

# **SOCIAL CARE (SELF-DIRECTED SUPPORT)(SCOTLAND) ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Sections 4 to 14 – Options for self-directed support***

#### **Section 6 – Choice of options under section 5: assistance**

22. **Section 6** places a duty on authorities to take reasonable steps to identify and involve people to assist the individual to make a choice with regards to their options for self-directed support under section 5. The duty applies where it either appears to the authority that because of mental disorder the supported person would benefit from assistance in making decisions about relevant matters, or where it appears to the authority that because of difficulties in communicating due to physical disability the supported person would benefit from receiving assistance to communicate their decisions about relevant matters.
23. Subsection (4) places a duty on the authority to take reasonable steps to enable the adult to choose from the four options for self-directed support set out in section 4 or, where they are deemed ineligible for direct payments, a choice of the options other than direct payments. This means that a local authority is obliged to allow someone to make a choice even if they have difficulties in doing so.
24. Subsection (5) places the further duty on the local authority to take reasonable steps to identify people who are able to assist the supported person and, if the supported person agrees to the relevant persons providing such assistance, to involve the relevant person or persons in assisting the supported person in making or communicating decisions relating to the supported person's options for self-directed support. The person or persons providing assistance may be relatives and friends of the individual but it may also include other persons who can assist via what is commonly known as a "circle of support". The requirement to have the agreement of the supported person makes it explicit on the face of the Act that section 6 applies only in relation to supported persons who have capacity, but due to mental disorder or difficulties in communicating, may require additional assistance in order to understand, arrive at or communicate their decisions about the options for self-directed support.
25. Subsection (3) sets out conditions which must be satisfied before subsections (4) and (5) can be applied. The duty should not be applied when there is a guardian, continuing attorney or welfare attorney with relevant powers present, or when an intervention order has been granted which relates to the provision of assistance with the assessment. Such an attorney or guardian (or individual empowered by an intervention order) would have the power to make self-directed support decisions on the adult's behalf (in accordance with the principles of the Adults with Incapacity (Scotland) Act 2000).
26. Subsection (6) provides definitions for the various terms used in subsections (1) to (5).