



Social Care (Self-directed Support) (Scotland) Act 2013

2013 asp 1

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 28th November 2012 and received Royal Assent on 10 January 2013.

An Act of the Scottish Parliament to enable local authorities to provide support to certain carers; to make provision about the way in which certain social care services are provided by local authorities; and for connected purposes.

General principles

1 General principles

- (1) A local authority must have regard to the principles in subsections (2) to (4) in carrying out its functions under—
 - (a) Part 2 of the 1968 Act (other than the provisions mentioned in subsection (5)),
 - (b) sections 22 ^[F1]and 23 of the 1995 Act,
 - (c) this Act.
 - ^[F2](d) Part 2 or 3 of the Carers (Scotland) Act 2016.]
- (2) A person must have as much involvement as the person wishes in relation to—
 - (a) the assessment of the person's needs for support or services, and
 - (b) the provision of support or services for the person.
- (3) A person must be provided with any assistance that is reasonably required to enable the person—
 - (a) to express any views the person may have about the options for self-directed support, and
 - (b) to make an informed choice when choosing an option for self-directed support.
- (4) A local authority must collaborate with a person in relation to—
 - (a) the assessment of the person's needs for support or services, and
 - (b) the provision of support or services for the person.
- (5) The provisions are—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Social Care (Self-directed Support) (Scotland) Act 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) sections 27 to 27B (which make provision in relation to the supervision and care of persons put on probation or released from prison etc.),
 - ^{F3}(b)
 - (c) section 29 (local authority's power to make payments to parents etc. in respect of expenses for visiting certain persons and attending funerals).
- (6) In this section—
- (a) references to the assessment of a person's needs are references to assessment under section 12A of the 1968 Act [^{F4}, section 23(3)] of the 1995 Act [^{F5} or by virtue of section 8 or 14 of the Carers (Scotland) Act 2016,]
 - (b) references to the provision of support for a person are references to the provision of support under [^{F6} section 24 of the Carers (Scotland) Act 2016],
 - (c) references to the provision of services for a person are references to the provision of community care services under Part 2 of the 1968 Act or, as the case may be, the provision of services under section 22 of the 1995 Act.

Textual Amendments

- F1** Words in s. 1(1)(b) substituted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), s. 45(2), **sch. para. 5(2)(a)**; S.S.I. 2017/152, reg. 4
- F2** S. 1(1)(d) inserted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), **ss. 29, 45(2)**; S.S.I. 2017/152, reg. 4
- F3** S. 1(5)(b) repealed (4.4.2019) by Burial and Cremation (Scotland) Act 2016 (asp 20), s. 112(2), **sch. 2** (with s. 111); S.S.I. 2018/380, reg. 2, **sch.** (with reg. 8)
- F4** Words in s. 1(6)(a) substituted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), s. 45(2), **sch. para. 5(2)(b)(i)**; S.S.I. 2017/152, reg. 4
- F5** Words in s. 1(6)(a) inserted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), s. 45(2), **sch. para. 5(2)(b)(ii)**; S.S.I. 2017/152, reg. 4
- F6** Words in s. 1(6)(b) substituted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), s. 45(2), **sch. para. 5(2)(c)**; S.S.I. 2017/152, reg. 4

Modifications etc. (not altering text)

- C1** S. 1 restricted (temp.) (5.4.2020) by Coronavirus Act 2020 (c. 7), **ss. 16(1)(2)**, 87(2) (with ss. 16(12), 88-90); S.S.I. 2020/121, **reg. 2(a)** (which affecting provision is suspended (30.11.2020) by The Coronavirus Act 2020 (Suspension Adult Social Care) (Scotland) Regulations 2020 (S.S.I. 2020/377), regs. 1(1), **2(a)** (with reg. 3))
- C2** S. 1 restricted (temp.) (5.4.2020) by Coronavirus Act 2020 (c. 7), **ss. 16(3)(4)**, 87(2) (with ss. 16(13), 88-90); S.S.I. 2020/121, **reg. 2(a)** (which affecting provision is part suspended (30.11.2020) by The Coronavirus Act 2020 (Suspension Adult Social Care) (Scotland) Regulations 2020 (S.S.I. 2020/377), regs. 1(1), **2(c)** (with reg. 4) and suspended in so far as not already suspended (29.9.2021) by The Coronavirus Act 2020 (Suspension: Children and Young Persons Social Care) (Scotland) Regulations 2021 (S.S.I. 2021/315), regs. 1(1), **2(c)** (with reg. 3))
- C3** S. 1 restricted (temp.) (5.4.2020) by Coronavirus Act 2020 (c. 7), **ss. 16(7)(8)**, 87(2) (with ss. 16(13), 88-90); S.S.I. 2020/121, **reg. 2(a)** (which affecting provision is suspended (29.9.2021) by The Coronavirus Act 2020 (Suspension: Children and Young Persons Social Care) (Scotland) Regulations 2021 (S.S.I. 2021/315), regs. 1(1), **2(d)** (with reg. 3))

Commencement Information

- I1** S. 1 in force at 1.4.2014 by S.S.I. 2014/32, **art. 3**

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2 Further general principles applicable to this Act

In carrying out its functions under this Act in relation to a person who is to choose (or has chosen) one of the options for self-directed support, a local authority must take reasonable steps to facilitate the following general principles—

- (a) that the right to dignity of the person is to be respected,
- (b) that the person's right to participate in the life of the community in which the person lives is to be respected.

Commencement Information

I2 [S. 2](#) in force at 1.4.2014 by [S.S.I. 2014/32](#), [art. 3](#)

Adult carers

^{F7}3 Support for adult carers

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Textual Amendments

F7 [S. 3](#) repealed (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\)](#), s. 45(2), [sch. para. 5\(3\)](#); [S.S.I. 2017/152](#), [reg. 4](#)

Modifications etc. (not altering text)

C4 [S. 3](#) transitional provisions for effects of 2016 asp 19, sch. para. 5(3) (1.4.2018) by [The Carers \(Scotland\) Act 2016 \(Transitional Provisions\) Regulations 2018 \(S.S.I. 2018/34\)](#), [regs. 1\(1\)](#), [3-16](#)

Options for self-directed support

4 Options for self-directed support

(1) The options for self-directed support are—

Option 1

The making of a direct payment by the local authority to the supported person for the provision of support.

Option 2

The selection of support by the supported person, the making of arrangements for the provision of it by the local authority on behalf of the supported person and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of that provision.

Option 3

The selection of support for the supported person by the local authority,

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Option 4

the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the authority, the payment by the authority of the relevant amount in respect of the cost of that provision.

The selection by the supported person of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support.

(2) In this section—

“direct payment” means a payment of the relevant amount by a local authority to a supported person for the purpose of enabling the person to arrange for the provision of support by any person (including the authority),

“relevant amount” means the amount that the local authority considers is a reasonable estimate of the cost of securing the provision of support for the supported person,

“supported person” and “support” are to be construed in accordance with section 5 or, as the case may be, section 7 or 8.

Commencement Information

I3 S. 4 in force at 1.4.2014 by S.S.I. 2014/32, art. 3

5 Choice of options: adults

- (1) This section applies where a local authority decides under section 12A(1)(b) of the 1968 Act that the needs of an adult (the “supported person”) call for the provision of community care services (“support”).
- (2) The authority must give the supported person the opportunity to choose one of the options for self-directed support unless the authority considers that the supported person is ineligible to receive direct payments.
- (3) If the authority considers that the supported person is ineligible to receive direct payments the authority must—
 - (a) notify the supported person of—
 - (i) the reason why the authority considers that to be the case, and
 - (ii) the circumstances in which the authority must under section 12 review the question of whether the supported person is ineligible to receive direct payments, and
 - (b) give the supported person the opportunity to choose one of the options for self-directed support other than—
 - (i) Option 1, and
 - (ii) so far as relating to that option, Option 4.

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- (4) In carrying out the duties imposed by subsections (2) and (3)(b), the authority must inform the supported person of—
 - (a) the amount that is the relevant amount for each of the options for self-directed support from which the authority is giving the person the opportunity to choose, and
 - (b) the period to which the amount relates.
- (5) If the supported person does not make a choice in pursuance of subsection (2) or (3)(b) the supported person is deemed to have chosen Option 3.
- (6) The authority must give the notification required by subsection (3)(a) in writing and, if necessary, in such other form as is appropriate to the needs of the person to whom it is given.
- (7) For the purposes of this section, a person is ineligible to receive direct payments if the person is of a description specified in regulations under section 15(2)(a).

Modifications etc. (not altering text)

C5 [S. 5](#) modified (1.4.2014) by [The Self-directed Support \(Direct Payments\) \(Scotland\) Regulations 2014 \(S.S.I. 2014/25\)](#), regs. 1, 11

Commencement Information

I4 [S. 5](#) in force at 1.4.2014 by [S.S.I. 2014/32](#), [art. 3](#) (with [art. 4\(1\)\(2\)](#))

6 Choice of options under section 5: assistance

- (1) This section applies where—
 - (a) a local authority decides under section 12A(1)(b) of the 1968 Act that the needs of an adult (the “supported person”) call for the provision of community care services,
 - (b) it appears to the authority that the supported person falls within subsection (2), and
 - (c) the conditions in subsection (3) are satisfied.
- (2) A supported person falls within this subsection if—
 - (a) because of mental disorder, the supported person would benefit from receiving assistance from another person in relation to making decisions about relevant matters,
 - (b) because of difficulties in communicating due to physical disability, the supported person would benefit from receiving assistance from another person in relation to communicating decisions about relevant matters.
- (3) The conditions are—
 - (a) there is no guardian, continuing attorney or welfare attorney with powers in relation to the relevant matters, and
 - (b) an intervention order has not been granted in relation to the relevant matters.
- (4) The authority must take reasonable steps to enable the supported person to make a choice in pursuance of section 5(2) or (3)(b).
- (5) The authority must take reasonable steps—