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STATUTORY INSTRUMENTS

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**2001 No. 441**

**SOCIAL SERVICES, ENGLAND**

**The Carers (Services) and Direct Payments  
(Amendment) (England) Regulations 2001**

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|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>15th February 2001</i> |
| <i>Laid before Parliament</i> |         | <i>16th February 2001</i> |
| <i>Coming into force</i>      | - -     | <i>1st April 2001</i>     |

The Secretary of State for Health, in exercise of the powers conferred by section 2(3) and (4) and section 11(1) and (3) of the Carers and Disabled Children Act 2000<sup>(1)</sup> and section 1(1)(b)(ii) of the Community Care (Direct Payments) Act 1996<sup>(2)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Carers (Services) and Direct Payments (Amendment) (England) Regulations 2001 and shall come into force on 1st April 2001.

(2) In these Regulations—

“the Act” means the Carers and Disabled Children Act 2000;

“the 1996 Act” means the Community Care (Direct Payments) Act 1996; and

“the 1997 Regulations” means the Community Care (Direct Payments) Regulations 1997<sup>(3)</sup>.

(3) These Regulations extend to England only.

**Services of an intimate nature and prescribed circumstances**

2.—(1) For the purposes of section 2(3) of the Act a service delivered to the person cared for is of an intimate nature if it involves—

(a) lifting, washing, grooming, feeding, dressing, bathing, toileting, administering medicines or otherwise having physical contact with the person cared for;

(b) assistance in connection with washing, grooming, feeding, dressing, bathing, administering medicines or using the toilet; or

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(1) 2000 c. 16. Section 11(1) is cited for the definitions of “prescribed” and “regulations”.

(2) 1996 c. 30. Paragraph (b) of section 1(1) of this Act was amended by section 5(b) of the Carers and Disabled Children Act 2000 (c. 16), which inserted sub-paragraphs (i) and (ii).

(3) S.I.1997/734.

- (c) supervising him whilst he is dressing, bathing or using the toilet.
  - (2) Where a service is being delivered to the person cared for and—
    - (a) during the delivery of that service the person cared for asks the person delivering the service to provide a service of an intimate nature; or
    - (b) the person cared for is in a situation in which he is likely to suffer serious personal harm unless a service of an intimate nature is provided to him and
      - (i) the person cared for is unable to consent to the provision of that service, or
      - (ii) the person providing the service reasonably believes it is necessary to provide that service because the likelihood of serious personal harm to the person cared for is imminent;
- a service of an intimate nature may be provided.

**Persons to whom direct payments may not be made**

- 3.** A person who comes within any one of the categories of people described in regulation 2(2) (b) to (n) of the 1997 Regulations is specified for the purposes of section 1(1)(b)(ii) of the 1996 Act.

**Amendment of the 1997 Regulations**

- 4.** In regulation 2(1) of the 1997 Regulations for the words “section 1(1)(b) of the Act” there shall be substituted “section 1(1)(b)(i) of the Act”.

15th February 2001

*John Hutton*  
Minister of State, Secretary of State for Health

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Carers and Disabled Children Act 2000 imposes a duty on local authorities to assess the needs of carers in certain circumstances, and gives local authorities the power to then offer services to carers to support them in their caring role. It further enables local authorities to make direct payments to carers in lieu of the carers services they have been assessed as needing.

Under section 2 of the Act, a service provided to a carer may be delivered to the person cared for with his agreement. A service so delivered may not include anything of an intimate nature, except in prescribed circumstances. These regulations provide for what is of an intimate nature (regulation 2(1)). They further prescribe the circumstances in which a service of an intimate nature may be delivered to the person cared for (regulation 2(3)).

The regulations specify who may not be the recipient of a direct payment in lieu of carers services (regulation 3).

Lastly, the regulations make a minor and consequential amendment to the Community Care (Direct Payments) Regulations 1997 (regulation 4).