

Status: This version of this provision is prospective.

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Disabled Persons (Services, Consultation and Representation) Act 1986

1986 CHAPTER 33

PART I **E+W+S**

REPRESENTATION AND ASSESSMENT

PROSPECTIVE

2 **Rights of authorised representatives of disabled persons.** **E+W+S**

- (1) A local authority shall permit the authorised representative of a disabled person, if so requested by the disabled person—
 - (a) to act as the representative of the disabled person in connection with the provision by the authority of any services for him in the exercise of any of their functions under the welfare enactments, or
 - (b) to accompany the disabled person (otherwise than as his representative) to any meeting or interview held by or on behalf of the authority in connection with the provision by them of any such services.
- (2) For the purpose of assisting the authorised representative of a disabled person to do any of the things mentioned in subsection (1)(a) and (b) a local authority shall, if so requested by the disabled person—
 - (a) supply to the authorised representative any information, and
 - (b) make available for his inspection any documents,that the disabled person would be entitled to require the authority to supply to him or (as the case may be) to make available for his inspection.
- (3) In relation to a disabled person whose authorised representative has been appointed by virtue of subsection (3) of section 1, subsections (1) and (2) above shall each have effect as follows—

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- (a) if the appointment was made by virtue of subsection (3)(a) of that section, [F1for the words “if so requested by the disabled person” there shall be substituted “if so requested by any person mentioned in section 1(3)(a)(i) or (ii)”][F2for the words “by the disabled person” there shall be substituted the words “by any person appointed by virtue of regulations made under section 1(3)(a)(i) or (ii) of this Act”]; and
- (b) if the appointment was made by virtue of subsection (3)(b) or (c) of that section, the words “if so requested by the disabled person” shall be omitted.
- (4) A local authority shall not be required by virtue of subsection (1) or (2)—
- (a) to permit an authorised representative to be present at any meeting or interview or part of a meeting or interview, or
- (b) to supply any information to an authorised representative or to make any documents available for the inspection of an authorised representative,
- if the authority are satisfied that to do so would be likely to be harmful to the interests of the disabled person by whom or on whose behalf the representative has been appointed; and in determining that matter the authority shall have regard to any wishes expressed by the disabled person.
- (5) Where a disabled person is residing—
- (a) in hospital accommodation [F3provided pursuant to arrangements made by [F4NHS England] or [F5an integrated care board] under the National Health Service Act 2006 or] provided by [F6the Welsh Ministers under section 3(1) (a) of the National Health Service (Wales) Act 2006, by [F7the Secretary of State under section 2A or 2B] of the National Health Service Act 2006, F8... by a National Health Service Trust established under that Act or the National Health Service (Wales) Act 2006][F9or by an NHS foundation trust] or, in Scotland, in hospital accommodation (other than accommodation at a State hospital) provided by the Secretary of State under section 36(1)(a) of the 1978 Act [F10or by a National Health Service trust established under that Act], or
- [F11(aa) in hospital accommodation in respect of the provision of which direct payments are made under section 12A(1) of the National Health Service Act 2006, or]
- (b) in accommodation provided by a local authority under [F12Part 1 of the Care Act 2014 or Part 4 of the Social Services and Well-being (Wales) Act 2014] or Schedule 8 to the 1977 Act or, in Scotland, under Part IV of the 1968 Act or [F13section 25 of the 2003 Act], or
- [F14(bb) in accommodation provided by or on behalf of a local authority under Part III of the Children Act 1989 [F15, or under Part 6 of the Social Services and Well-being (Wales) Act 2014], or]
- [F16(bc) in Scotland, in accommodation provided by or on behalf of a local authority under Chapter 1 of Part II of the Children (Scotland) Act 1995, or]
- (c) in accommodation provided by a voluntary organisation in accordance with arrangements made by a local authority under [F17Part 1 of the Care Act 2014 or, in Wales, in compliance with a local authority’s duty to meet the needs of the disabled person pursuant to Part 4 of the Social Services and Well-being (Wales) Act 2014] or, in Scotland, provided by a voluntary organisation or other persons in accordance with arrangements made by a local authority under section 59(2)(c) of the 1968 Act, or
- [F18(cc) in accommodation provided by a voluntary organisation in accordance with arrangements made by a local authority under section 17 of the Children Act

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- 1989 [^{F19}, or under Part 4 of the Social Services and Well-being (Wales) Act 2014], or]
- (d) [^{F20}in England,] in [^{F21}a care home within the meaning of the ^{M1}Care Standards Act 2000] or, in Scotland, in [^{F22}provided by a care home service within the meaning of the Regulation of Care (Scotland) Act 2001 (asp 8)], or
- [^{F23}(da) in Wales, in premises at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided wholly or mainly to persons aged 18 or over, or]
- [^{F24}(dd) in accommodation provided by any educational establishment.]
- (e) at any place specified by a person having the guardianship of the disabled person under Part II of the 1983 Act or [^{F25}Parts 5, 6 and 7 of the 2003 Act], the disabled person’s authorised representative may at any reasonable time visit him there and interview him in private.
- (6) In paragraph (c) of subsection (5) “voluntary organisation” in relation to England and Wales includes a housing association within the meaning of the ^{M2}Housing Associations Act 1985.
- (7) The Secretary of State may, after consulting such bodies representing health authorities or local authorities as appear to him to be appropriate and such other bodies as appear to him to be concerned, provide by order for any of the preceding provisions of this section to have effect (with such modifications as may be prescribed by the order) in relation to—
- (a) the provision of services [^{F26}, or the arrangement for the provision of services,] by health authorities in the exercise of such of their functions under [^{F27}the 2006 Act or the National Health Service (Wales) Act 2006] or the 1978 Act as may be prescribed by the order, or
- (b) the provision of services by local authorities in the exercise of such of their functions as may be so prescribed.
- (8) An order under subsection (7) may provide for any provision of regulations made under section 1 to have effect for the purposes of the order with such modifications as may be prescribed by the order, and in that event the reference in subsection (1) of that section to regulations made under that section shall be read as a reference to any such regulations as they have effect in accordance with the order.
- (9) In subsection (7)—
- “health authority”—
- (a) [^{F28}in relation to England, means [^{F4}NHS England][^{F29}, an integrated care board or]^{F30}... a Special Health Authority ^{F31}...,
- (aa) in relation to Wales, means a [^{F32}Local Health Board] or a Special Health Authority, and]
- (b) in relation to Scotland, means a Health Board; and
- “local authority”—
- (a) in relation to England and Wales, has the meaning given by section 270(1) of the ^{M3}Local Government Act 1972; and
- (b) in relation to Scotland, means a [^{F33}council constituted under the Local Government (etc.) Scotland Act 1994].

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Textual Amendments

- F1** Words in s. 2(3)(a) substituted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 59(2)** (with s. 108(6), Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** Words in s. 2(3)(a) substituted (S.) (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 39(3)(a)** (with s. 103(1)); S.I. 1996/2203, **art. 3(3), Sch.**
- F3** Words in s. 2(5)(a) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 39(a)(i)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F4** Words in s. 2 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, **reg. 2(a), Sch.** (with regs. 13, 29, 30)
- F5** Words in s. 2(5)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 24(2)**; S.I. 2022/734, **reg. 2(a), Sch.** (with regs. 13, 29, 30)
- F6** Words in s. 2(5)(a) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 88(a)** (with Sch. 3 Pt. 1)
- F7** Words in s. 2(5)(a) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 39(a)(ii)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F8** Words in s. 2(5)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 39(a)(iii)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F9** Words in s. 2(5)(a) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 4 para. 65**; S.I. 2004/759, **art. 2**
- F10** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 30(1)(a)**
- F11** S. 2(5)(aa) inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), **Sch. 1 para. 4**; S.I. 2010/30, **art. 2(b)**
- F12** Words in s. 2(5)(b) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **47(a)**
- F13** Words in s. 2(5)(b) substituted (S.) (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), s. 333(2), **sch. 4 para. 4(2)**; S.S.I. 2005/161, **art. 3** (as substituted by S.S.I. 2005/375, **art. 2** and as amended by S.S.I. 2005/459, **art. 2**)
- F14** S. 2(5)(bb) inserted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 59(3)** (with s. 108(6), Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F15** Words in s. 2(5)(bb) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **47(b)**
- F16** S. 2(5)(bc) inserted (S.) (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 39(3)(b)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**
- F17** Words in s. 2(5)(c) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **47(c)**
- F18** S. 2(5)(cc) inserted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 59(4)** (with s. 108(6), Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F19** Words in s. 2(5)(cc) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **47(d)**
- F20** Words in s. 2(5)(d) inserted (E.W.) (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), regs. 2(1), **7(2)**
- F21** Words in s. 2(5)(d) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 11**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in art. 4 and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and subject to transitional provisions in Schs. 1-3)
- F22** Words in s. 2(5)(d) substituted (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 13**; S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)
- F23** S. 2(5)(da) inserted (E.W.) (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), regs. 2(1), **7(3)**

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- F24** S. 2(5)(dd) inserted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4), **Sch. 12 para. 44** (with s. 108(6), Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F25** Words in s. 2(5)(e) substituted (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **sch. 1 para. 17(3)**
- F26** Words in s. 2(7)(a) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 39(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F27** Words in s. 2(7) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 88(b)** (with Sch. 3 Pt. 1)
- F28** S. 2(9): in definition of "health authority" paras. (a)(aa) substituted for para. (a) (1.10.2002) by S.I. 2002/2469, reg. 4, **Sch. 1 para. 12**
- F29** Words in s. 2(9) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 24(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F30** Words in s. 2(9) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 39(c)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F31** Words in s. 2(9) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 39(c)(iii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F32** Words in s. 2(9) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 1(1), **Sch. para. 15(2)(a)**
- F33** Words in s. 2(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 148(2)**; S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

- C1** S. 2: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 2**

Marginal Citations

- M1** 2000 c. 14.
M2 1985 c. 69.
M3 1972 c. 70.

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Changes and effects yet to be applied to :

- s. 2(5)(a) words omitted by [2012 c. 7 Sch. 14 para. 51](#)