

CARERS (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 3 – Provision of Support to Carers

Chapter 2 – Duty to provide support to carers

Section 24 - Duty to provide support

72. Where a carer has needs which have been identified in the course of preparing an adult carer support plan or a young carer statement and which cannot be met by services or assistance provided to the cared-for person (other than care provided by virtue of section 25 in order to provide the carer with a break from caring) or cannot be met through the provision of general services in the responsible local authority's area, for example information and advice, this section requires the authority to apply its local eligibility criteria. The needs which meet the local eligibility criteria are referred to as "eligible needs".
73. Subsection (4)(a) places a duty on the responsible local authority to provide support to the carer to meet those eligible needs. The responsible local authority also has a power under subsection (4)(b) to provide support to meet needs which do not meet the eligibility criteria.
74. Subsection (5) applies where a carer's eligible needs might also be met through community care services provided to the carer and assessed under section 12A of the Social Work (Scotland) Act 1968 or services for children and their families provided to the carer under section 22 of the Children (Scotland) Act 1995. If the needs meet the eligibility criteria, then the duty in subsection (4)(a) applies regardless of whether the carer's needs may also be met separately under the 1968 or 1995 Acts.
75. Subsection (6) sets out that the "responsible local authority" in relation to a carer, means the local authority for the area in which the cared-for person resides.

Section 25 - Provision of support to carers: breaks from caring

76. Subsection (1) requires a local authority to consider whether any support provided under section 24 should include support which provides a break from caring.
77. Subsection (2) confers a power on the Scottish Ministers to make regulations (subject to the affirmative procedure (see section 42(2)) about the forms of support that would constitute a break from caring. Where the regulations provide for a break from caring to take the form of the provision of care for the cared-for person, they may also make provision about the role of the cared-for person in relation to how that care is provided.
78. Subsection (4) requires that each local authority must have regard to the desirability of breaks from caring being provided on a planned basis.
79. Subsection (5) refers to section 19(2) of the Social Care (Self-directed Support) (Scotland) Act 2013 (promotion of options for support). It provides that the duty on

local authorities in that section to promote a variety of support and support providers applies equally in relation to support provided as a break from caring.

Section 26 - Charging for support provided to carers

80. This provision amends section 87 of the 1968 Act. It allows local authorities to make charges when providing services which support carers under section 24(4) of the Act. Such charges cannot exceed what is practicable for a person to pay if the person satisfies the local authority that the person's means are insufficient to meet the charge that would otherwise be made. Charges are also subject to any regulations made by the Scottish Ministers under section 87(5) of the 1968 Act. Such regulations are subject to the negative procedure. They may modify or adjust charges or require them to be waived altogether.