

2014 No. 32 (C. 2)

SOCIAL CARE

**The Social Care (Self-directed Support) (Scotland) Act 2013
(Commencement, Transitional and Saving Provisions) Order
2014**

<i>Made</i>	- - - -	<i>4th February 2014</i>
<i>Laid before the Scottish Parliament</i>		<i>6th February 2014</i>
<i>Coming into force</i>	- -	<i>17th February 2014</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 28(2) and (3) of the Social Care (Self-directed Support) (Scotland) Act 2013(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Social Care (Self-directed Support) (Scotland) Act 2013 (Commencement, Transitional and Saving Provisions) Order 2014 and comes into force on 17th February 2014.

(2) In this Order—

“the 1968 Act” means the Social Work (Scotland) Act 1968(b); and

“the 2013 Act” means the Social Care (Self-directed Support) (Scotland) Act 2013.

Appointed day

2. The day appointed for the coming into force of section 18 of the 2013 Act (power to charge for services provided under section 3) is 17th February 2014.

3. The day appointed for the coming into force of the remaining provisions of the 2013 Act, in so far as they are not already in force, is 1st April 2014.

Transitional provisions

4.—(1) Paragraph (2) applies where before 1st April 2014 a local authority is providing or securing the provision of community care services to an adult by virtue of section 12A of the 1968 Act.

(a) 2013 asp 1.

(b) 1968 c.49; section 12A was inserted by the National Health Service and Community Care Act 1990 (c.19), section 55 and amended by the Community Care and Health (Scotland) Act 2002 (asp 5) (“the 2002 Act”), section 8; sections 12B and 12C were inserted by the Community Care (Direct Payments) Act 1996 (c.30), section 4; section 12B was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), section 70, the 2002 Act, section 7 and paragraph 1 of schedule 2 and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 63; section 12C was amended by paragraph 1 of schedule 2 to the 2002 Act.

(2) Sections 5 and 6 of the 2013 Act (choice of options: adults and assistance) do not apply until the first occasion on or after 1st April 2014 on which the local authority reviews the decision under section 12A(1)(b) of the 1968 Act that the needs of the adult call for the provision of community care services.

(3) Paragraph (4) applies where before 1st April 2014 a local authority is providing or securing the provision of services under section 22(1) of the Children (Scotland) Act 1995^(a) (promotion of welfare of children in need) to a child or a member of a child's family.

(4) Section 8 of the 2013 Act (choice of options: children and family members) does not apply until the first occasion on or after 1st April 2014 on which the local authority reviews the services provided to the child or the member of the child's family.

Saving provision

5.—(1) Paragraph (2) applies where—

- (a) before 1st April 2014 a local authority has offered to make a payment under section 12B of the 1968 Act (direct payments in respect of community care services) to a person; and
- (b) the person has consented or consent has been duly given on the person's behalf.

(2) Despite article 3, the repeal of sections 12B and 12C of the 1968 Act by section 25 of the 2013 Act (consequential repeals) is of no effect in respect of that payment.

MICHAEL MATHESON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
4th February 2014

(a) 1995 c.36.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints days for provisions of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”) to come into force. Section 18 (power to charge for service provided under section 3) comes into force on 17th February 2014. The remaining provisions of the 2013 Act come into force on 1st April 2014. The Bill for the 2013 Act received Royal Assent on 10th January 2013. Sections 15 (power to make further provision about direct payments), 22 (regulations: general), 24 (interpretation), 26 (ancillary provision), 27 (transitional provision etc.), 28 (commencement) and 29 (short title) came into force on the following day.

Article 4 makes transitional provisions in relation to cases where a local authority is already providing community care services within the meaning of the Social Work (Scotland) Act 1968 (“the 1968 Act”) or services under section 22 of the Children (Scotland) Act 1995 before 1st April 2014. Section 5 and 6 or 8 of the 2013 Act do not apply in such cases until the first time on or after 1st April 2014 that the local authority reviews the person’s needs and the services being provided.

Article 5 makes a saving provision in relation to a direct payment which has already been offered under section 12B of the 1968 Act before 1st April 2014 and accepted. Sections 12B and 12C of the 1968 Act (which make provision in relation to direct payments in respect of community care services) continue to apply in respect of that payment despite their repeal in section 25 of the 2013 Act, which comes into force on 1st April 2014.

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