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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 66**

**ADULT SUPPORT  
SOCIAL CARE**

The Community Care and Health (Scotland)  
Act 2002 (Incidental Provision) (Adult  
Support and Protection) Order 2012

*Made* - - - - 28th February 2012  
*Laid before the Scottish  
Parliament* - - - - 1st March 2012  
*Coming into force* - - 31st March 2012

The Scottish Ministers make the following Order in exercise of the powers conferred by section 24 of the Community Care and Health (Scotland) Act 2002(1) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Community Care and Health (Scotland) Act 2002 (Incidental Provision) (Adult Support and Protection) Order 2012 and comes into force on 31st March 2012.

(2) In this Order “the 2007 Act” means the Adult Support and Protection (Scotland) Act 2007(2).

**Application of the 2007 Act – references to “council officer”**

2.—(1) Paragraph (2) applies where any function under Part 1 of the 2007 Act is delegated by a local authority to an NHS body by virtue of arrangements made under section 15(1) of the Community Care and Health (Scotland) Act 2002.

(2) Any relevant reference in that Part to—

- (a) a “council officer” is to be read as including a reference to an employee of the NHS body;
- (b) a “council nominee” is to be read as including a reference to a nominee of the NHS body.

**Application of the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008 – application to an NHS body**

3.—(1) Paragraph (2) applies where any function of a local authority under sections 7 to 11, 14, 16 or 18 of the 2007 Act is delegated by a local authority to an NHS body by virtue of arrangements made under section 15(1) of the Community Care and Health (Scotland) Act 2002.

(2) The restrictions in the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008<sup>(3)</sup> apply to an employee of an NHS body who is exercising those functions with the following modifications—

- (a) a relevant reference to a “council” is to be read as including a reference to the NHS body; and
- (b) a relevant reference to a “council officer” is to be read as including a reference to an employee of the NHS body.

St Andrew’s House,  
Edinburgh  
28th February 2012

*NICOLA STURGEON*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision which is incidental to the Community Care (Joint Working etc.) (Scotland) Amendment Regulations 2012.

Those Regulations amend the Community Care (Joint Working etc.) (Scotland) Regulations 2002 to add various new functions to those functions which may be delegated by both local authorities and NHS bodies to each other. Those amendments include the functions of Part 1 of the Adult Support and Protection (Scotland) Act 2007 (“the 2007 Act”).

This Order makes provision incidental to those changes by clarifying, for the avoidance of doubt, that where the 2007 Act makes reference to a “council officer” and the relevant function has been delegated to an NHS body, the reference to a “council officer” must be read as including reference to an employee of an NHS body.

In addition, article 3 of this Order makes a similar change to the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008. That Order provides that council officers can only be authorised to exercise certain functions if they fulfil particular requirements. Article 3 extends those requirements to employees of any NHS body who carries out those functions.