

CARERS (SCOTLAND) ACT 2016

SUMMARY OF PROVISIONS¹

PART OF ACT	SECTION(S)	SUMMARY	KEY POINTS
PART 1 KEY DEFINITIONS	1,2,3	Sets out meaning of: <ul style="list-style-type: none"> - carer - young carer - adult carer 	<p>The meaning of “carer” includes an individual “who intends to provide care” as well as an individual who provides care².</p> <p>Individuals are <u>not</u> carers if the cared-for person under the age of 18 only needs care because of their age. This now brings within scope of the meaning of carer those individuals caring for children with conditions such as autism and Attention Deficit Hyperactivity Disorder (ADHD). Therefore, with regard to cared-for people who are children, the terminology, “disabled child” is not used.</p> <p>Young carers are aged under 18 or age 18 or over if they are still at school.</p>
	4 & 5	Sets out meaning of: <ul style="list-style-type: none"> - personal outcomes - identified personal outcomes 	<p>Personal outcomes will, if achieved, enable carers to provide or continue to provide care for the cared-for person. Amongst other things, this aims to stop carers who already provide care</p>

¹ Excludes Parts 7 and 8 of the Act dealing with General Provision and Final Provisions respectively. Also excludes Schedule, Consequential modifications.

² The meaning of “carer” excludes paid care workers (individuals providing care as part of a contract of employment) and volunteers.

		- identified needs	from reaching breaking point. It is about sustaining and supporting the carer in the caring role. In order to achieve this, the carer will have a life alongside caring.
PART 2 ACSPs & YCSs CHAPTER 1 ACSPs	6	Duty to prepare adult carer support plan	<p>The section provides for the offering of an ACSP by the responsible local authority and the requesting of an ACSP by an individual carer. This means there are now two ways in which an individual can access an ACSP.</p> <p>An ACSP must be prepared, even if the carer is not deemed eligible for support (according to local eligibility criteria). In these circumstances, the ACSP should include signposting and access to any relevant supports, for example, universal or community-based services.</p> <p>The responsible local authority must exercise its functions under this section in a manner which encourages equal opportunities.</p>
PART 2	7	Adult carers of terminally ill cared-for persons	<p>Scottish Ministers must prescribe timescales in regulations for the preparation of the ACSP in relation to adult carers of terminally ill cared-for persons.</p> <p>This regulation-making power is unlikely to be</p>

			introduced now but there will be guidance.
PART 2	8	Adult carers: identification of outcomes and needs for support	<p>This section contains a regulation-making power to define personal outcomes which is not being used.</p> <p>In identifying an adult carer's personal outcomes and needs for support, the responsible local authority must take into account any impact that having one or more protected characteristics has on the adult carer.</p>
PART 2	9	Content of adult carer support plan	<p>This sets out, amongst other things, the range of information that the ACSP must contain.</p> <p>It includes information on the impact of caring on wellbeing and day-to-day life, and matters including, for example:</p> <ul style="list-style-type: none"> • whether the adult carer has arrangements in place for the provision of care in an emergency; • whether the adult carer has arrangements in place for the future care of the cared-for person; and • whether the carer is, or wishes to be, in employment or education. <p>This section contains a regulation-making power to further prescribe the content of an ACSP. This power is not being used.</p>

PART 2	10	Review of adult carer support plans	<p>This section contains a regulation-making power about the review of adult carer support plans. There may be regulations under section 10(a) setting out the circumstances in which the ACSP is to be reviewed but there are unlikely to be regulations under section 10 (b), (c) and (d).</p>
PART 2	11	Adult carer support plan: provision of information to carer etc	<p>This section places a duty on the responsible local authority to provide the adult carer with the information contained in the ACSP. The information may also be provided to any other person the adult carer requests.</p> <p>The section does not apply if the responsible local authority does not consider the sharing of the information appropriate.</p>
PART 2 CHAPTER 2 YCSs	12	Duty to prepare young carer statement	<p>The section provides for the offering of a YCS by the responsible authority and the requesting by an individual young carer of a YCS. There are now therefore two ways in which a child or young person can access a YCS.</p> <p>A YCS must be prepared, even if the young carer is not deemed eligible for support (according to local eligibility criteria). In these circumstances, the YCS should include signposting and access to any relevant supports, for example, universal or community-based services.</p>

			The responsible authority must exercise its functions under this section in a manner which encourages equal opportunities.
	13	Young carers of terminally ill cared-for persons	<p>Scottish Ministers must prescribe timescales in regulations for the preparation of the YCS in relation to young carers of terminally ill cared-for persons.</p> <p>The regulation-making power is unlikely to be introduced now but there will be guidance.</p>
	14	Young carers: identification of outcomes and needs for support	<p>This section contains a regulation-making power to define personal outcomes which is not being used.</p> <p>In identifying a young carer's personal outcomes and needs for support, the responsible local authority must take into account any impact that having one or more protected characteristics has on the young carer.</p>
	15	Content of young carer statement	<p>Similar to that for ACSP (section 9). In addition, the YCS must contain information about the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is <u>appropriate</u>.</p> <p>Therefore, for example, the responsible authority</p>

			<p>might consider that personal, intimate care provided by a young carer is not appropriate. Or they might consider that the young carer is caring for too many hours each week. Or they might consider that the young carer, as a very young child, should not be carrying out any caring.</p> <p>This section also contains a regulation-making power to further prescribe the content of an YCS. This power is not being used.</p>
	16	Review of young carer statements	<p>This section contains a regulation-making power about the review of young carer statements. There may be regulations under section 16(a) setting out the circumstances in which the YCS is to be reviewed but there are unlikely to be regulations under section 16 (b), (c) and (d).</p>
	17	Young carer statement: provision of information to carer etc	<p>Similar to that for ACSP (section 11).</p> <p>Information contained in the YCS can be provided to the child's named person. However there is no duty in the Carers (Scotland) Act 2016 to do so.</p> <p>Instead, provision for the sharing of information by the responsible authority for a YCS with the named person service provider exists in section</p>

			26 of the Children and Young People (Scotland) Act 2014. ³ This section sets out the framework under which information requires to be shared between service providers and the named person service provider. The views of the young carer would be ascertained and had regard to if reasonably practicable and in having regard to the views of the young carer, an important consideration would be the young carer's age and maturity.
	18	Continuation of young carer statement	If a young carer reaches the age of 18, the YCS for that carer continues to have effect until an ACSP is provided.
	19 & 20	Responsible authority: general Responsible authority: special cases	Section 19 sets out who the responsible authority is in relation to a young carer. Where the young carer is a pre-school child, the responsible authority will be the health board for the area in which the child resides. In any other case, the responsible authority will be the local authority for

³ Section 26 of the Children and Young People (Scotland) Act 2014 summary - The information that ought to be shared under section 26 is intended only to be that which is considered likely to be relevant to the exercise of the named person's functions (set out in section 19(5) of the CYP Act). It is to be shared only for that purpose. Section 26 of the CYP Act also sets out that in considering whether information ought to be provided, the information holder is so far as reasonably practicable to ascertain and have regard to the views of the child or young person and in having regard to the views of the child/young person, an information holder is to take account of the child's age and maturity.

			<p>the area in which the young carer resides.</p> <p>Section 20 sets out responsible authority special cases. These include the directing authority⁴ of schools being the responsible authority where the young carer is a pupil at a grant-aided school or an independent school.</p>
<p>PART 3 PROVISION OF SUPPORT TO CARERS</p> <p>CHAPTER 1 ELIGIBILITY CRITERIA</p>	21,22 & 23	<p>Duty to set local eligibility criteria; Publication and review of criteria; National eligibility criteria</p>	<p>Each local authority is to set local eligibility criteria. Before setting eligibility criteria, each local authority must consult persons and bodies representative of carers and it must take steps it considers appropriate to involve carers. A local authority must have regard to such matters as the Scottish Ministers may by regulations specify when setting its local eligibility criteria. However, this regulation-making power is not being used at present and the matters will be set out in guidance.</p> <p>Each local authority is required to publish and review its eligibility criteria. There is a regulation-making power which will be used regarding review of the local eligibility criteria.</p> <p>This section contains a further power for Scottish</p>

⁴ "Directing authority" has the same meaning as in section 45 of the CYP Act, that is the managers of a grant-aided school or the proprietor of an independent school.

			Ministers to make regulations setting out national eligibility criteria. This is a reserve power to be used at a later date if necessary.
PART 3 CHAPTER 2 DUTY TO PROVIDE SUPPORT TO CARERS	24	Duty to provide support	<p>This section provides for a duty on the responsible local authority to support carers who have eligible needs. There is also a power to support carers to meet needs which do not meet the eligibility criteria.</p> <p>A carer's needs for support must be assessed within the framework of the ACSP/YCS scheme. The Act defines eligible needs for support as those which cannot be met through the provision of services available generally and/or by information and advice services, and/or by services provided to the cared-for person (with the exception of replacement care). The local authority must also deem eligible needs according to local eligibility criteria.</p> <p>Where a carer is deemed eligible for support, this may take the form of a personal budget and offer of self-directed support options.</p>
	25	Provision of support to carers: breaks from caring	A local authority is required to consider whether any support provided should include or take the form of a break from caring.

			<p>Each local authority must have regard to the desirability of breaks from caring being provided on a planned basis.</p> <p>The 'market sufficiency' duty in the Social Care (Self-directed Support) Scotland Act 2013 applies in relation to support provided as a break from caring. This means that a local authority must, in so far as is reasonably practicable, promote short break providers and a variety of short breaks.</p>
	26	Charging for support provided to carers	Regulations are already in place to waive charges for support to carers. These will be amended to reflect the Carers Act provisions but will not change policy. Guidance will be issued.
PART 4 CARER INVOLVEMENT	27, 28, 29 & 30	<p>Duty to involve carers in carer services;</p> <p>Carer involvement in hospital discharge of cared-for persons;</p> <p>Involvement of, assistance to and collaboration with carers;</p> <p>Care assessments: duty to take account of care and views of carers</p>	<p>A number of different provisions about carer involvement and taking into account the views of carers. The duty to involve carers in carer services complements what exists in the CYP Act and the Public Bodies (Joint Working) (Scotland) Act 2014.</p> <p>Health boards must involve carers in the planning of discharge from hospital of cared-for persons.</p> <p>Guidance will be issued.</p>

PART 5 LOCAL CARER STRATEGIES	31, 32, 33	Duty to prepare local carer strategy; Preparation of local carer strategy; Publication and review of local carer strategy	<p>Each local authority and relevant health board must jointly prepare a local carer strategy. It must contain, amongst other things, plans for identifying relevant carers; and plans for helping relevant carers put arrangements in place for the provision of care in emergencies.</p> <p>There are consultation requirements.</p> <p>There are factors which must be taken into account in preparing the local carer strategy. These include the national health and wellbeing outcomes.</p> <p>The local carer strategy must be published.</p>
PART 6 INFORMATION AND ADVICE FOR CARERS	34	Information and advice service for carers	<p>Each local authority must establish and maintain, or ensure the establishment and maintenance of an information and advice service in its area. The service must provide information and advice for carers in particular about:</p> <ul style="list-style-type: none"> • carers' rights, including those set out in the carers' charter (when it is published), • income maximisation, • education and training,

			<ul style="list-style-type: none"> • advocacy, • health and wellbeing (including counselling), • bereavement support services following the death of a cared-for person, • emergency and future care planning. <p>Each local authority must identify information and advice that is likely to be of particular relevance to persons who have one or more protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p>
	35	Short breaks services statements	<p>Each local authority is required to prepare and publish a short breaks services statement. This document will describe the short break services available in Scotland⁵ for carers and cared-for persons. Local authorities will be encouraged to identify gaps and plan and commission new short break provision to meet the needs of carers in their areas.</p> <p>Scottish Ministers are expected to use the regulation-making power to make further provision about the preparation, publication and review of short breaks services statements.</p>

⁵ To include any short breaks services located in one place but available to carers or cared-for people or both on a Scotland-wide basis.

	36	Carers' charter	Section 36 requires, amongst other things, that Scottish Ministers must prepare a carers' charter and may from time to time revise the charter.
--	----	-----------------	---

NB: There will be consultation in June on those regulations the Scottish Government proposes to introduce for April 2018.