

POLICY NOTE

THE COMMUNITY CARE (PERSONAL CARE AND NURSING CARE) (SCOTLAND) AMENDMENT (No. 2) REGULATIONS 2018

SSI 2018 No. XX

The above instrument will be made in exercise of the power conferred by section 1(2)(a) of the Community Care and Health (Scotland) Act 2002. The instrument is subject to the affirmative resolution procedure. If approved by the Scottish Parliament, it will come into force on 1 April 2019.

Legal Background

Section 1(1) of the Community Care and Health (Scotland) Act 2002 (“the 2002 Act”) provides that a local authority are not to charge for social care provided by them (or the provision of which is secured by them) if that social care is: personal care as defined in paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010; personal support as so defined; care mentioned in schedule 1 to the 2002 Act; or nursing care. The requirement not to charge is currently qualified to persons aged 65 or over by the Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002.

Section 2 gives the Scottish Ministers the power to make regulations to determine what is to be regarded as accommodation provided by local authorities under social work and mental health legislation. That power has been exercised with the effect that persons provided with accommodation by a local authority under the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 are not charged in respect of personal and nursing care up to set figures.

Policy Objectives

This instrument will remove the qualification to the requirement not to charge to persons aged 65 or over only. This will ensure adults under the age of 65 who are assessed as needing free personal care, will receive this service irrespective of condition, income or age, including whether they live at home or in residential care.

Consultation

Scottish Government conducted a feasibility study from January 2017 to August 2017, inviting views on proposals to extend Free Personal Care to those aged under 65. Analysis of response to the feasibility study indicated there was widespread support for the policy from members of the public and many campaigning organisations.

Impact Assessments

An Equality Impact Assessment (EQIA) and a Child Rights and Wellbeing Impact Assessment (CRWIA) have been completed on the policy. It was considered that a Privacy Impact Assessment (PIA) was not necessary for this policy.

Financial Effects

A Final Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The policy may have financial implications for the Scottish Government, local government and Integration Authorities.

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