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DHSS

Circular 12/70
(Department of Health and Social Security)
Circular 13/70
(Department of Education and Science)
Circular 65/70
(Ministry of Housing and Local Government)
Circular ROADS No 20/70
(Ministry of Transport)

Joint Circular from the

Department of Health and Social Security
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Department of Education and Science
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London
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Ministry of Housing and Local Government
Whitehall
London SW1

Ministry of Transport
St Christopher House
Southwark Street
London SE1

To:

County Councils
County Borough Councils
Borough and District Councils
London Borough Councils
Greater London Council } England

17 August 1970;

Dear Sir

THE CHRONICALLY SICK AND DISABLED PERSONS ACT 1970

1. I am writing with the agreement of the four Departments principally concerned with the operation of the Act to draw attention to and comment on it in general terms by reference to the subject matter dealt with rather than numerical order of Sections. Other occasions will be taken to pursue certain aspects in greater depth, notably when the report is published early in 1971 of the study by the Office of Population Censuses and Surveys of the number, dependency, financial and housing circumstances and involvement in the health and welfare services of adult chronically sick and handicapped people living at home. Authorities are invited to write to the appropriate Departments on matters within their respective responsibilities.

2. DATES OF OPERATION OF THE ACT. Sections 2-3,9-20 and 22-28 come into force on 29 August 1970, Sections 4-8 come into force on 29 November 1970 and Sections 1 and 21 are subject to decisions as to an Appointed Day.

GENERAL

3. PURPOSE OF THE ACT. As your Council will know, the Act was introduced as a Private Member's Bill and had a wide measure of approval in both Houses of Parliament. Its underlying purposes are to draw attention to the problems, varying with age and incapacity, of people who are handicapped by chronic sickness and disablement; to express concern that these problems should be more widely known and studied and to urge that when priorities are settled, full weight is given to finding solutions. While recognising the effect of constraints on resources, the Government are

confident that local authorities will have these purposes in mind in the administration of Sections with which they are concerned.

4. SCOPE OF THE ACT. Sections 1, 2 and 18 relate to persons who are substantially and permanently handicapped for the purposes of Section 29 of the National Assistance Act 1948 and also the mentally handicapped. In other Sections, the intention as to scope appears evident without further description, but the appropriate Secretary of State is empowered by Section 28 to define terms used in the Act, if the need should arise, by regulations; and definitions of the same terms may vary from Section to Section as the case requires. Any regulations would specifically refer to mental disorder where the context required it; and it is expected that a similar approach will be adopted by those concerned with operation of the Act. Departments will be willing to give informal advice as required.

SECTIONS OF SPECIAL INTEREST TO HEALTH AND WELFARE AUTHORITIES

5. SECTION 1 has two objects. *First*, it requires the authorities concerned to secure that they are adequately informed of the numbers and needs of substantially and permanently handicapped persons in order that they can formulate satisfactory plans for developing their services. The DHSS are considering what guidance can be given to authorities as to economical means of using social survey techniques for these purposes (and others). They will be guided in part by the report of the survey referred to above, which will itself enable authorities to make a preliminary assessment. It is **not** a requirement of the Section that authorities should attempt 100% identification and registration of the handicapped. This would be a difficult, expensive and time consuming exercise, diverting excessive resources from effective work with those who are already known, involving a restrictive and artificial definition and likely to be counter-productive. Secondly, it is intended that those who might benefit by help, and their families, should know what help is available to them and this is to be secured both by general publicity and by personal explanations. The relevant information includes, of course, matters referred to in SECTION 2 and perhaps particularly practical forms of help in the home and personal aids. Authorities are not precluded in any way from assisting by agreement in publicising by these means any other service or facility available from a non-social service source in their area which may be of advantage to handicapped people.

6. The Secretary of State does not intend to make an order bringing the Section into force until the Local Authority Social Services Act is in force and the administration of these powers can be entrusted to the new social services departments. Welfare authorities will realise however that the generality of their powers already enables them to make progress in building up their knowledge and disseminating information as and when opportunity offers; among important sources of information are other local authority departments who may know of people not known to the welfare services.

7. SECTION 2. The effect of sub-section 2(1) (read with sub-section 2(2)(a)) is to remove from approved schemes under Section 29 of the National Assistance Act 1948 any reference to any of the matters set out in subsections 2(1)(a) to (h) (or any like reference) and to create statutory duties in these matters together with certain additions. The duty requires the authority to assess the requirements of individuals determined by them to be substantially and permanently handicapped as to their needs in these matters. If they are satisfied that an individual is in need in any (or all) of these matters, they are to make arrangements that are appropriate to his or her case. The task of assessment should be undertaken as a normal part of the authority's social work service, ie, it should be an occasion for considering all relevant needs and not merely those to which the Section refers; and a judgment whether these needs or others are of prior importance should be drawn from a complete and not a partial picture of the situation. Criteria of need are matters for the authorities to determine in the light of resources.

Most of the matters with which the sub-section deals will already be familiar to welfare authorities and do not call for comment. The Section should not, however, be interpreted to empower the welfare department to undertake part of a service (eg education or library facilities) for which there are responsibilities under other legislation. Authorities will no doubt wish to discuss with voluntary bodies active in their area how far they can contribute help in providing services.

8. SUB-SECTION (2) additionally enables authorities to dispense with the formalities of Section 34 of the Act of 1948 in further developing their schemes for the handicapped (which are otherwise unaffected by the Section). Simple approval by the Secretary of State by exchange of letter will be all that is necessary.

9. The Section will be a responsibility of social service committees and departments in due course and plans for the establishment of these will no doubt take into account the requirements of the Section.

10. SECTION 18 has the object of securing that Parliament is annually informed of situations in which welfare authorities (and successor social service departments) provide, directly or indirectly, residential accommodation for elderly and younger people together, the age point 65 being taken as a convenient division for these purposes; and authorities will be informed later this year of the information needed. Authorities are, of course, under a duty (under Section 21(2) of the 1948 Act) to have regard to the welfare of all residents and to provide different accommodation for different descriptions of residents.

11. SECTION 17 makes provision for the separation of certain younger patients from the older patients in hospital and also for information to be laid before Parliament each year about patients who are not placed in accordance with the provisions of this Section.

12. SECTION 19 relates to statistics of chiropody services, about which a further letter **will** be sent to health authorities in the near future.

13. SECTIONS 22 and 24 relate to reports which the Secretary of State for Social Services is to prepare, annually, as to the state of research and development under Government auspices into equipment for the disabled and, specially, as to the need for an Institute of Hearing.

14. SECTION 23 is likely to be of interest to professional workers who are in a position to advise war pensioners. The Section extends and simplifies certain war pensions appeal rights and procedures. It provides a right of appeal against the decision of the DHSS on the assessment of disablement during the first two years of a pension award (there is already a right of appeal for subsequent periods); it enables a Pensions Appeals Tribunal to determine an interim assessment of disablement at the same hearing as the Tribunal sets aside a final award; and it extends slightly the powers of the President of the Pensions Appeals Tribunal in cases where cogent new evidence comes to light after a Tribunal's decision.

SECTIONS OF SPECIAL INTEREST TO EDUCATION AUTHORITIES

15. SECTIONS 25,26 and 27 of the Act cover the educational needs of children who suffer from deaf-blindness, autism or other forms of early childhood psychosis, and acute dyslexia respectively. In each Section the first sub-section empowers the Secretary of State to require local education authorities to provide information about the provision which they make for children with these handicaps; the second subsection lays upon authorities the duty of providing for the education of these children in schools maintained or assisted by them so far as that is practicable; the third sub-section applies to Scotland only. In connection with the second subsection, the attention of authorities is drawn to the definition of the term "assisted school" in Section 114(2) of the Education Act 1944. The effect of this definition is that any school at which a local education authority pays the fees of a pupil is deemed to be assisted by that authority.

16. The attention of local education authorities is also drawn to paragraphs 3 1-33 of *this* circular which refer to the requirements of Section 8 of the Act, covering the provision of access and facilities for the disabled in educational buildings.

SECTIONS OF SPECIAL INTEREST TO TRAFFIC AUTHORITIES

17. SECTION 20 is intended to benefit disabled people who can get about only in powered or power-assisted invalid carriages which they have been prevented from using on footways by the provisions of traffic legislation but which they cannot always safely use on roadways. The Section removes these general restrictions and substitutes a flexible power to make special regulations relating to the characteristics of the vehicle (dimensions, weight, power unit, lighting system) and the conditions in which it can be used.

18. SECTION 21 relates to the scheme for the issue of car badges to disabled drivers, disabled passengers and institutions concerned with the care of the disabled. When brought into force, it will replace and extend the scope of the current yellow badge scheme for disabled drivers embodied in LWAL 2/67 and ROADS 32/67 issued by the then Ministry of Health and the Ministry of Transport

jointly executive responsibility for the scheme will be placed centrally under Ministry of Transport and locally with the departments responsible for traffic regulation in local authorities as defined in sub-section (8), who will remain free to seek advice (as they will often wish to do) from the health or welfare authority in matters which were previously their function.

19. All local authorities (as defined) will from the Appointed Day be under an obligation to organise the issue of car badges in respect of designated vehicles for disabled persons of prescribed descriptions and for institutions concerned with the care of the disabled and to maintain registers of the persons and institutions to whom the badges are issued.

Two sets of regulations will be made to give effect to the scheme. The first set will be the one provided for under sub-section (7). It will deal with the details of the scheme itself. The second set will be made under Section 84C of the Road Traffic Regulations Act 1967 and will lay down the circumstances in which exemptions for the vehicles of badge-holders shall be written into traffic regulation orders. In particular the latter set will provide for the recognition for exemption purposes in one local authority area of badges issued by another local authority, i.e. the objective is that exemptions in local orders will apply to all vehicles displaying valid badges under the scheme irrespective of which authority has issued the badges. It is expected that badge-holders under the new scheme will continue to get the discretionary help that the police and traffic wardens often offer to disabled persons. Provision is made for a disabled driver or passenger to use the badge on one or more designated vehicles (though only a single badge is to be issued to each disabled person who applied for one, i.e. the badge will be transferable from vehicle to vehicle) and for a badge to be issued for each vehicle used by institutions concerned with the care of the disabled to transport them. Badges are only to be displayed while the vehicle is being used to convey a disabled person or persons.

20. There is provision for transition from the existing to the new basis. But extensive consultation will be necessary before transfer of responsibility can be effected and the introduction of the new scheme will take time. Meantime, the existing basis will continue and responsibility for it will pass to social services departments if the Local Authority Social Services Act is in force before an Appointed Day Order under this Section has been made; but when that Order is made executive responsibility in the welfare or social services department will cease.

ACCESS TO BUILDINGS: PUBLIC SANITARY CONVENIENCES

21. SECTIONS 4-8 take the first statutory steps towards the removal of barriers to mobility and fuller participation in social and cultural life for all who rely on crutches or walking aids or wheel-chairs and others who for a variety of reasons cannot easily manage steps or stairs.

22. SECTION 4 relates to the provision of buildings or premises to which the public are to be admitted. "Provision" is not defined in the Act. In its ordinary meaning it covers not only new construction but also the conversion of existing buildings. Public halls, public libraries, theatres, cinemas and shops are obvious examples of buildings to which the public are to be admitted. The University and school buildings expressly excluded from the operation of the Section by sub-section 7 are dealt with separately in Section 8.

23. The Section places an obligation on anyone undertaking the provision of buildings to which it relates to make provision for the needs of disabled persons in so far as it is in the circumstances both practicable and reasonable to do so. The provision is to be made in relation to both internal and external means of access and to any parking facilities and sanitary conveniences that are to be made available to the public visiting the building. So far as local authorities are concerned the Section in effect makes it mandatory to do what they were asked in MHLG Circular 71/65 to do on a voluntary basis, and have in many instances been doing already.

24. Where private development is concerned, local authorities are asked to take appropriate action to draw developers' attention to the Section, for example by a notice at the time when planning permission is granted; though the Section does not provide grounds on which planning permission or approval under the building regulations can be withheld.

25. SECTION 5 sub-section (1) lays a duty on local authorities when providing public sanitary conveniences to make provision for the needs of disabled persons so far as this is reasonable and practicable. Sub-section (2) requires that where public conveniences have already been, or are in future provided with special facilities for disabled persons the local authority concerned shall erect

signposts or similar notices to indicate the whereabouts of the convenience. Sub-section (3) defines "local authority" as a local authority within the meaning of the Local Government Act 1933 or any joint board or joint committee of which all the constituent authorities are local authorities within that Act.

26. Authorities who do not already comply with the intention of sub-section (1) will find technical guidance on the design of special compartments in public conveniences for use by handicapped people in MHLG Circular 33/68. This also contains advice on siting and other matters. Authorities are best able to judge where signposts or notices should be placed so as to be readily visible to disabled persons seeking to find a convenience with special facilities. Advice on the type of sign to be adopted can be obtained from "A Symbol for Disabled People Symbol Application Manual", published by the Royal Institute of British Architects.

27. SECTION 6 applies to premises covered by Section 89 of the Public Health Act 1936 (viz, inns, public houses, beer-houses, refreshment houses or places of public entertainment). Under the latter provision the owner or occupier of such premises may be required by notice served on him by the local authority to provide and maintain in a suitable position such number of sanitary conveniences for the use of persons frequenting the premises as may be reasonable. The effect of Section 6 is that in complying with a Section 89 notice the owner or occupier is required to make provision for disabled persons using the premises so far as it is practicable and reasonable to do so.

28. To ensure that this obligation is not overlooked it is suggested that when serving a notice under Section 89 of the Act of 1936 an authority should at the same time draw the attention of the person to whom the notice is addressed to his obligation under Section 6. For technical advice on how sanitary conveniences can be designed for use by handicapped people he should be referred to MHLG circular 33/68 or the British Standards Institution Code of Practice CP96:Pt.1: 1967.

29. SECTION 7 sub-section (1) requires that where special facilities for disabled persons are provided at a building in accordance with Section 4, 5 or 6 a notice or sign indicating that such facilities are available shall be displayed outside the building or in such a way as to be visible from outside it. Sub-section (2) ensures that the Section applies to sanitary conveniences provided otherwise than in a building.

30. In the case of public conveniences the requirement of Section 7 is additional to the requirement in Section 5 (under which directional signs have to be erected to indicate the whereabouts of the convenience). Advice on the type of sign which might be used to meet the requirements of either this Section or Section 5 is available in the manual referred to in paragraph 26.

31. SECTION 8 covers a wide variety of educational buildings. Local education authorities and others responsible for providing buildings for the purposes defined in sub-section (2) are required to make provision, so far as is practicable and reasonable, for the needs of disabled persons using the buildings, in the means of access both internally and externally and in the parking facilities and sanitary conveniences which may be available.

32. The use of an educational building by the disabled will vary according to its function, location and the extent to which it is likely to be used by the community. Many establishments of further education, for example, would not normally expect to have a significant number of students who are disabled but it is obviously important that any disabled people who wish to follow courses of further education should not be precluded from doing so. In relation to schools rather different considerations apply because special schools exist for boys and girls whose handicaps make it impracticable for them to attend ordinary schools. Nevertheless many less severely handicapped children can be satisfactorily educated in ordinary schools and benefit from mixing with the general run of their contemporaries. Designers of schools to be used extensively by the community should pay special attention to the requirements of the disabled.

33. Much can be done within existing cost limits to facilitate the use of buildings by the disabled. Among the special measures which might be adopted are the provision of at least one level entrance or, if necessary, a ramp instead of steps, and the provision of sufficient and suitable handrails. Within the building itself ramps may also be necessary. Lifts should be easy to operate and at least one WC compartment should be large enough to accommodate a person in a wheel-chair. The British Standards Institution Code of Practice CP96:Pt.1: 1967 contains detailed advice on designing for the disabled.

34. EXISTING BUILDINGS. Although Sections 4-g of the Act do not apply to existing buildings (except to the limited extent provided in Section 6) the underlying intention of the Act to remove barriers to mobility is more likely to be achieved if as much as possible is done to make those buildings which are now regularly open to the public more easily accessible to handicapped people. In some cases it may not be possible to do as much as would be desirable either because the structural design of the building does not permit or because the cost would be prohibitive. But in many buildings useful alterations can probably be effected at reasonable expense. Some authorities are known already to have taken action to improve access to their buildings or to have made other special arrangements to enable disabled persons to enter and use them. Those authorities who have not already done so are asked to take whatever action is practicable and reasonable to provide easier access and better facilities for the disabled. It may be possible for example to replace an entrance with steps by a ramp or to add handrails where appropriate. Inside the buildings better circulation can be obtained by widening doors so that a wheel-chair can pass through.

DUTIES OF HOUSING AUTHORITIES

35. SECTION 3 makes it plain that in carrying out their duties, including the duty with respect to general improvement areas, housing authorities must have regard to the housing needs of the disabled. The Section follows the report of the Housing Management Sub-Committee of the Central Housing Advisory Committee, entitled "Council Housing: Purposes, Procedures and Priorities"*, which has already been brought to local authorities' attention. This report emphasised the necessity for housing authorities to have a clearer, deeper and more detailed understanding of the changing housing situation in their areas, as otherwise they might find that they were catering for needs which had already been met or overlooking other needs not brought to their notice. Housing authorities will be expected to act in the spirit of the report in relation to the housing needs of the disabled as well as other needs.

36. Ministry of Housing and Local Government Circular 54/64 said that disabled persons can best be provided for in purpose-built dwellings and gave advice on designing such housing. Local authorities were advised to refer to the standard text book by Mr Selwyn Goldsmith*. Circular 54/64 also reminded housing authorities of the need to take into account at the design stage special features needed by wheel-chair users. These and other features needed by people with different disabilities are taken into account in calculating the subsidy payable under the Housing Subsidies Act 1967. Where a local authority is unable to provide specially designed housing for the disabled within the published yardstick's, they should apply to the Ministry for an ad hoc yardstick to be assessed, which will take into account any necessary higher costs. Where it is necessary for garages or car ports to be provided for use by disabled persons in purpose-built housing these items will be allowed exceptionally to rank for subsidy within the cost limits agreed by the Ministry.

THE QUALITY OF ADVICE

37. SECTION 15 reflects the special concern of Parliament that executive bodies over the whole local government field should take decisions on matters where the chronically sick and disabled have special needs on the basis of first-hand experience. Wherever a committee, to which co-option of non-members is required or permitted, is likely to take such decisions, the authority is required to consider the desirability of appointing someone with relevant experience, preferably someone with the direct personal experience of being himself (or herself) handicapped. Authorities will note that among such committees will be Social Services Committees (Sections 2-5 of the Local Authority Social Services Act 1970). But the interests of the chronically sick and disabled have properly been described as "as wide as life itself" and there can be few local government activities that do not concern them in some way; authorities are accordingly asked to interpret the Section in the broad sense of seeing that these interests are never overlooked. Authorities will no doubt wish to consult voluntary bodies in their areas with relevant interests when they are considering co-option in this context.

38. The concern of Parliament as to the quality of advice is similarly expressed in Sections 9-14 and 16, which deal with various advisory or executive bodies with which the Government are concerned.

OTHER MATTERS

- *Design for the Disabled*. published by the Royal Institute of British Architects. A second revised and expanded edition of this book was published in 1967.

39. A number of matters were raised in debate which were not subsequently translated into legislation, including the interests of particular groups of health service patients, Authorities will observe that the theme of "Information" runs persistently through many Sections of the Act and it was further reflected in debate. An aspect to which importance was attached is the exchange of information, within proper limits of professional confidence, about the requirements of individuals and their families. There was also deeply felt concern that authorities themselves or their professional staffs, were or might be insufficiently informed about the whole range of possible forms of help that they themselves could give or that were available from others (aids and appliances were specially referred to). Flowing from this came suggestions for the improvement of professional training. The Government consider that any such matters are wholly for the bodies concerned with professional training but they will continue to take appropriate steps in their ordinary relationships with such bodies to keep the requirements of the chronically sick and disabled in mind. The most appropriate occasions are likely to occur in post-basic forms of training. Authorities will no doubt keep the general theme in mind when considering the content of in-service and staff development courses.

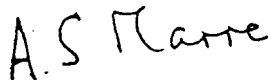
40. It was also argued that the ordinary living expenditure of the chronically sick and disabled is affected by costs (for clothing, linen, domestic equipment or travel, for example) which do not fall on others. Individual circumstances will of course vary between wide extremes and it would be impracticable to suggest a common measure of requirements or to legislate specially for such cases. But, wherever clients of an authority are required to make a payment for a service or facility (or are entitled to claim a rebate from their expenditure) and the authority in exercising its discretion in such matters takes account of the cash resources and requirements of such a person, authorities are invited to take into consideration any claim by a chronically sick and disabled person that he does, by reason of disability, incur abnormal expenditure and to make sure that clients know this and that they will do so. This is not to imply any diminution of the statutory powers of discretion of authorities to determine charges or waive them. Reference has already been made to the desirability of adjustment of rent rebate schemes to take account of the circumstances of handicapped people*.

41. CIRCULATION. Copies of this Circular are enclosed for the principal officers of the authority. A copy has been sent to the Local Government Training Board, and it is intended to send copies also to interested voluntary organisations. Additional copies may be obtained from:

The Clerk of Stationery
Ministry of Housing and Local Government
Queen Anne's Mansions
Queen Anne's Gate
London SW1

Copies of the Act may be obtained from Her Majesty's Stationery Office.*

Yours faithfully



A S Marre
Second Permanent Under-Secretary of State,
Department of Health and Social Security

* Joint Circular from MHLG (46/67) and Welsh Office (41/67).