



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART II

PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES

General

[^{F1}12A Duty of local authority to assess needs.

(1) Subject to the provisions of this section, where it appears to a local authority that any person for whom they are under a duty or have a power to provide, or to secure the provision of, community care services may be in need of any such services, the authority—

(a) shall make an assessment of the needs of that person for those services; and

[^{F2}(b) shall then decide, having regard to the results of that assessment, and taking account—

[^{F3}(i) if an adult carer provides, or intends to provide, care for that person, of the care provided by that carer,

(ia) if a young carer provides, or intends to provide, care for that person, of the care provided by that carer,]

(ii) in so far as it is reasonable and practicable to do so, ^{F4}... of the views of the person whose needs are being assessed ^{F5}... (provided that ^{F6}... there is a wish, or as the case may be a capacity, to express a view),

whether the needs of the person being assessed call for the provision of any such services.]

[In subsection (1)(b)(i) and (ia), the reference to the care provided by a carer means—

^{F7}(1A) (a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,

(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(1B) In—

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- (a) assessing the needs of a person for services under subsection (1)(a),
- (b) deciding under subsection (1)(b) whether those needs call for the provision of any services, and
- (c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.]

(2) Before deciding, under subsection (1)(b) of this section, that the needs of any person call for the provision of nursing care, a local authority shall consult a medical practitioner.

(3) If, while they are carrying out their duty under subsection (1) of this section, it appears to a local authority that there may be a need for the provision to any person to whom that subsection applies—

- (a) of any services under the National Health Service (Scotland) Act 1978 by the Health Board—
 - (i) in whose area he is ordinarily resident; or
 - (ii) in whose area the services to be supplied by the local authority are, or are likely, to be provided; or
- (b) of any services which fall within the functions of a housing authority (within the meaning of section 130 (housing) of the Local Government (Scotland) Act 1973) which is not the local authority carrying out the assessment,

the local authority shall so notify that Health Board or housing authority, and shall request information from them as to what services are likely to be made available to that person by that Health Board or housing authority; and, thereafter, in carrying out their said duty, the local authority shall take into account any information received by them in response to that request.

^{F8}(3A)

^{F9}(3B)

^{F10}(3C)

(4) Where a local authority are making an assessment under this section and it appears to them that the person concerned is a disabled person, they shall—

- (a) proceed to make such a decision as to the services he requires as is mentioned in section 4 of the Disabled Persons (Services Consultation and Representation) Act ^{M1} 1986 without his requesting them to do so under that section; and
- (b) inform him that they will be doing so and of his rights under that Act.

(5) Nothing in this section shall prevent a local authority from providing or arranging for the provision of community care services for any person without carrying out a prior assessment of his needs in accordance with the preceding provisions of this section if, in the opinion of the authority, the condition of that person is such that he requires those services as a matter of urgency.

(6) If, by virtue of subsection (5) of this section, community care services have been provided for any person as a matter of urgency, then, as soon as practicable thereafter, an assessment of his needs shall be made in accordance with the preceding provisions of this section.

(7) This section is without prejudice to section 3 of the said Act of 1986.

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(8) In this section—

[^{F11}“adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2016,]

[^{F12}“community care services” means services, other than services for children, which a local authority is under a duty or has a power to provide, or to secure the provision of, under—

(a) Part 2 of this Act; or

(b) any of the following provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003—

(i) section 25 (care and support services etc.);

(ii) section 26 (services designed to promote well-being and social development);

(iii) section 27 (assistance with travel);]

“disabled person” has the same meaning as in the said Act of 1986; and

“medical practitioner” means a fully registered person within the meaning of section 55 (interpretation) of the Medical Act 1983.

[^{F13} “person” means a natural person.]

[^{F14}“young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2016.]]

Textual Amendments

- F1** S. 12A inserted (1.4.1993) by [National Health Service and Community Care Act 1990 \(c.19, SIF 113:2\), s. 55; S.I. 1992/2975, art. 2\(2\), Sch.](#)
- F2** S. 12A(1)(b) substituted (1.9.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 8; S.S.I. 2002/170, art. 2](#)
- F3** S. 12A(1)(b)(i)(ia) substituted for s. 12A(1)(b)(i) (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(2\)\(a\), 45\(2\); S.S.I. 2017/152, reg. 4](#)
- F4** Word in s. 12A(1)(b)(ii) repealed (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(2\)\(b\)\(i\), 45\(2\); S.S.I. 2017/152, reg. 4](#)
- F5** Words in s. 12A(1)(b)(ii) repealed (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(2\)\(b\)\(ii\), 45\(2\); S.S.I. 2017/152, reg. 4](#)
- F6** Words in s. 12A(1)(b)(ii) repealed (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(2\)\(b\)\(iii\), 45\(2\); S.S.I. 2017/152, reg. 4](#)
- F7** S. 12A(1A)(1B) inserted (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(3\), 45\(2\); S.S.I. 2017/152, reg. 4](#)
- F8** S. 12A(3A)-(3C) repealed (1.9.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 9\(1\); S.S.I. 2002/170, art. 2](#)
- F9** S. 12A(3A)-(3C) repealed (1.9.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 9\(1\); S.S.I. 2002/170, art. 2](#)
- F10** S. 12A(3A)-(3C) repealed (1.9.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 9\(1\); S.S.I. 2002/170, art. 2](#)
- F11** Words in s. 12A(8) inserted (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(4\)\(a\), 45\(2\); S.S.I. 2017/152, reg. 4](#)
- F12** Words in s. 12A(8) substituted (1.4.2015) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Consequential Modifications and Saving\) Order 2015 \(S.S.I. 2015/157\), art. 1\(1\), sch. para. 1\(3\)](#)
- F13** S. 12A(8): definition of “person” inserted (1.4.1996) by [1995 c. 12, ss. 2\(3\), 5\(2\)](#)
- F14** Words in s. 12A(8) inserted (1.4.2018) by [Carers \(Scotland\) Act 2016 \(asp 9\), ss. 30\(4\)\(b\), 45\(2\); S.S.I. 2017/152, reg. 4](#)

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Modifications etc. (not altering text)

- C1** S. 12A(1) power to modify conferred (1.4.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 1\(7\)](#); [S.S.I. 2002/170, art. 2](#)
- C2** S. 12A(1) modified (1.7.2002) by [The Community Care \(Assessment of Needs\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/304\), art. 2\(1\)](#)
- C3** S. 12A(2) power to modify conferred (1.4.2002) by [Community Care and Health \(Scotland\) Act 2002 \(asp 5\), s. 1\(7\)](#); [S.S.I. 2002/170, art. 2](#)
- C4** S. 12A(2) modified (1.7.2002) by [The Community Care \(Assessment of Needs\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/304\), art. 2\(1\)](#)

Marginal Citations

- M1** 1986 c. 33 (113:1).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29(3)(j) repealed by [2005 asp 3 Sch. 5 para. 1](#)
- s. 61B inserted by [2000 asp 4 s. 36](#) (This amendment not applied to legislation.gov.uk. S. 36 repealed (1.4.2002) without ever being in force by 2001 asp 8, Sch. 4; S.S.I. 2002/162, art. 2 (with arts. 3-13))
- s. 62(3)(d) inserted by [2000 asp 4 s. 38\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 38 repealed (1.4.2002) without ever being in force by 2001 asp 8, Sch. 4; S.S.I. 2002/162, art. 2 (with arts. 3-13))
- s. 64A(1)(e) and word inserted by [2000 asp 4 Sch. 5 para. 10](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 10 repealed (1.4.2002) without ever being in force by 2001 asp 8, Sch. 4; S.S.I. 2002/162, art. 2 (with arts. 3-13))
- s. 87A inserted by [2007 asp 10 s. 66](#)