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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 25**

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

**PART 3**

**Provision of support by family members**

**Circumstances where family member may provide support**

**8.—(1)** A family member may only provide support to which a direct payment relates in the circumstances specified in paragraph (2).

(2) The circumstances are—

- (a) the family member, direct payment user and local authority agree to the family member providing the support;
- (b) the family member is capable of providing the support; and
- (c) any of the factors in paragraph (3) apply.

(3) The factors are—

- (a) there is a limited choice of service providers who could provide the support;
- (b) the direct payment user has specific communication needs which mean it will be difficult for another provider to provide the support;
- (c) the support is required at times at which the family member will be available to provide it and where other providers would not reasonably be so available;
- (d) the intimate nature of the support required by the direct payment user makes it preferable to the direct payment user that support is provided by a family member;
- (e) the direct payment user has religious or cultural beliefs which make the provision of support by a family member preferable to the direct payment user;
- (f) the direct payment user requires palliative care;
- (g) the direct payment user has an emergency or short-term necessity for care; or
- (h) there are other factors in place which make it appropriate, in the opinion of the local authority, for that family member to provide the support.

(4) In this regulation—

“family member” means—

- (a) the spouse or civil partner of the direct payment user;
- (b) a person who lives with the direct payment user as if their spouse or civil partner;
- (c) the direct payment user’s—
  - (i) parent;
  - (ii) child;

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**Status:** This is the original version (as it was originally made).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

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- (iii) brother or sister;
- (iv) aunt or uncle;
- (v) nephew or niece;
- (vi) cousin;
- (vii) grandparent;
- (viii) grandchild;
- (d) the spouse or civil partner of any person listed in sub-paragraph (c);
- (e) a person who lives with any person listed in sub-paragraph (c) as if their spouse or civil partner.