



# Community Care and Health (Scotland) Act 2002

2002 asp 5

## PART 1

### COMMUNITY CARE

#### *Accommodation*

#### **5 Local authority arrangements for residential accommodation outwith Scotland**

- (1) In fulfilment of their duty under section 12(1) (arranging for provision of residential accommodation, etc.) or 13A(1) (arranging for provision of residential accommodation with nursing) of the 1968 Act [<sup>F1</sup>or under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support) ], a local authority—
  - (a) may, in accordance with regulations made by the Scottish Ministers; and
  - (b) must, if and to such extent as the Scottish Ministers so direct, in accordance with such regulations and with that direction, make arrangements for the provision of residential accommodation in an appropriate establishment in England and Wales, or in Northern Ireland, any of the Channel Islands or the Isle of Man.
- (2) Regulations under subsection (1) above may, subject to subsection (4) below, modify any of the provisions of the 1968 Act in their application to [<sup>F2</sup>persons for whom such arrangements are made ] .
- (3) Arrangements made, before the date on which this section comes into force, by a local authority under section 12(1) of the 1968 Act for the provision of residential accommodation in an appropriate establishment (whether or not the establishment was an appropriate establishment when the arrangements were made) are deemed to have been made by virtue of paragraph (a) of subsection (1) above.
- (4) Subsection (2) of section 13A of the 1968 Act does not apply in relation to arrangements made under subsection (1) above and subsection (3) of that section

*Status: Point in time view as at 24/06/2015.*

*Changes to legislation: Community Care and Health (Scotland) Act 2002, Section 5 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

does not apply in relation to premises where accommodation is provided by virtue of subsection (1) above.

[<sup>F3</sup>(5) In subsections (1) and (3) above, “appropriate establishment” means an establishment of such description or conforming to such requirements as may be specified in regulations under subsection (1).]

#### Textual Amendments

- F1** Words in s. 5(1) inserted (1.10.2014) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 3(4)(a)** (with Sch. 1 paras. 8, 14); S.I. 2014/2473, art. 2(2)
- F2** Words in s. 5(2) substituted (1.10.2014) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 3(4)(b)** (with Sch. 1 paras. 8, 14); S.I. 2014/2473, art. 2(2)
- F3** S. 5(5) substituted for s. 5(5)(6) (1.10.2014) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 3(4)(c)** (with Sch. 1 paras. 8, 14); S.I. 2014/2473, art. 2(2)

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

- C1** S. 5(1) 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(1)**
- C2** S. 5(3) 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(1)**

#### Commencement Information

- I1** S. 5(1)(2) in force at 11.5.2015 for specified purposes by S.S.I. 2015/179, **art. 2(1)**
- I2** S. 5(1)(2) in force at 24.6.2015 in so far as not already in force by S.S.I. 2015/179, **art. 2(1)**
- I3** S. 5(3)-(6) in force at 24.6.2015 by S.S.I. 2015/179, **art. 2(2)**

**Status:**

Point in time view as at 24/06/2015.

**Changes to legislation:**

Community Care and Health (Scotland) Act 2002, Section 5 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.