
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 25

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

PART 3

Provision of support by family members

Exception to family members rule

9.—(1) Even if regulation 8(2) applies, a family member may not provide support to which a direct payment relates if—

- (a) the local authority determines that either the family member or the direct payment user is under undue pressure to agree to the family member providing support; or
- (b) the family member is a guardian, continuing attorney or welfare attorney with power to make decisions as regards the support to be provided through the direct payment.

(2) In this regulation—

“guardian”—

- (a) means a guardian appointed under the Adults with Incapacity (Scotland) Act 2000(1) (“the 2000 Act”); and
- (b) includes a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during the adult’s incapacity, if the guardianship is recognised under the law of Scotland;

“continuing attorney”—

- (a) means a continuing attorney within the meaning of section 15 (creation of continuing power of attorney) of the 2000 Act(2); and
- (b) includes a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s property or financial affairs and having continuing effect despite the granter’s incapacity; and

“welfare attorney”—

- (a) means a welfare attorney within the meaning of section 16 (creation and exercise of welfare power of attorney) of the 2000 Act(3); and
- (b) includes a person granted, under contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s personal welfare and having effect during the granter’s incapacity.

(1) 2000 asp 4.

(2) Section 15 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 57(1).

(3) Section 16 was amended by the Human Tissue (Scotland) Act 2006 (asp 4), section 57(2)(b) and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 57(2).

Status: This is the original version (as it was originally made).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