



# Welfare Reform Act 2009

## 2009 CHAPTER 24

### PART 2

#### DISABLED PEOPLE: RIGHT TO CONTROL PROVISION OF SERVICES

##### *Power to make regulations*

#### **43 Exercise of rights on behalf of persons who lack capacity**

- (1) Regulations under section 41 may make provision for and in connection with enabling any request or consent for the purposes of the regulations (including any request or consent relating to payments by virtue of subsection (2)(e) of that section) to be made or given on behalf of a disabled person who falls within subsection (2) by a person of a prescribed description.
- (2) A person falls within this subsection—
  - (a) in relation to England and Wales, if the person lacks capacity, within the meaning of the [Mental Capacity Act 2005 \(c. 9\)](#), in relation to the decision concerned, and
  - (b) in relation to Scotland, if the person is incapable, within the meaning of the [Adults with Incapacity \(Scotland\) Act 2000 \(asp 4\)](#), in relation to that decision.