



Welfare Reform Act 2009

2009 CHAPTER 24

PART 2

DISABLED PEOPLE: RIGHT TO CONTROL PROVISION OF SERVICES

Power to make regulations

42 Provision that may be made about direct payments

- (1) In this section “direct payments regulations” means regulations under section 41 making provision by virtue of subsection (2)(e) of that section and “direct payments” means payments made by a relevant authority under the regulations.
- (2) Direct payments regulations relating to a relevant service (“the qualifying service”) of a relevant authority (“the providing authority”) may in particular—
 - (a) specify circumstances in which the providing authority is or is not required to comply with a request for direct payments to be made under the regulations, whether those circumstances relate to the disabled person or to the qualifying service;
 - (b) make provision about the manner in which a request for direct payments is to be made;
 - (c) make provision enabling a disabled person to require a providing authority to assess the amount of the payments to which the person would be entitled if the person were to request the authority to make them;
 - (d) enable a disabled person to require a providing authority to comply with a request to provide direct payments in place of the qualifying service (or its provision at certain times or in certain circumstances) while providing, or continuing to provide, other relevant services (or providing, or continuing to provide, the qualifying service at other times or in other circumstances);
 - (e) make provision displacing functions or obligations of the providing authority with respect to the provision of the qualifying service (whether arising under any enactment, under any trust or otherwise) to such extent and subject to such conditions as may be prescribed.

Status: This is the original version (as it was originally enacted).

- (3) Direct payments regulations must include provision excluding any duty of a providing authority to comply with a request for direct payments, or a class of such requests, if compliance with the request, or with requests falling within that class, would in all the circumstances impose an unreasonable financial burden on the providing authority.
- (4) Direct payments regulations may—
- (a) make provision for and in connection with requiring or authorising the providing authority to make direct payments to the disabled person or such other person as the authority may determine (“the payee”) in accordance with the regulations in respect of the person securing the provision of the equivalent service;
 - (b) make provision as to the conditions falling to be complied with by the payee in relation to the direct payments;
 - (c) prescribe circumstances in which the providing authority may or must terminate the making of direct payments;
 - (d) prescribe circumstances in which the providing authority may require repayment (whether by the payee or otherwise) of the whole or any part of the direct payments;
 - (e) make provision for any sum falling to be paid or repaid to the providing authority by virtue of any condition or other requirement imposed in pursuance of the regulations to be recoverable as a debt due to the authority;
 - (f) prescribe circumstances in which any sum is to cease to be payable by virtue of paragraph (d);
 - (g) make provision authorising direct payments to be made to a prescribed person on behalf of the disabled person.
- (5) For the purposes of subsection (4)(b), the conditions that are to be taken to be conditions in relation to direct payments include, in particular, conditions relating to—
- (a) what is or is not to be regarded as an equivalent service,
 - (b) the securing of the provision of the equivalent service,
 - (c) the provider of the service,
 - (d) the person to whom the payments are made in respect of the provision of the service, or
 - (e) the provision of the service.