



# Community Care and Health (Scotland) Act 2002

2002 asp 5

## PART 1

### COMMUNITY CARE

#### *Carers*

#### **9 Amendment of 1968 Act: assessment of ability to provide care etc.**

- (1) In section 12A of the 1968 Act (duty of local authority to assess needs of adults for community care services), subsections (3A) to (3C) are repealed.
- (2) After that section there is inserted—

#### **“12AA Assessment of ability to provide care**

- (1) A person (“the carer”) who provides, or intends to provide, a substantial amount of care on a regular basis for another person aged eighteen or over (“the person cared for”) may, whether or not the carer is a child, request a local authority to make an assessment (“the carer’s assessment”) of the carer’s ability to provide or to continue to provide such care for that person.
- (2) The local authority to whom the request is made shall—
  - (a) comply with the request where it appears to them that the person cared for is a person for whom they must or may provide, or secure the provision of, community care services; and
  - (b) if they then or subsequently make an assessment under subsection (1) (a) of section 12A of this Act of the needs of the person cared for, have regard to the results of the carer’s assessment—
    - (i) in the assessment of the person cared for; and
    - (ii) in making their decision under subsection (1)(b) of that section as respects that person.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Subsection (1) above does not apply as respects a carer who provides, or will provide, the care in question—
  - (a) by virtue of a contract of employment or other contract; or
  - (b) as a volunteer for a voluntary organisation.
- (4) Section 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33) (duty of local authority to take into account abilities of carer in deciding whether to provide certain services to disabled person) shall not apply in a case where a local authority make an assessment, by virtue of subsection (2)(a) above, in respect of a carer of a disabled person.
- (5) Subsections (4) to (7) of section 12A of this Act apply to a local authority making an assessment by virtue of subsection (2)(a) of this section as they apply to a local authority making an assessment under subsection (1)(a) of that section.
- (6) In this section, “community care services”, “disabled person” and “person” have the same meanings as in section 12A of this Act.

#### **12AB Duty of local authority to provide information to carer**

- (1) Where it appears to a local authority both that—
  - (a) a person aged eighteen or over (“the person cared for”) is a person for whom the authority are under a duty or have a power to provide community care services; and
  - (b) another person (“the carer”) provides, or intends to provide, a substantial amount of care on a regular basis for the person cared for, the local authority shall notify the carer that he may be entitled under section 12AA of this Act to request an assessment of his ability to provide, or continue to provide, care for the person cared for.
- (2) In this section, “community care services” and “person” have the same meanings as in section 12A of this Act.”.