

2002 No. 303

SOCIAL CARE

**The Community Care (Personal Care and Nursing Care)
(Scotland) Regulations 2002**

Made

20th June 2002

Coming into force

1st July 2002

The Scottish Ministers, in exercise of the powers conferred by sections 1(2)(a), 2 and 23(4) of the Community Care and Health (Scotland) Act 2002^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 23(3)(a) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002 and shall come into force on 1st July 2002.

(2) In these Regulations—

“the 1968 Act” means the Social Work (Scotland) Act 1968^(b);

“the 1984 Act” means the Mental Health (Scotland) Act 1984^(c);

“the Act” means the Community Care and Health (Scotland) Act 2002.

Accommodation provided under the 1968 Act or section 7 of the 1984 Act

2. For the purpose of section 2 of the Act, accommodation provided to or provision of which is secured for an individual by a local authority under the 1968 Act or section 7 of the 1984 Act does not include—

(a) the first £145 per week of care of a kind mentioned in paragraphs (a), (b) and (c) of section 1(1) of the Act, and

(b) the first £65 per week of care of a kind mentioned in paragraph (d) of section 1(1) of the Act.

(a) 2002 asp 5.

(b) 1968 c.49.

(c) 1984 c.36.

Qualification of requirement not to charge

3. The requirement in section 1(1) of the Act, not to charge for social care of a kind mentioned in paragraphs (a), (b) and (c) of that section shall apply only where the person, for whom the local authority has a duty or power in terms of the 1968 Act or section 7 or 8 of the 1984 Act, is a person aged 65 or over.

St Andrew's House,
Edinburgh
20th June 2002

FRANCIS McAVEETY
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations are made under the Community Care and Health (Scotland) Act 2002 (“the Act”). Together with the Act they provide for free personal care and free nursing care to specified categories of people with effect from 1st July 2002.

Regulation 2 modifies, for the purpose of charging, the meaning of accommodation provided under the Social Work (Scotland) Act 1968 (“the 1968 Act”) or under section 7 of the Mental Health (Scotland) Act 1984. This modification, coupled with the terms of section 1 of the Act results in people in receipt of a care home service not being charged for the first £145 per week of social care which is personal care, personal support or care of a kind set out in schedule 1 to the Act or for the first £65 per week of nursing care provided to them or secured for them by a local authority.

Regulation 3 qualifies the requirement in section 1 of the Act not to charge for social care in so far as this relates to personal care, personal support and care of a kind mentioned in schedule 1 to the Act. The requirement not to charge applies only to those persons aged 65 or over. This is so whether the person is in receipt of a care home service or receives care at home provided or secured by a local authority.

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