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Contents

The Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft]	1
The Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft]	3

Health and Sport Committee

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



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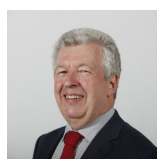


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Sandra White
Scottish National Party



Brian Whittle
Scottish Conservative
and Unionist Party

The Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft]

1. The Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] was laid before the Scottish parliament on 26 January 2018 and referred to the Health and Sport Committee.
2. The Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] is subject to the 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 Community Care and Health (Scotland) Act 2002 (“the 2002 Act”) which, together with the Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002 (“the principal Regulations”), provides that local authorities are not to charge for certain types of social care provided or secured by them. Regulation 2 of the principal Regulations modifies, for the purpose of charging, the meaning of accommodation provided under the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003.
4. These Regulations amend regulation 2 of the principal Regulations to increase the thresholds below which certain care is not to be charged for (Regulation 2).
5. In respect of personal care, personal support and care of a kind mentioned in schedule 1 of the 2002 Act, the first £174 is not to be charged for (up from £171). For these purposes, “personal care” and “personal support” have the same meaning as in paragraph 20 of schedule 12 of the Public Services Reform (Scotland) Act 2010. Regulation 3 of the principal Regulations provides that the requirement not to charge for these types of care is only in respect of persons aged 65 or over. In respect of nursing care, the first £79 is not to be charged for (up from £78).
6. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 20 February 2018. The Committee determined that it did not need to draw the attention of the Parliament to this instrument on any grounds within its remit.

[Delegated Powers and Law Reform Committee, 8th report, 2018 \(Session 5\)](#)

7. At the Health and Sport Committee's 9th meeting, on 13 March 2018, the Committee took evidence on the Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] from-
 - Aileen Campbell, Minister for Public Health and Sport;
 - Mike Liddle, Adult Social Care Policy, Scottish Government; and
 - Emma Stevenson, Solicitor, Scottish Government

8. Motion S5M-10338 was lodged by Shona Robison, Cabinet Secretary for Health and Sport and supported by Aileen Campbell, Minister for Public Health and Maureen Watt, Minister for Mental Health. Following the evidence session, Aileen Campbell moved motion S5M-10338-

That the Health and Sport Committee recommends the Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] be approved.

The motion was agreed to without division.

9. The evidence taken and the debate held can be found in the [Official Report](#) for 13 March 2018.

10. The Health and Sport Committee recommends to Parliament that the Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] be approved.

The Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft]

11. The Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft] was laid before the Scottish parliament on 15 February 2018 and referred to the Health and Sport Committee.
12. The Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft] is subject to the affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to Parliament whether the Regulations should be approved.
13. These Regulations are made under the Carers (Scotland) Act 2016 and come into force on 1st April 2018.
14. Regulation 2 makes provision about the identification of an adult carer's personal outcomes and needs for support. Regulation 3 makes provision about the identification of a young carer's personal outcomes and needs for support.
15. Sections 8 and 14 of the Carers (Scotland) Act 2016 allow Ministers to regulate to make provision about the identification of personal outcomes and needs for support for adult carers and young carers.
16. The Scottish Government had previously decided not to regulate under these powers before commencement of the Act. That decision was made in discussion with stakeholders. It was concluded that practice in identifying outcomes and needs already operates in the context of national policy on personalisation and self-directed support and takes into account local arrangements and the individual circumstances of carers and cared-for persons. Rather than cutting across or restricting this practice through regulation, a decision was made to cover identification of outcomes and needs in statutory guidance under section 38 of the Act.
17. The Scottish Government decided it had become apparent that regulations under sections 8 and 14 of the Act were essential for the key definitions of 'identified personal outcomes' and 'identified needs' to work. These definitions are fundamental to the core duties in the Act about adult carer support plans, young carer statements and provision of support to carers. The definitions appear in section 5 of the Act and refer to outcomes and needs being identified 'by virtue of section 8 or 14'. Regulations under these sections are therefore necessary to enable outcomes and needs to be identified 'by virtue of section 8 or 14'. This will ensure that the duties in relation to adult carer support plans, young carer statements and carer support can work as intended by the Act.
18. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 20 February 2018. The Committee determined that it did not need to

draw the attention of the Parliament to this instrument on any grounds within its remit.

[Delegated Powers and Law Reform Committee, 8th report, 2018 \(Session 5\)](#)

19. In advance of the Health and Sport Committee's oral evidence session the Committee requested and received written [submissions](#) from COSLA and the National Carer Organisations on SSIs relating to the Carers (Scotland) Act 2016.
20. At the Health and Sport Committee's 9th meeting, on 13 March 2018, the Committee took evidence on the Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] and a series of other negative SSIs relating to the Carers (Scotland) Act 2016 from-
 - Aileen Campbell, Minister for Public Health and Sport;
 - Peter Stapleton, Carers Policy, Scottish Government; and
 - Ruth Lunny, Solicitor, Scottish Government.
21. Motion S5M-10889 was lodged by Aileen Campbell, Minister for Public Health and Sport. Following the evidence session, Aileen Campbell moved motion S5M-10889-

That the Health and Sport Committee recommends the Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft] be approved.

The motion was agreed to without division.
22. The evidence taken and the debate held can be found in the [Official Report](#) for 13 March 2018.

23. The Health and Sport Committee recommends to Parliament that the Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft] be approved.

