
WELSH STATUTORY INSTRUMENTS

2001 No. 2186 (W. 150)

SOCIAL SERVICES, WALES

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

Made - - - - - *12th June 2001*

Coming into force - - - - - *1st July 2001*

The National Assembly for Wales, 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⁽¹⁾ and section 1(1)(b)(ii) of the Community Care (Direct Payments) Act 1996⁽²⁾, hereby makes the following Regulations:

Citation, commencement, interpretation and application

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

(2) In these Regulations—

“the Act” (“y Ddeddf”) means the Carers and Disabled Children Act 2000;

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

“the 1997 Regulations” (“Rheoliadau 1997”) means the Community Care (Direct Payments) Regulations 1997⁽³⁾.

(3) These Regulations apply to Wales 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 activities of a similar kind involving physical contact with the person cared for;

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

(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 substituted by section 5(b) of the Carers and Disabled Children Act 2000 (c. 16), which inserted sub-paragraphs (i) and (ii). The Secretary of State power in section 1(1)(b)(ii) of the 1996 Act to make regulations is vested in the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672.

(3) S.I. 1997/734.

- (c) supervising the person whilst the person is dressing, bathing, or using the toilet.
- (2) Where a service is being delivered to the person cared for the circumstances in which the service may include a service of an intimate nature are where—
 - (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 or she is likely to suffer serious personal harm unless a service of an intimate nature is provided to him or her 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.

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”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4)

12th June 2001

D. Elis-Thomas
The Presiding Officer of the National Assembly
for Wales.

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 the agreement of the carer and the person cared for. 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)). They also 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).