

Disabled Children (Family Support) Bill

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TO

Make provision about the assessment and delivery of short breaks and respite care for carers of disabled children; to amend the law relating to disabled children and their carers; to place duties on local authorities and the National Health Service in respect of disabled children and their carers; and for connected purposes.

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 Principles

- (1) The following principles apply for the purposes of this Act.
- (2) Carers for disabled children on an unpaid basis have a right to short breaks from their caring role on a regular basis.
- (3) Local authorities and the National Health Service have a responsibility to provide high quality short breaks (or respite care) for the benefit of both disabled children and their carers. 5
- (4) In any assessment by a local authority of the ability of a carer to provide care for a disabled child, provision must be made for regular and appropriate short breaks from a caring role for that person. 10

2 Short break social care services for disabled children

- (1) Section 17 of the Children Act 1989 (c. 41) (provision of services for children in need, their families and others) is amended as follows.
- (2) In subsection (2) at the beginning there is inserted “Subject to subsections (10A) and (10B) below”. 15
- (3) After subsection (10) there is inserted —
 - “(10A) Where a person with parental responsibility for a disabled child is ordinarily resident in their area and provides a substantial amount of care on a regular basis for that child a local authority having functions

under this Part of this Act has a specific duty to assess the needs of the child and family for short break care and make arrangements for the provision for that child of a suitable level of short break care.

- (10B) In making arrangements under subsection (10A) above, a local authority must act in accordance with the principles set out in section 1 of the Disabled Children (Family Support) Act 2007.” 5

3 Disabled children with health needs

- (1) Where a disabled child has a material health care need it shall be the specific duty of the relevant NHS body and the relevant children services authority to assess the disabled child’s need for short break care. 10
- (2) Where an assessment under subsection (1) has been undertaken and the relevant NHS body and children services authority are satisfied that the disabled child’s needs require the provision of short break care, they shall be under a specific duty to make arrangements for such care.
- (3) When discharging their duties under subsection (2) the relevant NHS body and children services authority must – 15
- (a) inform any person with parental responsibility for the disabled child whom they believe is providing or intending to provide a substantial amount of care for that child that he may be entitled to a carer’s assessment under the Carers (Recognition and Services) Act 1995 (c. 12); 20
 - (b) take into account any assessment undertaken under the Carers (Recognition and Services) Act 1995; and
 - (c) co-operate with one another to provide the effective discharge of their duties under subsection (2). 25
- (4) In this section a health care need is “material” if in the opinion of the relevant children services authority it either impairs the ability of that authority to arrange short break care for the child or is a health care need that may require attention during a period of short break care.
- (5) In this section the relevant NHS body means the Primary Care Trust or Local Health Board on whose medical list the medical practitioner with whom the child is registered is included or, in relation to a medical practitioner whose name is included on more than one Primary Care Trust or Local Health Board medical list, the Trust or Board in whose area, on the relevant date, most of the practice’s patients are living. 30 35
- (6) The relevant date in subsection (5) shall be taken as the date on which the assessment carried out in accordance with subsection (1) is completed.
- (7) In this section the relevant children services authority means – 40
- (a) in England, the children services authority in whose area the disabled child is ordinarily resident; and
 - (b) in Wales, the social services authority in whose area the disabled child is ordinarily resident.
- (8) The Secretary of State (or, in relation to Wales, the National Assembly for Wales) may issue directions on the manner in which an assessment under subsection (1) is to be carried out or the form it is to take. 45

4 Carers Assessments

- (1) Section 1 of the Carers (Recognition and Services) Act 1995 (assessment of ability of carers to provide care: England and Wales) is amended as follows.
- (a) after subsection (2) there is inserted –
- “(2AA) Subject to subsection (3) below, in any case where –
- (a) an assessment is being undertaken for the purposes of section 3 of the Disabled Children (Family Support) Act 2007, and
- (b) an individual (“the carer”) provides or intends to provide a substantial amount of care on a regular basis for the disabled child,
- the carer may request the children services authority, before the relevant NHS body and children services authority decide the extent of the disabled child’s need for short break care, 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 children services authority shall carry out such an assessment and the relevant NHS body and children services authority shall take into account the results of that assessment in making that decision.”
- (b) in subsection (2A) after the words “or (2)” there is inserted “or (2AA)”.
 (c) in subsection (2B) after the words “subsection (2)” there is inserted “or (2AA)”.
 (d) in subsection (2C) after the words “or (2)” there is inserted “or (2AA)”.
 (e) in subsection (3) after the words “or (2)” there is inserted “or (2AA)”.
 (f) in subsection (4) after the words “or (2)” there is inserted “or (2AA)”.
 (g) in subsection (5) after the words “subsection (2)” there is inserted “or (2AA)”.
- (2) Section 6 of the Carers and Disabled Children Act 2000 (c. 16) is amended by inserting in subsection (2) after the words “section 1(2)” the words “or (2AA)”.

5 Amendment of Childcare Act 2006

- (1) The Childcare Act 2006 (c. 21) is amended as follows.
- (2) In section 6 (duty to secure sufficient childcare for working parents), in subsection (1) after paragraph (b) there is inserted “; or
- “(c) to sustain their caring responsibilities where they are providing regular and substantial care for a disabled child”.
- (3) In section 22 (duty to secure sufficient childcare for working parents), in subsection (1) after paragraph (b) there is inserted “; or
- “(c) to sustain their caring responsibilities where they are providing regular and substantial care for a disabled child”.

6 Definition of a disabled child

Section 17 of the Children Act 1989 is amended by substituting for subsection

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“(11) For the purposes of this Part, a child is disabled if he is disabled within the meaning of section 1 of the Disability Discrimination Act 1995 (c. 50); and in this part –

“development” means physical, intellectual, emotional, social or behavioural development; and

“health” means physical or mental health”.

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7 Interpretation

In this Act –

“carer” means a person with parental responsibility for a disabled child within the meaning of section 6 of the Carers and Disabled Children Act 2000 (assessment: persons with responsibility for disabled children);

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“children’s services authority” means a local authority as defined in section 63(1) of the Children Act 2004 (c. 31) (disclosure of information by Inland Revenue);

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“disabled child” means a child who is disabled within the meaning of section 1 of the Disability Discrimination Act 1995;

“local authority” means a local authority having responsibilities under the Carers (Recognition and Services) Act 1995 or the Carers and Disabled Children Act 2000;

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“parental responsibility” has the meaning as defined in section 3 of the Children Act 1989 (meaning of “parental responsibility”);

“respite care” has the same meaning as “short break care”;

“short break care” means a service provided to the disabled child in order that the person with parental responsibility for the child has a break from caring.

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8 Expenses

There shall be paid out of money provided by Parliament –

(a) *any sums to be paid by the Secretary of State for or in connection with the carrying out of his functions under this Act; and*

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(b) *any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.*

9 Local authority functions

In Schedule 1 to the Local Authority Social Services Act 1970 (c. 42) (enactments conferring functions assigned to social services committees) at the end there shall be inserted –

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“Disabled Children (Family Support) Act 2007 (c.)	
Sections 3 and 4	Assessment of carers and provision of short breaks care.”

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10 Short title, commencement and extent

- (1) This Act may be cited as the Disabled Children (Family Support) Act 2007.
- (2) Apart from this section, this Act comes into force on such day as may be appointed by order made by statutory instrument.
- (3) An order under subsection (2) is to be made— 5
 - (a) in relation to England, by the Secretary of State; and
 - (b) in relation to Wales, by the National Assembly for Wales.
- (4) The Secretary of State may by order made by statutory instrument provide that this Act shall have effect in its application to the Isles of Scilly with such modifications as are specified in the order. 10
- (5) A statutory instrument containing an order under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This Act extends to England and Wales only.

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