



# Carers (Recognition and Services) Act 1995

## 1995 CHAPTER 12

An Act to provide for the assessment of the ability of carers to provide care; and for connected purposes. [28th June 1995]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Assessment of ability of carers to provide care: England and Wales**

(1) Subject to subsection (3) below, in any case where—

- (a) a local authority carry out an assessment under section 47(1)(a) of the National Health Service and Community Care Act 1990 of the needs of a person (“the relevant person”) for community care services, and
- (b) an individual (“the carer”) provides or intends to provide a substantial amount of care on a regular basis for the relevant person,

the carer may request the local authority, before they make their decision as to whether the needs of the relevant person call for the provision of any services, to carry out an assessment of his ability to provide and to continue to provide care for the relevant person; and if he makes such a request, the local authority shall carry out such an assessment and shall take into account the results of that assessment in making that decision.

(2) Subject to subsection (3) below, in any case where—

- (a) a local authority assess the needs of a disabled child for the purposes of Part III of the Children Act 1989 or section 2 of the Chronically Sick and Disabled Persons Act 1970, and
- (b) an individual (“the carer”) provides or intends to provide a substantial amount of care on a regular basis for the disabled child,

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*Status: This is the original version (as it was originally enacted).*

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the carer may request the local authority, before they make their decision as to whether the needs of the disabled child call for the provision of any services, to carry out an assessment of his ability to provide and to continue to provide care for the disabled child; and if he makes such a request, the local authority shall carry out such an assessment and shall take into account the results of that assessment in making that decision.

- (3) No request may be made under subsection (1) or (2) above by an individual who provides or will provide the care in question—
- (a) by virtue of a contract of employment or other contract with any person; or
  - (b) as a volunteer for a voluntary organisation.
- (4) The Secretary of State may give directions as to the manner in which an assessment under subsection (1) or (2) above is to be carried out or the form it is to take but, subject to any such directions, it shall be carried out in such manner and take such form as the local authority consider appropriate.
- (5) Section 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (duty of local authority to take into account ability of carers) shall not apply in any case where—
- (a) an assessment is made under subsection (1) above in respect of an individual who provides the care in question for a disabled person; or
  - (b) an assessment is made under subsection (2) above.
- (6) In this section—
- “community care services” has the meaning given by section 46(3) of the National Health Service and Community Care Act 1990;
  - “child” means a person under the age of eighteen;
  - “disabled child” means a child who is disabled within the meaning of Part III of the Children Act 1989;
  - “disabled person” means a person to whom section 29 of the National Assistance Act 1948 applies;
  - “local authority” has the meaning given by section 46(3) of the National Health Service and Community Care Act 1990; and
  - “voluntary organisation” has the same meaning as in the National Assistance Act 1948.
- (7) In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committees) at the end there shall be inserted—

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“Carers (Recognition and Services) Act  
1995 (c. 12)

Section 1	Assessment of ability of carers to provide care.”.
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## **2 Assessment of ability of carers to provide care: Scotland**

- (1) Section 12A of the Social Work (Scotland) Act 1968 (duty of local authority to assess needs for certain services) shall be amended as follows.
- (2) After subsection (3) there shall be inserted—

- “(3A) Subject to subsection (3B) below, in any case where—
- (a) a local authority make an assessment of the needs of any person (“the relevant person”) under subsection (1)(a) above, and
  - (b) a person (“the carer”) provides or intends to provide a substantial amount of care on a regular basis for the relevant person,
- the carer may request the local authority, before they make their decision under subsection (1)(b) above, to make an assessment of his ability to provide and to continue to provide care for the relevant person; and if he makes such a request, the local authority shall make such an assessment and shall have regard to the results of that assessment in making that decision.
- (3B) No request may be made under subsection (3A) above by a person who provides or will provide the care in question—
- (a) by virtue of a contract of employment or other contract; or
  - (b) as a volunteer for a voluntary organisation.
- (3C) Section 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (duty of local authority to take into account ability of carers) shall not apply in any case where an assessment is made under subsection (3A) above in respect of a person who provides the care in question for a disabled person.”.

- (3) In subsection (8), after the definition of “medical practitioner” there shall be inserted—
- “ “person” means a natural person.”.

### **3 Isles of Scilly**

- (1) The Secretary of State may by order provide that section 1 shall apply, with such modifications (if any) as may be specified in the order, as if the Council of the Isles of Scilly were a local authority within the meaning of that section.
- (2) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **4 Financial provision**

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

### **5 Short title, commencement and extent**

- (1) This Act may be cited as the Carers (Recognition and Services) Act 1995.
- (2) This Act shall come into force on 1st April 1996.
- (3) Sections 1 and 3 do not extend to Scotland.
- (4) Section 2 does not extend to England and Wales.
- (5) This Act does not extend to Northern Ireland.