

**EXECUTIVE NOTE TO**  
**THE COMMUNITY CARE (DIRECT PAYMENTS) (SCOTLAND) AMENDMENT**  
**REGULATIONS 2007**  
**SSI 2007/ 458**

This instrument was made in exercise of the powers conferred by section 63 of the Adult Support and Protection (Scotland) Act 2007 from 5 October 2007. It amends regulations 1 and 4 of the Community Care (Direct Payments) (Scotland) Regulations 2003. It is subject to negative resolution procedure. A Regulatory Impact Assessment is not required.

**Background**

Current legislation prevents people from using direct payments for self-directed support to secure services from their spouse or partner or a close relative living in the same household. Currently a close relative in this context is a parent, parent in law, aunt, uncle, grandparent, son, daughter, stepson or daughter, brother, sister or the spouse or partner of any of the foregoing. The rules do not preclude employing a relative who lives at a different address.

**Policy Objectives**

The purpose of this instrument is to amend the Community Care (Direct Payments) (Scotland) Regulations 2003 (S.S.I. 2003/243) ("the principal Regulations") to allow local authorities to determine that services can be secured from a relative in certain circumstances.

Regulation 2 amends regulation 4 of the principal Regulations, which specifies the persons (i.e. certain relatives) from whom services may not be obtained and funded by means of a direct payment.

These Amendment Regulations define the relatives from whom services may not be obtained, but also provide that local authorities may allow services to be secured from such relatives where the local authority considers it necessary to meet the needs of the beneficiary.

**Consultation**

The amendments to the regulations were introduced after a public consultation held from 16 November 2004 to 8 February 2005. This invited views on the proposals to adjust the rules which currently prevent local authorities using their discretion to allow people to use direct payments to employ close relatives living in the same household to provide their care and support, and invited views on the types of exceptional circumstances in which it would be appropriate to allow close relatives to be employed.

The consultation supported the proposal to give local authorities discretionary powers concerning the employment of close relatives by a direct payment recipient no matter where they live and for the amendment of the categories of close relatives to include grandson, granddaughter, nephew and niece, cousin, and to reflect modern family set-ups.

Since the amendment regulations implement the outcome of that consultation, no further consultation has been carried out.

### **Financial Effects**

There will be minimal financial effects.

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