

SCHEDULE 1

Regulations 2, 3 and 4

PERSONS EXCLUDED FROM DIRECT PAYMENTS

This Schedule applies to a person if they are—

- (a) subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003⁽¹⁾, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (b) subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order, within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (c) released on licence under Part 2 of the Criminal Justice Act 1991⁽²⁾, Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of the Crime (Sentences) Act 1997⁽³⁾ subject to a non standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour;
- (d) required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act⁽⁴⁾;
- (e) subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000⁽⁵⁾;
- (f) required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995 or subject to a drug treatment and testing order within the meaning of section 234B of that Act⁽⁶⁾; or
- (g) released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989⁽⁷⁾ or under section 1 or 1AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993⁽⁸⁾ and subject to a condition that they submit to treatment for their drug or alcohol dependency.

(1) 2003 c.44. Section 209 was amended by paragraph 88 of Schedule 4 to the Criminal Justice and Immigration Act 2008 (c.4) and by S.I. 2008/912. Section 177 was amended by paragraph 82 of Schedule 4 to that Act. Section 189 was amended by S.I. 2005/643.

(2) 1991 c.53.

(3) 1997 c.43.

(4) 2000 c.6. Sections 41 and 51 were repealed, with savings, by Schedule 37 to the Criminal Justice Act 2003 (c.44) (“the 2003 Act”).

(5) Section 52 was repealed, with savings, by Schedule 37 to the 2003 Act.

(6) 1995 c.46. Section 228 was amended by paragraph 21 of Schedule 1 to the Crime and Punishment (Scotland) Act 1997 (c.48), by paragraph 1 of Schedule 6 to the Crime and Disorder Act 1998 (c.37), by paragraph 122 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c.43), by section 42(11) of the Criminal Justice (Scotland) Act 2003 (asp 7) and by S.I. 2001/1149 and 2008/912. Section 229 was amended by section 49(4) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Section 229A was inserted by section 12(2) of the Management of Offenders etc (Scotland) Act 2005 (asp 14) (“MOSA”). Section 230 was amended by Schedule 6 to the Adults with Incapacity (Scotland) Act 2000 (asp 4), by section 135, paragraph 8 of Schedule 4 and Schedule 5 to the Mental Health (Care and Treatment) Scotland Act 2003 (asp 13) and by S.I. 2009/1182. Section 234B was inserted by section 89 of the Crime and Disorder Act 1998.

(7) 1989 c.45. Sections 22 and 26 were repealed, with savings, by Schedule 7 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9).

(8) 1993 c.9. Section 1 was amended by paragraph 98 of Schedule 8 to the Crime and Disorder Act 1998, by section 1(2) of the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7) and by section 15(2) of MOSA. Section 1AA was inserted by section 15(3) of MOSA.

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

SCHEDULE 2

Regulations 7 and 8

ENACTMENTS UNDER WHICH AN OBLIGATION TO RECEIVE RELEVANT SERVICES MAY BE IMPOSED AND IN RESPECT OF WHICH DIRECT PAYMENTS MAY BE MADE

The enactments referred to in regulations 7(1)(a) and 8(4)(a) are —

- (a) Part 1 of Schedule 1A to the Criminal Procedure (Insanity) Act 1964⁽⁹⁾;
- (b) section 8, 17 or 17B of the 1983 Act or section 40(2) read with section 8 of that Act⁽¹⁰⁾;
- (c) section 57A of or Schedule 4 to the Criminal Procedure (Scotland) Act 1995⁽¹¹⁾;
- (d) section 41, 53, 127, 179, 221 or 224 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 66 read with section 64 or 65 of that Act⁽¹²⁾;
- (e) section 177 or 189 of the Criminal Justice Act 2003 insofar as those sections relate to a person who is subject to a mental health treatment requirement as defined by section 207 of that Act⁽¹³⁾;
- (f) section 41 or 51 of the Powers of Criminal Courts (Sentencing) Act 2000 insofar as those sections relate to a person who is required to submit to treatment for their mental condition;
- (g) sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995 insofar as they relate to a person who is required to submit to treatment for their mental condition;
- (h) section 22 or 26 of the Prisons (Scotland) Act 1989 insofar as those sections relate to a person who is subject to a condition that they submit to treatment for their mental condition;
- (i) section 12 of the Prisoners and Criminal Proceedings (Scotland) Act 1993⁽¹⁴⁾ insofar it relates to a person who is subject to a condition that they submit to treatment for their mental condition; and
- (j) section 37(4) of the Criminal Justice Act 1991 insofar as it relates to a person who is subject to a condition that they submit to treatment for their mental condition⁽¹⁵⁾.

SCHEDULE 3

Regulation 20

REVOCATIONS

<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003	2003/762	The whole Regulations

⁽⁹⁾ 1964 c.84.

⁽¹⁰⁾ Section 8 was amended by paragraph 2(b) of Schedule 2 to the Mental Health Act 2007 (c.12) ("the 2007 Act"). Section 17 was amended by section 3(3) of the Mental Health (Patients in the Community) Act 1995 (c.52) and by sections 9(3) and 33(2) of the 2007 Act. Section 17B was inserted by section 32(2) of the 2007 Act.

⁽¹¹⁾ Section 57A was inserted by section 133 of the Mental Health (Care and Treatment) Scotland Act 2003. Section 57A was amended by S.S.I. 2005/465. Schedule 4 was amended by paragraph 21 of Schedule 1 to the Crime and Punishment (Scotland) Act 1997 and by S.S.I. 2005/465.

⁽¹²⁾ 2003 asp 13. Sections 127 and 179 were amended by S.S.I. 2005/465.

⁽¹³⁾ Section 207 was amended by S.I. 2009/1182.

⁽¹⁴⁾ Section 12 was repealed by Schedule 5 to the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) with effect from a date to be appointed.

⁽¹⁵⁾ Section 37 was repealed, with savings, by Schedule 37 to the 2003 Act.

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<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005	2005/2078	Paragraph 25 of Schedule 2
The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005	2005/2114	In Article 2(4) the words, “, and amendment of the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003” Paragraph 5 of Schedule 4
The Mental Health Act 2007 (Consequential Amendments) Order 2008	2008/2828	Article 18