rules, appeals, offences and the functions of Scottish Ministers in relation to the Council.
- 5.3. **Part 3 – Provisions Common to Commission and Council:** This section makes some general provisions in relation to the Commission and the Council including grants and guarantees, duty to consult, complaints, inquiries and maladministration
- 5.4. **Part 4 – Miscellaneous:** This section includes some consequential provisions as well as taking the opportunity to make needed changes to other social work legislation: CCETSW: cessation of its Scottish functions – Grants, loans and other payments – Nursing in local authority residential accommodation – Place of Safety – Panels – (Curators ad litem, Reporting Officers and Safeguarders).
- 5.5. **Part 5 – General:** Interpretation – Orders and regulation – Minor and consequential amendments – Repeals and power to amend or repeal enactments.

## 6. CORPORATE CONSIDERATIONS

- 6.1. The full implications of compliance to these standards and their impact upon service delivery is under consideration. These will be better understood in coming months as both the Council and the Commission become established. It is clear that the implementation of the Act will have a major impact upon North Lanarkshire Council Social Work services and upon its workforce.
- 6.2. The Department's own service will themselves be subject to regulation through registration and complaints investigations and be inspected against national standards by officers from the Commission. Registration of social care staff will have to be phased in due to the size of the national workforce and employees will be expected to sign up to a code of practice. The work of the Scottish Social Services Council will inevitably have implications for recruitment procedures and for existing staff.

## 7. RECOMMENDATIONS

7.1. Committee is asked to:

- (i) Note the content of this report; and

- (ii) remit the Director of Social Work to bring forward further reports arising from this change in legislation.



**Jim Dickie**  
**Director of Social Work**  
**12 September 2001**

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