



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

2013 asp 1

Local authority functions

17 Assessments under section 12A of 1968 Act: assistance

After section 12A of the 1968 Act, insert—

“12AZA Assessments under section 12A: assistance

- (1) Subsection (4) applies where—
 - (a) a local authority is required by section 12A(1)(a) to carry out an assessment of the needs of a person (the “supported person”) for 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 the carrying out of the assessment,
 - (b) because of difficulties in communicating due to physical disability, the supported person would benefit from receiving assistance from another person to communicate in relation to the carrying out of the assessment.
- (3) The conditions are—
 - (a) there is no guardian, continuing attorney or welfare attorney with powers as respects the provision of assistance in relation to the carrying out of the assessment, and
 - (b) an intervention order has not been granted as respects the provision of assistance in relation to the carrying out of the assessment.
- (4) The authority must take reasonable steps—
 - (a) to identify persons who are able to assist the supported person, and

Status: This is the original version (as it was originally enacted).

- (b) if the supported person agrees, to involve them in assisting the supported person in relation to the carrying out of the assessment or, as the case may be, communicating in relation to the carrying out of the assessment.

(5) In this section—

“the 2000 Act” means the Adults with Incapacity (Scotland) Act 2000 (asp 4),

“continuing attorney”—

- (a) means a continuing attorney within the meaning of section 15 of the 2000 Act, and
- (b) includes a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s property or financial affairs and having continuing effect despite the granter’s incapacity,

“guardian”—

- (a) means a guardian appointed under the 2000 Act, and
- (b) includes a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during the adult’s incapacity, if the guardianship is recognised under the law of Scotland,

“intervention order” is to be construed in accordance with section 53 of the 2000 Act,

“mental disorder” has the meaning given by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13),

“welfare attorney”—

- (a) means a welfare attorney within the meaning of section 16 of the 2000 Act, and
- (b) includes a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s personal welfare and having effect during the granter’s incapacity.”.

18 Power to charge for services provided under section 3

In section 87 of the 1968 Act (power of local authority to charge for services and accommodation provided under certain enactments), in each of subsections (1) and (1A)(a)—

- (a) the word “or”, where it first occurs, is repealed, and
- (b) after “(asp 13)” insert “or section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)”.

19 Promotion of options for self-directed support

- (1) A local authority must take steps to promote the availability of the options for self-directed support.
- (2) For the purpose of making available to supported persons a wide range of support when choosing options for self-directed support, a local authority must, in so far as is reasonably practicable, promote—

- (a) a variety of providers of support, and
 - (b) the variety of support provided by it and other providers.
- (3) In subsection (2), “supported person” has the meaning given by section 4(2).

20 Delegation

In section 15(4) of the Community Care and Health (Scotland) Act 2002 ([asp 5](#)) (power to delegate certain local authority and NHS functions etc.)—

- (a) the word “or” immediately after paragraph (f) is repealed, and
- (b) after paragraph (g) add—
 - “(h) prohibiting the entering into of arrangements by virtue of subsection (1) for the delegation of such functions prescribed under subsection (2)(a) as may be specified unless the arrangements are also for the delegation of such functions under the Social Care (Self-directed Support) (Scotland) Act 2013 prescribed under subsection (2)(a) as may be specified.”.