
WELSH STATUTORY INSTRUMENTS

2004 No. 1748 (W.185)

SOCIAL SERVICES, WALES

The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004

Made - - - - 8 July 2004

Coming into force - - 1 November 2004

The National Assembly for Wales, in exercise of powers conferred by sections 57(1), (3), (6) and (7) and 64(6) and (8) of the Health and Social Care Act 2001⁽¹⁾ and sections 17A(1), (3) and (4) and 104(4) of the Children Act 1989⁽²⁾ hereby makes the following Regulations:

Citation, commencement and application

1. These Regulations —

- (a) may be cited as the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004;
- (b) come into force on 1 November 2004;
- (c) apply only in relation to Wales.

Interpretation

2.—(1) In these Regulations —

- “the 1983 Act” (“*Deddf 1983*”) means the Mental Health Act 1983⁽³⁾;
- “the 1984 Act” (“*Deddf 1984*”) means the Mental Health (Scotland) Act 1984⁽⁴⁾;
- “the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989;

(1) 2001 c. 15. Section 66 of the 2001 Act defines “regulations” as “regulations made by the relevant authority”, and “relevant authority” as the National Assembly for Wales in relation to Wales in relation to Wales (and the Secretary of State in relation to England). See section 57(8) of the 2001 Act for the definition of “prescribed”.

(2) 1989 c. 41. Section 17A of the 1989 Act was substituted by section 58 of the 2001 Act. The power to make regulations under section 17A is conferred upon the Secretary of State. By virtue of section 68(1) of the 2001 Act, the reference to the 1989 Act in the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) shall be treated as a reference to that Act as amended by the 2001 Act. Accordingly, the powers of the Secretary of State under section 17A of the 1989 Act so far as exercisable in relation to Wales are exercisable by the Assembly: see Article 2(a) of, and the entry in respect of the 1989 Act in Schedule 1 to, the 1999 Order. See section 17A(6) of the 1989 Act for the definition of “prescribed”.

(3) 1983 c. 60.

(4) 1984 c. 36.

“the 1995 Act” (“*Deddf 1995*”) means the Criminal Procedure (Scotland) Act 1995(5);

“the 2000 Act” (“*Deddf 2000*”) means the Powers of Criminal Courts (Sentencing) Act 2000(6);

“the 2001 Act” (“*Deddf 2001*”) means the Health and Social Care Act 2001;

“the 2003 Regulations” (“*Rheoliadau 2003*”) means the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003(7);

“direct payment” (“*taliad uniongyrchol*”) shall be construed in accordance with regulation 5;

“prescribed person” (“*person rhagnodedig*”) means a person falling within the description prescribed by regulation 3 or (as the case may be) 4;

“relevant service” (“*gwasanaeth perthnasol*”) has the meaning given by regulation 5(2); and

“responsible authority” (“*awdurdod cyfrifol*”) shall be construed in accordance with section 57(2) of the 2001 Act or (as the case may be) section 17A(2) of the 1989 Act(8).

(2) In these Regulations—

- (a) a reference to a numbered regulation or Schedule is to the regulation in, or the Schedule to, these Regulations bearing that number;
- (b) a reference in a regulation or a Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or that Schedule;
- (c) a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph.

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

3.—(1) For the purposes of section 57(1) of the 2001 Act, a person falling with section 57(2) of that Act(9) is of a prescribed description if—

- (a) he or she is a person who appears to the responsible authority to be capable of managing a direct payment by himself or herself, or with such assistance as may be available to him or her; and
- (b) he or she falls within a description in paragraph (2); unless
- (c) he or she is a person to whom Schedule 1 applies.

(2) The descriptions are —

- (a) a person to whom section 29 of the National Assistance Act 1948(10) applies;
- (b) a person (not being a person falling within sub-paragraph (a)) referred to in section 57(2) (a) of the 2001 Act (persons in respect of whom a local authority have decided his or her needs call for the provision of a particular community care service) who is aged over 65;

(5) 1995 c. 46.

(6) 2000 c. 6.

(7) S.I. 2003/762.

(8) Under section 57(2) of the Health and Social Care Act 2001 and section 17A(2) of the Children Act 1989, the “responsible authority” in relation to a prescribed person is the local authority that has decided: (i) that his or her needs call for the provision by them of a particular community care service; (ii) to provide him or her with services by virtue of section 2(1) of the Carers and Disabled Children Act 2000; or (iii) that the needs of a disabled child call for the provision of services to the prescribed person under section 17 of the Children Act 1989.

(9) A person falls within section 57(2) of the 2001 Act if the responsible authority has decided: (i) that his or her needs call for the provision by them of a particular community care service; or (ii) to provide him or her with a particular service by virtue of section 2(1) of the Carers and Disabled Children Act 2000.

(10) 1948 c. 47. Section 29 applies to “persons aged eighteen or over who are blind, deaf or dumb or who suffer from mental disorder of any description, and other persons aged eighteen or over who are substantially and permanently handicapped by illness, injury, or congenital deformity or such other disabilities as may be prescribed...”.

- (c) a person in respect of whom the responsible authority has decided under section 2(1) of the Carers and Disabled Children Act 2000 (services for carers) to provide him or her with a particular service under that Act.

Prescribed descriptions of persons — children’s services

4. For the purposes of section 17A(1) of the 1989 Act, a person falling within section 17A(2) of that Act(11) is of a prescribed description if —

- (a) he or she is a person who appears to the responsible authority to be capable of managing a direct payment by himself or herself or with such assistance as may be available to him or her; unless
- (b) he or she is a person to whom Schedule 1 applies.

Duty to make direct payments

5.—(1) If the conditions in paragraph (3) are satisfied, a responsible authority must make in respect of —

- (a) a prescribed person under regulation 3 who falls within paragraph (2)(a) or (c) of that regulation;
- (b) at 1 March 2005 and thereafter, a prescribed person under regulation 3 who falls within paragraph (2)(b) of that regulation; and
- (c) a prescribed person under regulation 4;

such payments (“direct payments”) as are determined in accordance with regulation 6 in respect of his or her securing the provision of a relevant service.

(2) In these Regulations a relevant service means —

- (a) a community care service within the meaning of section 46 of the National Health Service and Community Care Act 1990(12); or
- (b) a service under section 2 of the Carers and Disabled Children Act 2000(13); or
- (c) a service which may be provided in the exercise of functions under section 17 of the 1989 Act (provision of services for children in need, their families and others).

(3) The conditions are that —

- (a) the responsible authority are satisfied that the person’s needs for the relevant service can be met by securing the provision of it by means of a direct payment; and
- (b) in the case of a relevant service mentioned in paragraph (2)(c), the responsible authority are satisfied that the welfare of the child in respect of whom the service is needed will be safeguarded or promoted by securing the provision of it by means of a direct payment.

Amount and payment of direct payments

6.—(1) Subject to paragraphs (3) and (4), a direct payment shall be made as a gross payment(14) unless the responsible authority decide it shall be made as a net payment(15).

(2) For the purpose of making the payment referred to in paragraph (1), the responsible authority shall determine, having regard to the prescribed person’s means, what amount or amounts (if any) it

(11) A person falls within section 17A(2) of the 1989 Act if he or she is: (a) a person with parental responsibility for a disabled child; (b) a disabled person with parental responsibility for a child; or (c) a disabled child aged 16 or 17;

(12) 1990 c. 19.

(13) 2000 c. 16.

(14) See section 57(4) of the 2001 Act for the definition of “gross payments”.

(15) See section 57(5) of the 2001 Act for the definition of “net payments”.

is reasonably practicable for him or her to pay towards securing the provision of the relevant service (whether by way of reimbursement as mentioned in section 57(4) of the 2001 Act or by way of a contribution as mentioned in section 57(5) of that Act)(16).

(3) Where the relevant service is one which, apart from these Regulations, would be provided under section 117 of the 1983 Act (after-care) —

- (a) the payment shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act; and
- (b) subsection (4)(b) of that section shall not apply.

(4) Where a direct payment is made to a person falling within section 17A(5) of the 1989 Act(17) —

- (a) the payment shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act(18); and
- (b) subsection (4)(b) of that section(19) shall not apply.

(5) A direct payment may be paid to —

- (a) the prescribed person; or
- (b) a person nominated by him or her to receive the payment on his or her behalf.

Conditions in respect of direct payments

7.—(1) A direct payment shall be subject to the condition that the service in respect of which it is made shall not be secured from a person mentioned in paragraph (2) unless —

- (a) in the case of a relevant service mentioned in regulation 5(2)(a) or (b), the responsible authority are satisfied that securing the service from such a person is necessary to meet satisfactorily the prescribed person's need for that service;
- (b) in the case of a relevant service mentioned in regulation 5(2)(c), the responsible authority are satisfied that securing the service from such a person is necessary for promoting the welfare of the child in need.

(2) The persons are —

- (a) the spouse of the prescribed person;
- (b) a person who lives with the prescribed person as if his or her spouse;
- (c) a person living in the same household as the prescribed person who is his or her —
 - (i) parent or parent-in-law;
 - (ii) son or daughter;
 - (iii) son-in-law or daughter-in-law;
 - (iv) stepson or stepdaughter;
 - (v) brother or sister;
 - (vi) aunt or uncle; or
 - (vii) grandparent;

(16) Section 17A(3) of the 1989 Act applies sections 57(3) to (5) and (7) of the 2001 Act to regulations made under section 17A of the 1989 Act.

(17) A person falls within section 17A(5) if he or she has parental responsibility for a disabled child aged 16 or 17 or is a disabled person with parental responsibility for a child of that age or is in receipt of income support, working families tax credit or disabled person's tax credit.

(18) The rate mentioned in section 57(4)(a) is such rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned.

(19) Section 57(4)(b) permits an authority to make gross direct payments subject to the condition that the payee pays to the authority, by way of reimbursement, an amount or amounts determined under the regulations.

- (d) the spouse of any person falling within sub-paragraph (c) who lives in the same household as the prescribed person; and
 - (e) a person who lives with any person falling within sub-paragraph (c) as if that person's spouse.
- (3) Paragraph (2)(c)(ii) and (iii) do not apply in the case of a person mentioned in section 17A(2)(c) of the 1989 Act⁽²⁰⁾.
- (4) A responsible authority may make a direct payment subject to such other conditions (if any) as they think fit.
- (5) The conditions referred to in paragraph (4) may, in particular, require that the payee —
- (a) must not secure the relevant service from a particular person;
 - (b) must provide such information to the responsible authority as they consider necessary in connection with the direct payment.

Maximum periods of residential accommodation which may be secured by means of a direct payment

8.—(1) Subject to paragraph (2), a direct payment may not be made in respect of a prescribed person who falls within regulation 3(1) for the provision to him or her of residential accommodation for a period in excess of 4 weeks in any period of 12 months.

- (2) In calculating the period of 4 weeks mentioned in paragraph (1), in any 12 month period—
- (a) an initial period in residential accommodation of less than 4 weeks (period A) shall only be added to a succeeding period (period B) where period B begins within 4 weeks of the end of period A; and
 - (b) any period in residential accommodation subsequent to period B shall be included in the calculation.

(3) A direct payment may not be made in respect of a prescribed person who falls within regulation 4 for the provision of residential accommodation —

- (a) for any single period in excess of 4 weeks; and
- (b) for any period in excess of 120 days in any period of 12 months.

Displaced functions and obligations of the responsible authority

9.—(1) Except as provided by paragraph (2), the fact that a responsible authority makes a direct payment shall not affect their functions with respect to the provision under the relevant enactment of the service to which the payment relates.

(2) Where a responsible authority makes a direct payment, they shall not be under any obligation with respect to the provision under the relevant enactment of the service to which the payment relates as long as they are satisfied that the need which calls for the provision of the service will be met by the payee's own arrangements.

(3) In paragraphs (1) and (2), references to the relevant enactment are, in relation to the provision of a service, to the enactment under which the service would fall to be provided apart from these Regulations.

Repayment of direct payments

10.—(1) Where a responsible authority which has made a direct payment is satisfied, in relation to the whole or any part of the payment —

⁽²⁰⁾ A disabled child aged 16 or 17 is the person mentioned in section 17A(2)(c).

(a) that it has not been used to secure the provision of the relevant service to which it relates; or
 (b) that a condition imposed by or under regulation 7 has not been complied with;

they may require the payment or, as the case may be, the part of the payment to be repaid.

(2) Any sum falling to be repaid by virtue of paragraph (1) shall be recoverable as a debt due to the authority.

Termination of direct payments

11.—(1) Subject to paragraph (3), a responsible authority shall stop making direct payments to a person if —

- (a) he ceases to be a prescribed person; or
- (b) a condition mentioned in regulation 5(3) ceases to be met.

(2) A responsible authority may stop making direct payments to a prescribed person if any condition imposed by or under regulation 7 or referred to in section 57(4)(b) of the 2001 Act⁽²¹⁾ is not complied with.

(3) Where the person in respect of whom direct payments are made ceases to be capable of managing such payments, a responsible authority may nevertheless continue to make such payments if —

- (a) they are reasonably satisfied that the person's incapability will be temporary;
- (b) another person is prepared to accept and manage such payments on the incapable person's behalf; and
- (c) the person with whom the arrangement for the provision of the relevant service has been made agrees to accept payment for the services from the person mentioned in subparagraph (b).

Consequential amendments

12. The amendments which were made by regulation 11 of the 2003 Regulations and which are contained in Schedule 2 to these Regulations shall also apply in Wales.

Revocation

13.—(1) The Community Care (Direct Payments) Regulations 1997⁽²²⁾, in so far as they were not revoked by the 2003 Regulations, and the Community Care (Direct Payments) Amendment (Wales) Regulations 2000⁽²³⁾ are hereby revoked.

(2) Regulations 3 and 4 of the Carers (Services) and Direct Payments (Amendment) (Wales) Regulations 2001⁽²⁴⁾ are hereby revoked.

(3) The Disabled Children (Direct Payments) (Wales) Regulations 2001⁽²⁵⁾ are hereby revoked.

⁽²¹⁾ Section 57(4)(b) of the 2001 Act permits the responsible authority to make a gross direct payment subject to the condition that the payee pays to it, by way of reimbursement, an amount or amounts determined under regulations. Section 17A(3) of the 1989 Act applies section 57(4)(b) to direct payments under that Act.

⁽²²⁾ S.I. 1997/734.

⁽²³⁾ S.I. 2000/1868 (W.127).

⁽²⁴⁾ S.I. 2001/2186 (W.150).

⁽²⁵⁾ S.I. 2001/2192 (W.154).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(26)

8 July 2004

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

SCHEDULE 1

Regulations 3(1) and 4

PERSONS TO WHOM DIRECT PAYMENTS MAY NOT BE MADE

This Schedule applies to a person —

- (a) who is required to submit to treatment for his or her mental condition or 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) who is subject to a drug treatment and testing order within the meaning of section 52 of the 2000 Act;
- (c) who is released on licence under section 37 of the Criminal Justice Act 1991⁽²⁷⁾ subject to a condition that he or she submits to treatment for his or her mental condition or drug or alcohol dependency;
- (d) who 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) who is absent from hospital with leave given in accordance with section 17 of the 1983 Act;
- (f) who is subject to after-care under supervision within the meaning of section 25A of the 1983 Act⁽²⁸⁾;
- (g) who has in force in respect of him or her a condition imposed in accordance with section 42(2) or 73(4) of the 1983 Act (including such a condition as varied in accordance with section 73(5) or 75(3) of that Act);
- (h) who has in force in respect of him or her 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⁽²⁹⁾;
- (i) who is a patient subject to after-care under a community care order under section 35A of the 1984 Act⁽³⁰⁾;
- (j) who is a patient who is absent from hospital on leave under section 27 of the 1984 Act;
- (k) who is subject to a guardianship order within the meaning of section 57 of the Adults with Incapacity (Scotland) Act 2000⁽³¹⁾ by reason of, or by reasons which include, incapacity through mental disorder;
- (l) who is a restricted patient within the meaning of section 63(1) of the 1984 Act and who has been given a conditional discharge under section 64 or 68 of that Act;
- (m) who is subject to an order of a court under section 57(2)(a), (b), (c) or (d), 58 or 59 of the 1995 Act;
- (n) who is required to submit to treatment for his or her mental condition or his or her 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 who is subject to a drug treatment and testing order within the meaning of section 234B of that Act⁽³²⁾; or

⁽²⁷⁾ 1991 c. 53.⁽²⁸⁾ Section 25A was inserted by section 1(1) of the Mental Health (Patients in the Community) Act 1995 (c. 52) (“the 1995 Act”).⁽²⁹⁾ 1991 c. 25.⁽³⁰⁾ Section 35A was inserted by section 4 of the 1995 Act.⁽³¹⁾ 2000 asp 4.⁽³²⁾ Section 234B was inserted by section 90 of the Crime and Disorder Act 1998 (c. 37).

- (o) who is released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989⁽³³⁾ or under section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993⁽³⁴⁾ and is subject to a condition that he or she submits to treatment for his or her mental condition or for his or her drug or alcohol dependency.

SCHEDULE 2

Regulation 12

CONSEQUENTIAL AMENDMENTS

1. In the enactments specified in column 1 of the following table, in the provisions specified in column 2 of that table, after “Community Care (Direct Payments) Act 1996”, insert “or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments)” —

<i>1. Title of enactment</i>	<i>2. Provisions to be amended</i>
Civil Legal Aid (Assessment of Resources) Regulations 1989 ⁽³⁵⁾	Schedule 2, paragraph 6(2)
Legal Advice and Assistance Regulations 1989 ⁽³⁶⁾	Schedule 3, paragraph 8(b)
Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 ⁽³⁷⁾	Schedule 2, paragraph 9A(2)
Community Legal Service (Financial) Regulations 2000 ⁽³⁸⁾	Schedule 3, paragraph 6(2)
Criminal Defence Service (General) (No 2) Regulations 2001 ⁽³⁹⁾	Regulations 19(b) and 33(b)
	Schedule 1, paragraph 8(1)(d)

2. In the enactments specified in column 1 of the following table, in the provisions specified in column 2 of that Schedule, after “Social Work (Scotland) Act 1968”, insert “or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments)” —

<i>1. Title of enactment</i>	<i>2. Provisions to be amended</i>
Income Support (General) Regulations 1987 ⁽⁴⁰⁾	Schedule 9, paragraph 58
Housing Benefit (General) Regulations 1987 ⁽⁴¹⁾	Schedule 4, paragraph 67
Family Credit (General) Regulations 1987 ⁽⁴²⁾	Schedule 2, paragraph 57

(33) 1989 c. 45.

(34) 1993 c. 9.

(35) S.I. 1989/338; relevant amending regulations are S.I. 1993/778, 1996/2309, 1997/753; see also S.I. 2000/774, article 5.

(36) S.I. 1989/340; relevant amending regulations are S.I. 1993/790 and 1997/751; see also S.I. 2000/774 article 5 and S.I. 2001/916, article 4 and Schedule 2.

(37) S.I. 1989/344; relevant amending regulations are S.I. 1993/789 and 1997/752; see also S.I. 2000/774 article 5 and S.I. 2001/916, article 4 and Schedule 2.

(38) S.I. 2000/516.

(39) S.I. 2001/1437.

(40) S.I. 1987/1967; relevant amending regulations are S.I. 1997/65.

(41) S.I. 1987/1971; relevant amending regulations are S.I. 1997/2863.

(42) S.I. 1987/1973; relevant amending regulations are S.I. 1997/65.

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

<i>1. Title of enactment</i>	<i>2. Provisions to be amended</i>
Disability Working Allowance (General) Regulations 1991 (43)	Schedule 3, paragraph 55
Council Tax Benefit (General) Regulations 1992 (44)	Schedule 4, paragraph 62
Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (45)	Schedule 2, paragraph 48C
Jobseeker's Allowance Regulations 1996 (46)	Schedule 7, paragraph 56
Housing Renewal Grants Regulations 1996 (47)	Schedule 3, paragraph 59
Relocation Grants (Form of Application) Regulations 1997 (48)	Schedule, paragraph 43A

3. In regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002**(49)** in entry 14 in table 6, after “Health and Personal Social Services (Direct Payments) (Northern Ireland) Order”, add “or regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require Welsh local authorities to make direct payments to certain persons in order that they may themselves secure the provision of certain social services. The services in question are listed in regulation 5(2).

Regulation 3 prescribes certain persons for the purposes of the Regulations, in so far as they apply to persons whose needs a local authority have decided call for the provision of community care services or in respect of whom a local authority has decided to provide a carer's service. A person is prescribed under regulation 3 if he or she appears to the local authority to be capable of managing direct payments and falls within any of the descriptions in regulation 3(2), unless he or she is a person to whom Schedule 1 to these Regulations applies.

Regulation 4 prescribes certain persons for the purposes of the Regulations, in so far as they apply to services for children in need and their families. Regulation 4 should be read in conjunction with s.17A(2) of the Children Act 1989. Under s.17A(2) of the 1989 Act direct payments may only be made to persons of the following descriptions and in cases where a local authority has decided that the needs of the child concerned call for the provision of a service under section 17 of the 1989 Act: (i) a person with parental responsibility for a disabled child; (ii) a disabled person with parental

(43) S.I. 1991/2887; relevant amending regulations are S.I. 1997/65.

(44) S.I. 1992/1814; relevant amending regulations are S.I. 1997/65.

(45) S.I. 1992/1815; relevant amending regulations are S.I. 1996/3196. S.I. 1992/1815 was revoked with savings by S.I. 2001/155.

(46) S.I. 1996/207; relevant amending regulations are S.I. 1997/65.

(47) S.I. 1996/2890; relevant amending regulations are S.I. 1998/808.

(48) S.I. 1997/2847.

(49) S.I. 2002/2006.

responsibility for a child; (iii) a disabled child aged 16 or 17. Regulation 4 sets out which of these persons are prescribed for the purposes of the Regulations. A person is prescribed under regulation 4 if he or she appears to a local authority to be capable of managing a direct payment and is not a person to whom Schedule 1 to these Regulations applies.

Regulation 5 confers duties upon local authorities in Wales to make direct payments to prescribed persons. It should be read in conjunction with section 57(1) of the Health and Social Care Act 2001 and s.17A(1) of the Children Act 1989. Under those provisions, direct payments may not be made to a person without his or her consent.

From 1 November 2004, under regulation 5 a local authority must, if the conditions in regulation 5(3) are met, make direct payments to: (i) persons prescribed under regulation 3 to whom section 29 of the National Assistance Act 1948 applies (section 29 applies to adults who are, for example, substantially and permanently handicapped by illness, injury or congenital deformity or suffering from mental disorder); (ii) persons prescribed under regulation 3 for whom the local authority have decided to provide services under section 2 of the Carers and Disabled Children Act 2000 (services for carers); and (iii) persons prescribed under regulation 4. And from 1 March 2005 a local authority must make direct payments to other persons prescribed under regulation 3 who are aged over 65 and in respect of whom the local authority has decided to provide community care services.

Regulation 6 provides that a direct payment shall be made either as either a gross payment, or net of such amount determined by the authority as being due by the person in respect of the service. It also provides that in certain cases only gross payments may be made. Regulation 6 further provides that a payment may be made to the prescribed person or to such other person nominated by that person.

Regulation 7 specifies conditions upon which direct payments may or shall be made. In particular, it prohibits a direct payment from being used to secure a service from the persons listed in regulation 7(2), except in the circumstances specified in regulation 7(1).

Regulation 8 specifies the maximum periods of residential accommodation that may be secured by means of a direct payment.

Regulation 9 provides that where an authority makes a direct payment it does not lose its responsibilities towards the prescribed person under the enactment under which the authority has decided the person is to receive services. However, where a local authority is satisfied that the needs of the prescribed person will be met by arrangements made by the recipient of the direct payment, it shall not be under any obligation with respect to the provision of the services secured by the direct payment.

Regulation 10 provides for the circumstances in which an authority may require a direct payment to be repaid.

Regulation 11 provides for the circumstances in which an authority shall, or may, terminate direct payments.

Regulation 12 and Schedule 2 amend various Regulations.

Regulation 13 revokes various Regulations.

Schedule 1 specifies persons to whom direct payments may not be made under these Regulations.