

Draft Regulations laid before the Scottish Parliament under section 42(2) of the Carers (Scotland) Act 2016 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

SOCIAL CARE

**The Carers (Scotland) Act 2016 (Agreements
of a Specified Kind) Regulations 2017**

Made - - - - 2017
Coming into force - - 1st October 2017

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 1(3)(a) of the Carers (Scotland) Act 2016⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 42(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Carers (Scotland) Act 2016 (Agreements of a Specified Kind) Regulations 2017 and come into force on 1st October 2017.

Agreements of a specified kind

2. For the purpose of section 1(2)(b)(i) of the Carers (Scotland) Act 2016, “contract” does not include an agreement between a local authority and a kinship carer under regulation 12 of the Looked After Children (Scotland) Regulations 2009⁽²⁾.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(1) 2016 asp 9.
(2) S.S.I. 2009/210.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Carers (Scotland) Act 2016 (“the Act”) and come into force on 1st October 2017.

Section 1(1) of the Act defines a “carer” as an individual who provides or intends to provide care for another individual (a “cared-for person”). This definition does not, however, apply to the extent that the care is, or would be, provided by virtue of the person’s age (i.e. to ensure that parents are not regarded as carers for the purposes of the Act except where they are caring for that child for a reason other than the child’s age) and does not apply if the care provided is, or would be, provided under or by virtue of a contract or as voluntary work. Under subsection (3), Scottish Ministers can specify that the reference to “contract” in subsection (2)(b)(i) does, or does not, include certain kinds of agreement.

Regulation 2 provides that an agreement between a local authority and a kinship carer under regulation 12 of the Looked After Children (Scotland) Regulations 2009 ([S.S.I. 2009/210](#)), following local authority approval that a person who is related, or otherwise known, to a child, is a suitable carer for the child, is not a “contract” for the purpose of subsection (2)(b)(i) of the Act. This means that care provided under such an agreement will fall within subsection (1) and a kinship carer will be a “carer” for the purposes of the Act.