



SCOTTISH EXECUTIVE

Directorate of Primary and Community Care

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Chief Executives of Local Authorities
Directors of Social Work of Local Authorities
Directors of Finance of Local Authorities

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Dear Colleague

RESIDENTIAL CARE CHARGING – REMOVAL OF LIABLE RELATIVE RULE ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007

1. An individual's contribution towards the care home fees paid for them by the local authority is normally calculated solely on the basis of his or her own resources. However, sections 42 and 43 of the National Assistance Act 1948 state that a man is liable to maintain his wife and children. This same duty applies equally to a woman who is liable to support her husband and children. This "liable relative rule" allows local authorities to demand a contribution from the spouse or parent of care home residents. The rule has long been unpopular and in May 2004, following consultation, Scottish Ministers announced their intention to abolish the rule at the first opportunity. That opportunity arose with the Adult Support and Protection (Scotland) Act 2007.

2. **Section 62 of the 2007 Act removes the liable relative rule.** The Adult Support and Protection (Scotland) Act 2007 (Commencement No. 1, Transitional Provision and Savings) Order 2007 ([SSI No 334](#)) provides for section 62 to come into force **on 5 October 2007**. Any local authorities currently applying "the liable relative rule" will wish to ensure that the arrangements cease before 5 October 2007. If you require any further information please contact John Stirling on 0131 244 3742 or John.Stirling@scotland.gsi.gov.uk.

Yours sincerely

Adam Rennie

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