



# Community Care and Health (Scotland) Act 2002

## 2002 asp 5

### PART 4

#### GENERAL

## 22 Interpretation

(1) In this Act—

“the 1948 Act” means the National Assistance Act 1948 (c.29);

“the 1968 Act” means the Social Work (Scotland) Act 1968 (c.49);

“the 1978 Act” means the National Health Service (Scotland) Act 1978 (c.29);

<sup>F1</sup>  
...

“the 1995 Act” means the Children (Scotland) Act 1995 (c.36);

[<sup>F2</sup>“the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13);]

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39);

“NHS body” means—

(a) a Health Board, constituted by order made under section 2(1)(a) of the 1978 Act;

(b) a Special Health Board, constituted by order made under section 2(1) (b) of that Act;

(c) a National Health Service trust, established by order made under section 12A(1) of that Act; <sup>F3</sup>...

(d) the Common Services Agency, constituted by section 10(1) of that Act; [<sup>F4</sup>or

(e) Healthcare Improvement Scotland, established by section 10A(1) of that Act;]

“prescribed” means prescribed by regulations made by the Scottish Ministers; and

“social care” means, subject to subsection (2) below, a service provided—

(a) under the 1968 Act; or

*Changes to legislation: There are currently no known outstanding effects for the Community Care and Health (Scotland) Act 2002, Part 4. (See end of Document for details)*

- (b) [<sup>F5</sup>under section 25 (care and support services for persons who have or have had a mental disorder), 26 (services designed to promote well-being and social development of such persons) or 27 (assistance with travel in connection with such services) of the 2003 Act]

to an individual by a local authority or a service the provision of which to an individual, under the 1968 Act or [<sup>F6</sup>any ] of those sections, is secured by a local authority.

- (2) In this Act, “social care” does not include a service which (or so much of a service as) consists of the provision of accommodation; but in the definition of the expression in subsection (1) above, the references to a service being provided are to the provision of any other form of assistance (including, without prejudice to that generality, the provision of advice, guidance or a material thing).

#### Textual Amendments

- F1** Words in s. 22(1) repealed (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), **ss. 28(2)(b)(i)**, 333(2); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Words in s. 22(1) inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), **ss. 28(2)(b)(ii)**, 333(2); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F3** Word in s. 22(1) omitted (1.4.2011) by virtue of [The Public Services Reform \(Scotland\) Act 2010](#) (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 2 para. 6(a)**
- F4** Words in s. 22(1) inserted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010](#) (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 2 para. 6(b)**
- F5** Words in s. 22(1) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), **ss. 28(2)(b)(iii)**, 333(2); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F6** Word in s. 22(1) substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp 13), **ss. 28(2)(b)(iv)**, 333(2); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

## 23 Regulations

- (1) Any order under this Act is to be made by statutory instrument; and a statutory instrument containing any such order, other than an order under section 1(2)(b) or 27(2) of this Act, is subject to annulment in pursuance of a resolution of the Parliament.
- (2) A statutory instrument containing an order under section 1(2)(b) of this Act is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.
- (3) Any regulations under this Act are to be made by statutory instrument; and a statutory instrument containing—
- regulations under section 1 or 2 of this Act is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament;
  - regulations under any other provision of this Act is subject to annulment in pursuance of a resolution of the Parliament.

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- (4) Any such order or regulations may make different provision for different cases, for different services and for different persons.

## 24 Transitional provisions etc.

- (1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes, or in consequence, of this Act or of any order or regulations made under this Act.
- (2) An order under subsection (1) above may amend or repeal any enactment (including any provision of this Act).

## 25 Minor and consequential amendments and repeals

Schedule 2 to this Act, which contains minor amendments and repeals and amendments and repeals consequential on the provisions of this Act, has effect.

### Commencement Information

- I1** S. 25 wholly in force at 1.6.2003; s. 25 not in force at Royal Assent see s. 27(2); s. 25 in force for specified purposes at 1.4.2002 by [S.S.I. 2002/170](#), [art. 2\(1\)](#); s. 25 in force for further specified purposes at 1.7.2002 by [S.S.I. 2002/170](#), [art. 2\(3\)](#); s. 25 in force for further specified purposes at 1.6.2003 by [S.S.I. 2002/170](#), [art. 2\(5\)](#)
- I2** S. 25 in force at 28.2.2003 for specified purposes by [S.S.I. 2003/62](#), [art. 2\(1\)\(c\)](#)
- I3** [S. 25](#) in force at 4.3.2004 for specified purposes by [S.S.I. 2004/33](#), [art. 2\(1\)\(b\)](#)
- I4** [S. 25](#) in force at 1.4.2004 for specified purposes by [S.S.I. 2004/33](#), [art. 2\(2\)\(a\)](#)

## 26 Guidance and directions

Without prejudice to—

- (a) section 5 of the 1968 Act (functions of Scottish Ministers);
- (b) sections 2 (Health Boards), 10 (Common Services Agency) and 12A (National Health Service trusts) of, and paragraph 6 of Schedule 7A to, the 1978 Act; and
- (c) sections 5(1)(b), 6(1), (2)(b)(ii) and (4) and 17(1) and (5) of this Act,

the Scottish Ministers may issue relevant guidance and directions to local authorities and NHS bodies (that is to say such guidance and directions as appear to the Scottish Ministers to be requisite in relation to, or in consequence of, the provisions of this Act) as to the exercise by those authorities and bodies of any function.

## 27 Short title and commencement

- (1) This Act may be cited as the Community Care and Health (Scotland) Act 2002.
- (2) This Act, except this section and section 23, comes into force on such day as the Scottish Ministers may by order appoint.
- (3) Different days may be so appointed for different provisions and for different purposes.

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#### **Subordinate Legislation Made**

- P1** [S. 27\(2\)](#) power fully exercised: different dates appointed for specified provisions by [S.S.I. 2002/170](#),  
[art. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Community Care and Health (Scotland) Act 2002, Part 4.