

CARERS (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 7 – General Provision

Guidance and directions

Section 37 - Guidance and directions to local authorities

117. This section amends section 5 of the 1968 Act so that the Scottish Ministers may issue guidance or directions to local authorities about the exercise of functions under this Act. Guidance and directions about the exercise of functions under the Act will be issued in accordance with the procedures as laid out in section 5 of the 1968 Act.
118. Subsection (3) adds the Act to the list of enactments in section 5(1B). This has a number of consequences. First, the Scottish Ministers may issue directions to local authorities under section 5(1A) of the 1968 Act about the manner in which they are to exercise their functions under the Act. Local authorities are required to comply with such directions. Adding the Act to this list also brings functions under the Act within the scope of social work complaints procedures. The power of the Scottish Ministers to cause inquiries to be held under section 6A of the 1968 Act and the power of a local authority to cause inquiries to be held under section 6B of the 1968 Act are also extended so that they cover inquiries into the functions under the Act.

Section 38 – Guidance and directions to health boards and directing authorities

119. This section provides that each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act. It also provides that the Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act. Each health board and directing authority must comply with any direction issued to it under this section.