



# Community Care and Health (Scotland) Act 2002

2002 asp 5

## PART 1

### COMMUNITY CARE

#### *Accommodation*

#### **5 Local authority arrangements for residential accommodation outwith Scotland**

- (1) In fulfilment of their duty under section 12(1) (arranging for provision of residential accommodation, etc.) or 13A(1) (arranging for provision of residential accommodation with nursing) of the 1968 Act, a local authority—
  - (a) may, in accordance with regulations made by the Scottish Ministers; and
  - (b) must, if and to such extent as the Scottish Ministers so direct, in accordance with such regulations and with that direction, make arrangements for the provision of residential accommodation in an appropriate establishment in England and Wales, or in Northern Ireland, any of the Channel Islands or the Isle of Man.
- (2) Regulations under subsection (1) above may, subject to subsection (4) below, modify any of the provisions of the 1968 Act in their application to such arrangements.
- (3) Arrangements made, before the date on which this section comes into force, by a local authority under section 12(1) of the 1968 Act for the provision of residential accommodation in an appropriate establishment (whether or not the establishment was an appropriate establishment when the arrangements were made) are deemed to have been made by virtue of paragraph (a) of subsection (1) above.
- (4) Subsection (2) of section 13A of the 1968 Act does not apply in relation to arrangements made under subsection (1) above and subsection (3) of that section does not apply in relation to premises where accommodation is provided by virtue of subsection (1) above.
- (5) In subsections (1) and (3) above, “appropriate establishment” means, in relation to—

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*Status: This is the original version (as it was originally enacted).*

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- (a) section 12 of the 1968 Act—
    - (i) as respects England and Wales, an establishment carried on or managed by a person registered in respect of it under Part II of the Care Standards Act 2000 (c. 14); and
    - (ii) as respects Northern Ireland, any of the Channel Islands or the Isle of Man, an establishment of such description as may be specified in regulations under subsection (1) above; and
  - (b) section 13A of the 1968 Act, such establishment as is mentioned in—
    - (i) sub-paragraph (i) of paragraph (a) above, if that establishment is an independent hospital, in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983 (c. 20), or a care home; and
    - (ii) sub-paragraph (ii) of that paragraph, if that establishment conforms to such requirements as may be specified in regulations under subsection (1) above.
- (6) In subsection (5)(b)(i) above—
- “care home” has the meaning given by section 3 of the Care Standards Act 2000; and
  - “independent hospital” has the meaning given by section 2(2) (as read with section 121(1)) of that Act.