



# Social Care (Self-directed Support) (Scotland) Act 2013

## 2013 asp 1

### *General*

#### **21 Guidance and directions**

In section 5 of the 1968 Act (guidance and directions under 1968 Act and certain other enactments)—

- (a) in subsection (1), for the words from “and” to “1995” substitute “, Part 2 of the Children (Scotland) Act 1995 and the Social Care (Self-directed Support) (Scotland) Act [2013 \(asp 1\)](#)”, and
- (b) in subsection (1B), after paragraph (q) add—
  - “(r) the Social Care (Self-directed Support) (Scotland) Act [2013 \(asp 1\)](#).”.

#### **22 Regulations: general**

- (1) Regulations under this Act may—
  - (a) make different provision for different cases,
  - (b) include such supplementary, incidental, consequential, transitory and transitional provision and savings as the Scottish Ministers consider appropriate.
- (2) Regulations under sections 14 and 23 are subject to the affirmative procedure.
- (3) Otherwise, regulations under this Act are subject to the negative procedure.
- (4) Before laying a draft of a Scottish statutory instrument containing regulations under section 14 or 23 before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

#### **23 Power to modify application of Act**

- (1) The Scottish Ministers may by regulations make provision for or in connection with disapplying section 5(2) or 8(2) in such circumstances as the regulations may specify.

- (2) Regulations under subsection (1) which disapply section 5(2) or 8(2) must include provision deeming a person to have chosen Option 3 of the options for self-directed support.
- (3) Regulations under subsection (1) may include provision for or in connection with disapplying or modifying any other section.

## **24 Interpretation**

- (1) In this Act, unless the context otherwise requires—
  - “the 1968 Act” means the Social Work (Scotland) Act 1968 (c.49),
  - “the 1995 Act” means the Children (Scotland) Act 1995 (c.36),
  - “adult” means a person who is 18 years of age or over,
  - “child” means a person who is under 18 years of age,
  - “community care services” has the meaning given by section 5A of the 1968 Act (except that it does not include a reference to services which a local authority provides, or secures the provision of, under any of the provisions of that Act mentioned in section 1(5)),
  - “direct payment” has the meaning given by section 4(2),
  - “options for self-directed support” is to be construed in accordance with section 4(1),
  - “relevant amount” has the meaning given by section 4(2),
  - “support” has the meaning given by section 4(2).
- (2) In this Act, references to a person’s being ineligible to receive direct payments are to be construed in accordance with section 5(7).

## **25 Consequential repeals**

Sections 12B and 12C of the 1968 Act (which make provision in relation to direct payments in respect of community care services) are repealed.

## **26 Ancillary provision**

- (1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) An order under subsection (1) may modify any enactment.
- (3) An order under subsection (1) containing provisions which add to, replace or omit any part of the text of an Act is subject to the affirmative procedure.
- (4) Otherwise, an order under subsection (1) is subject to the negative procedure.

## **27 Transitional provision etc.**

- (1) The Scottish Ministers may by order make such provision as they consider necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.
- (2) An order under subsection (1) may modify any enactment.

- (3) An order under subsection (1) is subject to the negative procedure.

## **28 Commencement**

- (1) This section and sections 15, 22, 24, 26, 27 and 29 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.
- (3) An order under subsection (2) may contain transitory or transitional provision or savings.

## **29 Short title**

The short title of this Act is the Social Care (Self-directed Support) (Scotland) Act 2013.