



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 20 June 2017  
SP Paper 178  
10th Report (Session 5)

## Health and Sport Committee Comataidh Slàinte is Spòrs

# Subordinate Legislation



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish  
Parliament website at:  
[http://www.parliament.scot/abouttheparliament/  
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact  
Public Information on:  
Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

# Contents

**Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft] \_\_\_\_\_ 1**

# Health and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Sport.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/health-committee.aspx>



[healthandsport@parliament.scot](mailto:healthandsport@parliament.scot)



0131 348 5524

# Committee Membership



**Convener**  
**Neil Findlay**  
Scottish Labour



**Deputy Convener**  
**Clare Haughey**  
Scottish National Party



**Tom Arthur**  
Scottish National Party



**Miles Briggs**  
Scottish Conservative  
and Unionist Party



**Donald Cameron**  
Scottish Conservative  
and Unionist Party



**Alex Cole-Hamilton**  
Scottish Liberal  
Democrats



**Jenny Gilruth**  
Scottish National Party



**Alison Johnstone**  
Scottish Green Party



**Ivan McKee**  
Scottish National Party



**Colin Smyth**  
Scottish Labour



**Maree Todd**  
Scottish National Party

# Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft]

The Committee reports to the Parliament as follows—

1. The Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft] was laid before the Parliament on 2 June 2017 and referred to the Health and Sport Committee.
2. The Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft] is subject to affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to Parliament whether the Regulations should be approved.
3. These Regulations are made under the Carers (Scotland) Act 2016 (“the Act”) and come into force on 1st October 2017.
4. Section 1(1) of the Act defines a “carer” as an individual who provides or intends to provide care for another individual (a “cared-for person”). This definition does not, however, apply to the extent that the care is, or would be, provided by virtue of the person's age (i.e. to ensure that parents are not regarded as carers for the purposes of the Act except where they are caring for that child for a reason other than the child's age) and does not apply if the care provided is, or would be, provided under or by virtue of a contract or as voluntary work. Under subsection (3), Scottish Ministers can specify that the reference to “contract” in subsection (2)(b)(i) does, or does not, include certain kinds of agreement.
5. Regulation 2 provides that an agreement between a local authority and a kinship carer under regulation 12 of the Looked After Children (Scotland) Regulations 2009 ([SSI 2009/210](#)), following local authority approval that a person who is related, or otherwise known, to a child, is a suitable carer for the child, is not a “contract” for the purpose of subsection (2)(b)(i) of the Act. This means that care provided under such an agreement will fall within subsection (1) and a kinship carer will be a “carer” for the purposes of the Act.
6. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 13 June 2017 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

[Delegated Powers and Law Reform Committee, 32nd Report, 2017 \(Session 5\)](#)

7. At the Health and Sport Committee's 17th meeting, on 20 June 2017, the Committee took evidence on the Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft] from—
  - Shona Robison, Cabinet Secretary for Health and Sport;
  - Ruth Lunny, Lawyer; and
  - Peggy Winford, Policy Officer, Care, Support and Rights Division, Scottish Government.

8. Motion S5M-06069 was lodged by Shona Robison, Cabinet Secretary for Health and Sport. Following the evidence session, Shona Robison moved motion S5M-06069—

That the Health and Sport Committee recommends that the Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft] be approved.

The motion was agreed to without division.

9. The evidence taken and debate held can be found in the [Official Report](#) for 20 June 2017.

10. The Health and Sport Committee recommends to Parliament that the Carers (Agreement of a Specified Kind) (Scotland) Regulations 2017 [draft] be approved.

