CARERS (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 8 – Final Provisions

Section 41 - Interpretation

- 122. This section defines terms that are used frequently in the Act. For example "1968 Act" means the Social Work (Scotland) Act 1968; "1995 Act" means the Children (Scotland) Act 1995; "2014 Act" means the Children and Young People (Scotland) Act 2014.
- 123. Subsection (2) defines support provided by a responsible local authority as including support that the authority secures from another service provider.

Section 42 - Regulations

- 124. Subsection (1) provides that any power of the Scottish Ministers to make regulations under this Act includes power to make different provision for different purposes and to make incidental, supplementary, consequential, transitional, transitory or saving provision.
- 125. Subsection (2) provides that regulations under sections 1(3), 7(1), 8(1), 13, 14(1), 21(4), 23(1) and 25(2) are subject to the affirmative procedure. Regulations under section 43(1) which add to, replace or omit the text of an Act are also subject to that procedure.
- 126. Subsection (3) provides that all other regulations under this Act are subject to the negative procedure. But subsection (3) does not apply to commencement regulations under section 45 (see subsection (4)). Such commencement regulations are subject to no parliamentary procedure.

Section 43 - Ancillary provision

127. This section gives the Scottish Ministers a freestanding regulation-making power to make incidental, supplementary, consequential, transitional, transitory or saving provision that they consider necessary or expedient for the purposes of or in connection with the Act. Such regulations may modify any enactment (including in the Act itself). Regulations under this section which amend the text of primary legislation will be subject to the affirmative procedure (see section 42(2)(i)). Otherwise they will be subject to the negative procedure (see section 42(3)).

Section 44 - Consequential modifications

128. This section introduces the schedule, which contains amendments (including repeals) of other legislation that are consequential on the provisions of this Act.

These notes relate to the Carers (Scotland) Act 2016 (asp 9) which received Royal Assent on 9 March 2016

Section 45 - Commencement

129. Subsection (1) provides that this section and sections 41 to 43 and 46 come into force on the day after Royal Assent. The remainder of the Act comes into force on the day or days appointed by the Scottish Ministers in regulations made under subsection (2). Subsection (4) provides that commencement regulations may also include transitional, transitory or saving provision. Such regulations will be subject to no parliamentary procedure, as is normal for subordinate legislation commencing Acts of the Scottish Parliament (see section 42(4)).

Section 46 - Short title

130. This section provides that the Act is to be referred to as the Carers (Scotland) Act -2016.