



# Carers (Scotland) Act 2016

## 2016 asp 9

### PART 3

#### PROVISION OF SUPPORT TO CARERS

#### CHAPTER 1

#### ELIGIBILITY CRITERIA

##### *Local eligibility criteria*

#### **21 Duty to set local eligibility criteria**

- (1) Each local authority must set the local eligibility criteria which it is to apply in its area.
- (2) Local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers to meet carers' identified needs.
- (3) Before setting its local eligibility criteria, a local authority must—
  - (a) consult such persons and bodies representative of carers as the local authority considers appropriate, and
  - (b) take such steps as it considers appropriate to involve carers.
- (4) A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify.

#### **Commencement Information**

**II** S. 21 in force at 1.10.2017 by [S.S.I. 2017/152](#), reg. 3, [sch.](#)

#### **22 Publication and review of criteria**

- (1) Each local authority must publish its local eligibility criteria.

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*Changes to legislation: There are currently no known outstanding effects for the Carers (Scotland) Act 2016, PART 3. (See end of Document for details)*

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- (2) The first local eligibility criteria must be published before the end of the period of 6 months beginning with the day prescribed by the Scottish Ministers by regulations.
- (3) Each local authority must carry out a first review of its local eligibility criteria before the end of the period, prescribed by the Scottish Ministers by regulations, beginning with the day on which the criteria are published.
- (4) Each local authority—
  - (a) must thereafter review its local eligibility criteria before the end of the relevant period,
  - (b) may from time to time carry out such a review.
- (5) The relevant period is the period of 3 years beginning with whichever is the later of the day on which the local authority last published—
  - (a) its local eligibility criteria, or
  - (b) a statement under subsection (6)(b).
- (6) Following a review under subsection (3) or (4), the local authority—
  - (a) may set revised local eligibility criteria,
  - (b) must, where it does not set revised criteria, publish a statement to that effect.
- (7) Subsection (1) and section 21(4) apply to revised local eligibility criteria set under this section as they apply to criteria set under section 21.

**Modifications etc. (not altering text)**

- C1** S. 22(2): 1.10.2017 prescribed by S.S.I. 2017/207, reg. 2  
**C2** S. 22(3): period of 3 years prescribed by S.S.I. 2017/207, reg. 3

**Commencement Information**

- I2** S. 22(1) in force at 1.10.2017 by [S.S.I. 2017/152, reg. 3, sch.](#)  
**I3** S. 22(2)(3) in force at 31.5.2017 for specified purposes by [S.S.I. 2017/152, reg. 2, sch.](#)  
**I4** S. 22(2) in force at 1.10.2017 in so far as not already in force by [S.S.I. 2017/152, reg. 3, sch.](#)  
**I5** S. 22(3) in force at 1.4.2018 in so far as not already in force by [S.S.I. 2017/152, reg. 4](#)  
**I6** S. 22(4)-(7) in force at 1.4.2018 by [S.S.I. 2017/152, reg. 4](#)

*National eligibility criteria*

**23 National eligibility criteria**

- (1) The Scottish Ministers may make regulations setting out national eligibility criteria.
- (2) National eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet carers' identified needs.
- (3) Where regulations under this section are made and have not been revoked—
  - (a) the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 22,
  - (b) sections 21 and 22 do not apply, and
  - (c) references in sections 9(1)(i) and (j), 15(1)(j) and (k) and 24(3) to local eligibility criteria are to be read as references to national eligibility criteria.

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(4) Regulations under this section may modify any enactment (including this Act).

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**Commencement Information**

**I7** S. 23 in force at 1.4.2018 by S.S.I. 2017/152, reg. 4

## CHAPTER 2

### DUTY TO PROVIDE SUPPORT TO CARERS

#### 24 Duty to provide support

- (1) This section applies where a carer has identified needs which cannot be met by services or assistance—
  - (a) provided to the cared-for person (other than care provided by virtue of section 25 in order to provide the carer with a break from caring), or
  - (b) provided generally to persons in the area of the responsible local authority or, where the carer does not reside in the area of that authority, in the area where the carer resides.
- (2) The responsible local authority must determine whether any of those needs are eligible needs.
- (3) A carer's eligible needs are the carer's identified needs which meet the local eligibility criteria.
- (4) The responsible local authority—
  - (a) must provide support to the carer to meet the carer's eligible needs, and
  - (b) may provide support to the carer to meet the carer's other identified needs.
- (5) Subsection (4)(a) applies—
  - (a) in the case of an adult carer, whether or not the carer's eligible needs may also, following assessment under section 12A(1) of the 1968 Act, call for the provision of community care services to the carer under that section,
  - (b) in the case of a young carer, whether or not the carer's eligible needs may also be met by the provision of services to the carer under section 22(1) of the 1995 Act.
- (6) In this section the “responsible local authority”, in relation to a carer, means the local authority for the area in which the cared-for person resides.

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**Commencement Information**

**I8** S. 24 in force at 1.4.2018 by S.S.I. 2017/152, reg. 4

#### 25 Provision of support to carers: breaks from caring

- (1) A local authority, in determining which support to provide to a carer under section 24(4), must consider in particular whether the support should take the form of or include a break from caring.

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- (2) The Scottish Ministers may by regulations make provision—
- (a) about the form of support that may be provided as a break from caring,
  - (b) where the regulations provide for a break from caring to take the form of the provision of care for the cared-for person, about the role of the cared-for person in relation to how that care is provided.
- (3) Support provided by virtue of subsection (1) may be provided on a regular basis or on a temporary basis and may be provided for varying periods of time.
- (4) In providing support by virtue of subsection (1), a local authority must have regard to the desirability of breaks from caring being provided on a planned basis.
- (5) Section 19(2) of the Social Care (Self-directed Support) (Scotland) Act 2013 applies in relation to support provided as a break from caring as it applies in relation to any other support.

**Commencement Information**

- I9** S. 25(1)(2)(b)(3)-(5) in force at 1.4.2018 by [S.S.I. 2017/152, reg. 4](#)
- I10** S. 25(2)(a) in force at 31.5.2017 for specified purposes by [S.S.I. 2017/152, reg. 2, sch.](#)
- I11** S. 25(2)(a) in force at 1.4.2018 in so far as not already in force by [S.S.I. 2017/152, reg. 4](#)

**26 Charging for support provided to carers**

In section 87 of the 1968 Act (power of local authority to charge for services and accommodation provided under certain enactments)—

- (a) in subsection (1), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “ section 24(4) of the Carers (Scotland) Act 2016 ”,
- (b) in subsection (1A)(a), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “ section 24(4) of the Carers (Scotland) Act 2016 ”.

**Commencement Information**

- I12** [S. 26](#) in force at 31.5.2017 by [S.S.I. 2017/152, reg. 2, sch.](#) (with [reg. 5](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Carers (Scotland) Act 2016, PART 3.