

Draft Order laid before the Scottish Parliament under section 26(3) of the Social Care (Self-directed Support) (Scotland) Act 2013 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

SOCIAL CARE

**The Social Care (Self-directed Support) (Scotland) Act
2013 (Consequential and Saving Provisions) Order 2014**

Made - - - - 2014
Coming into force - - 1st April 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 22(1)(b) and 26(1) of the Social Care (Self-directed Support) (Scotland) Act 2013⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 26(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Social Care (Self-directed Support) (Scotland) Act 2013 (Consequential and Saving Provisions) Order 2014 and comes into force on 1st April 2014.

Consequential modifications

2.—(1) The enactments mentioned in the first column of the table in Part 1 of the Schedule are repealed to the extent specified in the second column of that table.

(2) The enactments mentioned in the first column of the table in Part 2 of the Schedule are revoked to the extent specified in the second column of that table.

(3) The provisions of the enactments mentioned in the first and second columns of the table in Part 3 of the Schedule are amended to the extent specified in the third column of that table.

Saving provision

3. The modifications in article 2 of this Order do not have effect in respect of any payment made under section 12B of the Social Work (Scotland) Act 1968⁽²⁾ after this Order comes into force.

(1) 2013 asp 1.

(2) 1968 c.49, section 12B is repealed by section 25 of the Social Care (Self-directed Support) (Scotland) Act 2013 but saved in respect of certain payments made under that section on or after 1st April 2014 (see [S.S.I. 2014/32 \(C.2\)](#)).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument:
The Social Care (Self-directed Support) (Scotland) Act 2013 (Consequential and Saving Provisions) Order 2014 No. 90

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2

Consequential modifications

PART 1

Repeals

<i>Enactment</i>	<i>Extent of repeal</i>
Community Care (Direct Payments) Act 1996 (3)	Section 4
Regulation of Care (Scotland) Act 2001 (4)	Section 70
Community Care and Health (Scotland) Act 2002 (5)	Section 7 and paragraph 1(2) and (3) of schedule 2
Adult Support and Protection (Scotland) Act 2007 (6)	Section 63

PART 2

Revocations

<i>Enactment</i>	<i>Extent of revocation</i>
The Community Care (Direct Payments) (Scotland) Regulations 2003 (7)	The whole instrument
The Community Care (Direct Payments) (Scotland) Amendment Regulations 2005 (8)	The whole instrument
The Community Care (Direct Payments) (Scotland) Amendment Regulations 2007 (9)	The whole instrument

PART 3

Amendments

<i>Enactment</i>	<i>Provision in enactment to be amended</i>	<i>Amendment</i>
<i>Primary Legislation</i>		
Protection of Vulnerable Groups (Scotland) Act 2007 (10)	Section 94(4), in the definition of “direct payment”	For “means a payment made under section 12B of that Act” substitute “has the same meaning as in section 4(2) of

(3) 1996 c.30.**(4)** 2001 asp 8.**(5)** 2002 asp 5.**(6)** 2007 asp 10.**(7)** S.S.I. 2003/243, amended by S.S.I. 2005/114, S.S.I. 2005/445, S.S.I. 2007/458, S.S.I. 2008/2828 and S.S.I. 2011/25.**(8)** S.S.I. 2005/114.**(9)** S.S.I. 2007/458.**(10)** 2007 asp 14.

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<i>Enactment</i>	<i>Provision in enactment to be amended</i>	<i>Amendment</i>
		the Social Care (Self-directed Support) (Scotland) Act 2013”.
Social Work (Scotland) Act 1968	Section 86(1)(ba)(11)	In paragraph (ba), for the words from “payment” to “service” substitute “direct payment under the Social Care (Self-directed Support) (Scotland) Act 2013 for the purpose of arranging for the provision of support within the meaning of section 5 or 8 of that Act”.
<i>Secondary Legislation</i>		
The Children’s Legal Assistance (Scotland) Regulations 2013(12)	Paragraph 8(b) of Schedule 2	For “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.
The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(13)	Paragraph 29 of Schedule 4	For “under section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services)” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.
The Council Tax Reduction (Scotland) Regulations 2012(14)	Paragraph 57 of Schedule 4	For “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.
	Paragraph 62 of Schedule 5	(i) omit “section 12B of the Social Work (Scotland) Act 1968,”; and
		(ii) after “health care” insert “or as a direct payment as defined in section 4(2) of the Social

(11) Section 86(1)(ba) was inserted by the Adult Support and Protection (Scotland) Act 2007 ([asp 10](#)), section 65(1).

(12) S.S.I. 2013/200.

(13) S.S.I. 2012/319, to which there are amendments not relevant to this Order.

(14) S.S.I. 2012/303, to which there are amendments not relevant to this Order.

<i>Enactment</i>	<i>Provision in enactment to be amended</i>	<i>Amendment</i>
		Care (Self-directed Support) (Scotland) Act 2013 (15) ".
The Community Care (Joint Working etc.) (Scotland) Regulations 2002 (16)	Paragraph 1 of Schedule 1, paragraph 1 of Schedule 3 and paragraph 1(2)(c) of Schedule 5	Omit "12B, 12C,".
The Civil Legal Aid (Scotland) Regulations 2002 (17)	Regulation 33(a)(x), paragraph 5(d) of Schedule 2 and paragraph 8(c) of Schedule 3	For "under section 12B of the Social Work (Scotland) Act 1968" substitute "as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013".
The National Assistance (Assessment of Resources) Regulations 1992 (18)	Paragraph 28I(1) of Schedule 3	For "under section 12B (direct payments in respect of community care services) of the Social Work (Scotland) Act 1968" substitute "as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013".
	Paragraph 23(1) of Schedule 4	For "under section 12B of the Social Work (Scotland) Act 1968" substitute "as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013".
The Advice and Assistance (Scotland) Regulations 1996 (19)	Regulation 16(2)(i) and paragraph 5(ba) of Schedule 2	For "under section 12B of the Social Work (Scotland) Act 1968" substitute "as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013".

(15) 2013 asp 1.

(16) S.S.I. 2002/533, to which there are amendments not relevant to this Order.

(17) S.S.I. 2002/494, to which there are amendments not relevant to this Order.

(18) S.I. 1992/2977, amended by S.I. 2003/577; there are other amendments not relevant to this Order.

(19) S.I. 1996/2447, amended by S.I. 1997/726; there are other amendments not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications in consequence of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”).

Section 25 of the 2013 Act repeals section 12B of the Social Work (Scotland) Act 1968 (“the 1968 Act”) which make provision in relation to direct payments in respect of community care services. New provision for direct payments is made in the 2013 Act.

Article 2 and the Schedule repeal, revoke and amend enactments contained in primary and secondary legislation in consequence on the repeal of section 12B of the 1968 Act and the new provision for direct payments in the 2013 Act.

Article 3 contains a saving provision so that the enactments specified in the Schedule continue to apply without modification in relation to any payments which are made under section 12B of the 1968 Act after 1st April 2014.