

POLICY NOTE

THE CARERS (SCOTLAND) ACT 2016 (AGREEMENTS OF A SPECIFIED KIND) REGULATIONS 2017

SSI 2017/257

1. The Carers (Scotland) Act 2016 (Agreements of a Specified Kind) Regulations 2017 is made in exercise of the powers conferred by section 1(3)(a) of the Carers (Scotland) Act 2016 (“the Act”). The instrument is subject to affirmative procedure.

Policy Objective

2. These Regulations make further provision about the meaning of “carer” under the Act.
3. The Act defines a “carer” as an individual who provides, or intends to provide, care for another individual except to the extent that the care so provided is, or would be provided only by virtue of the cared for person’s age or by virtue of a contract or as voluntary work.
4. Scottish Ministers can specify in regulations that the reference to “contract” in this context does, or does not, include certain types of agreement. In order to give effect to the policy intention that persons who are formal kinship carers may be regarded as “carers” for the purposes of the Act, these regulations serve to specify 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) is not a “contract” for the purpose of section 1(2)(b)(i) of the Act. This means that a person who is a kinship carer pursuant to such an agreement will be a “carer” for the purposes of the Act, where they meet the other criteria noted at paragraph 3 above.
5. Being included under the meaning of “carer” brings rights to access support, information and advice in line with the Act. Access to certain types or forms of support will depend on the extent to which a carer’s need for support to enable them to continue to care (if they so wish) meets the local eligibility criteria.

Consultation

6. The Scottish Government has consulted with representatives from Local Authorities (including COSLA), Health Boards, carer organisations and carers via a stakeholder working group and a wider stakeholder event in late 2016 and early 2017. The proposed approach to ensuring kinship carers are not excluded from the definition of ‘carer’ was welcomed.

Impact Assessments

7. An Equality Impact Assessment (EQIA), Privacy Impact Assessment (PIA), and Children’s Rights and Wellbeing Impact Assessment (CRWIA) have been partially reviewed and updated to take account of the above instrument. These are available on request. Further reviews and updates are expected to be published before 1st April 2018.

Financial Effects

8. The Business and Regulatory Impact Assessment (BRIA) has been partially reviewed and updated to take account of the above instrument. This is also available on request. A further review and update is expected to be published before 1st April 2018.

Scottish Government
Health and Social Care Integration Directorate
Carers Branch