

# **CARERS (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON PARTS**

#### **Part 7 – General Provision**

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

##### *Section 37 - Guidance and directions to local authorities*

117. This section amends section 5 of the 1968 Act so that the Scottish Ministers may issue guidance or directions to local authorities about the exercise of functions under this Act. Guidance and directions about the exercise of functions under the Act will be issued in accordance with the procedures as laid out in section 5 of the 1968 Act.
118. Subsection (3) adds the Act to the list of enactments in section 5(1B). This has a number of consequences. First, the Scottish Ministers may issue directions to local authorities under section 5(1A) of the 1968 Act about the manner in which they are to exercise their functions under the Act. Local authorities are required to comply with such directions. Adding the Act to this list also brings functions under the Act within the scope of social work complaints procedures. The power of the Scottish Ministers to cause inquiries to be held under section 6A of the 1968 Act and the power of a local authority to cause inquiries to be held under section 6B of the 1968 Act are also extended so that they cover inquiries into the functions under the Act.

##### *Section 38 – Guidance and directions to health boards and directing authorities*

119. This section provides that each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act. It also provides that the Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act. Each health board and directing authority must comply with any direction issued to it under this section.

##### **Assistance to and by voluntary organisations etc.**

##### *Section 39 - Financial and other assistance to voluntary organisations etc.*

120. This section amends section 10 of the 1968 Act, to allow grants and loans to be made to voluntary organisations in connection with things they do which assist local authorities in exercising their functions under this Act. The effect of the amendment is also that local authorities will be able to provide non-financial assistance to voluntary organisations, such as allowing them the use of premises.

##### *Section 40 - Assistance by voluntary organisations etc.*

121. This section amends section 4 of the 1968 Act to ensure Parts 2 to 6 of this Act are considered as part of provisions relating to the performance of functions by local authorities for the purposes of that section. This will then allow local authorities to make

*These notes relate to the Carers (Scotland) Act 2016  
(asp 9) which received Royal Assent on 9 March 2016*

arrangements with voluntary organisations and other bodies so that they can provide assistance to local authorities exercising functions under the Act.