
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 25

The Self-directed Support (Direct Payments) (Scotland) Regulations 2014

PART 2

Calculation, payment and termination of direct payments

Means testing for direct payments

3.—(1) A local authority may assess a direct payment user's ability to contribute to the cost of securing the support to which a direct payment relates ("a means test").

(2) If the authority carries out a means test, the authority must carry it out either—

- (a) before the direct payment is made; or
- (b) as soon as possible and not later than one year after the direct payment has been made.

(3) Having considered the means test, the authority may require the direct payment user to contribute to the direct payment.

(4) If the means test happens after the direct payment has been made and the authority decides that the direct payment user should contribute to the direct payment, the authority may require the direct payment user to repay either—

- (a) part of the direct payment to reflect that contribution; or
- (b) some lesser amount.

Direct payments by instalments

4. A local authority may pay a direct payment to a direct payment user in instalments.

Third party direct payments

5. A local authority may pay all or part of a direct payment to a person other than the direct payment user (a "third party") if—

- (a) the direct payment user asks the local authority to make the payment to the third party; and
- (b) the local authority is satisfied that the direct payment user retains total control over how the direct payment is spent.

Circumstances where a direct payment may be terminated

6.—(1) A local authority may terminate a direct payment if—

- (a) a direct payment user becomes ineligible to receive direct payments;
- (b) the direct payment has been used (wholly or partly) for some purpose other than to secure the provision of the support to which it relates;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (c) the local authority considers on reasonable grounds that the direct payment user has breached the criminal law or a civil law obligation in relation to the support to which the direct payment relates; or
 - (d) the direct payment has been used (wholly or partly) to secure the provision of support by a family member other than in circumstances where the family member is permitted to provide support by regulation 8 (as read with regulation 9).
- (2) Before terminating a direct payment, the local authority must notify the direct payment user of—
- (a) the reason why it has decided to terminate the direct payment; and
 - (b) the date with effect from which the direct payment will be terminated.
- (3) In determining the date with effect from which the direct payment will be terminated, the local authority must take into account—
- (a) any contractual obligations entered into by the direct payment user; and
 - (b) the time that will be required to put in place alternative arrangements to provide the support to which the direct payment relates.
- (4) The local authority must give the notification required by paragraph (2) in writing and, if necessary, in such other form as is appropriate to the needs of the person to whom it is given.