
STATUTORY INSTRUMENTS

2003 No. 762

The Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003

Prescribed descriptions of persons—community care services and services for carers

2.—(1) For the purposes of section 57(1) of the 2001 Act a person is of a prescribed description if—

- (a) he is a person who appears to the responsible authority⁽¹⁾ to be capable of managing a direct payment by himself or with such assistance as may be available to him; and
- (b) he is not a person to whom paragraph (2) applies.

(2) This paragraph applies to a person if—

- (a) he is required to submit to treatment for his mental condition or for his drug or alcohol dependency by virtue of a requirement of a community rehabilitation order within the meaning of section 41 of the 2000 Act or a community punishment and rehabilitation order within the meaning of section 51 of that Act;
- (b) he is subject to a drug treatment and testing order within the meaning of section 52 of the 2000 Act;
- (c) he is released on licence under section 37 of the Criminal Justice Act 1991⁽²⁾ subject to a condition that he submit to treatment for his mental condition or for his drug or alcohol dependency;
- (d) he is placed under guardianship in pursuance of—
 - (i) an application made in accordance with section 7 of the 1983 Act; or
 - (ii) an order made under section 37 of that Act;
- (e) he is absent from hospital with leave given in accordance with section 17 of the 1983 Act;
- (f) he is subject to after-care under supervision within the meaning of section 25A of the 1983 Act⁽³⁾;
- (g) there is in force in respect of him a condition imposed in accordance with section 42(2) or 73(4) (including such a condition which has been varied in accordance with section 73(5) or 75(3)) of the 1983 Act;
- (h) there is in force in respect of him a supervision and treatment order within the meaning of Part 1 of Schedule 2 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991⁽⁴⁾;
- (i) he is a patient subject to after-care under a community care order under section 35A of the 1984 Act⁽⁵⁾;

(1) See section 57(2) of the 2001 Act and section 17A of the Children Act 1989 (“the 1989 Act”) for the definition of “responsible authority”.

(2) 1991 c. 53.

(3) Section 25A was inserted by section 1(1) of the Mental Health (Patients in the Community) Act 1995 (c. 52) (“the 1995 Act”).

(4) 1991 c. 25.

(5) Section 35A was inserted by section 4 of the 1995 Act.

- (j) he is a patient who is absent from hospital on leave under section 27 of the 1984 Act;
- (k) he is a person subject to a guardianship order within the meaning of section 57 of the Adults with Incapacity (Scotland) Act 2000⁽⁶⁾ by reason of, or by reasons which include, incapacity through mental disorder;
- (l) he is a restricted patient within the meaning of section 63(1) of the 1984 Act who has been given a conditional discharge under section 64 or 68 of that Act;
- (m) he is subject to an order of a court under sections 57(2)(a), (b), (c) or (d), 58 or 59 of the 1995 Act;
- (n) he is required to submit to treatment for his mental condition or his drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the 1995 Act or is subject to a drug treatment and testing order within the meaning of section 234B of that Act⁽⁷⁾;
- (o) he is released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989⁽⁸⁾ or under section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993⁽⁹⁾ and is subject to a condition that he submits to treatment for his mental condition or for his drug or alcohol dependency.

⁽⁶⁾ 2000 asp4.

⁽⁷⁾ Section 234B was inserted by section 90 of the Crime and Disorder Act 1998 (c. 37).

⁽⁸⁾ 1989 c. 45.

⁽⁹⁾ 1993 c. 9.