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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 65**

**SOCIAL CARE**

**The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014**

*Made* - - - - 27th February 2014  
*Laid before the Scottish Parliament* - - - - 3rd March 2014  
*Coming into force* - - 1st April 2014

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 87(5) of the Social Work (Scotland) Act 1968<sup>(1)</sup>, sections 15(1), (2)(c) and (d) and 22(1)(a) of the Social Care (Self-directed Support) (Scotland) Act 2013<sup>(2)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 and come into force on 1st April 2014.

**Waiving of charges in connection with support to carers**

2. A local authority must waive any payment which it would otherwise be entitled to charge under section 87(1) of the Social Work (Scotland) Act 1968 in the circumstances specified in regulation 3.

3. The circumstances are that the services are provided under—

- (a) section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (support for adult carers); or
- (b) section 22 of the Children (Scotland) Act 1995<sup>(3)</sup> (promotion of welfare of children in need) where the child is in need because of the care which the child provides, or intends to provide, to another person.

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(1) 1968 c.49. Section 87 is relevantly amended by the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1), section 18. The functions of the Secretary of State in section 87 were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). The requirement to obtain the consent of the Treasury has ceased to apply by virtue of section 55(1) of that Act.

(2) 2013 asp 1.

(3) 1995 c.36. Section 22 is amended by the Tax Credits Act 1999 (c.10), Schedule 1, paragraph 6(j), the Tax Credits Act 2002 (c.21), Schedule 3, paragraph 50, the Welfare Reform Act 2007 (c.5), Schedule 3, paragraph 14 and S.S.I. 2013/137.

**Local authority not to require contribution in respect of direct payments enabling the provision of support to carers**

4.—(1) The Self-directed Support (Direct Payments) (Scotland) Regulations 2014(4) are amended as follows.

(2) After regulation 3(4) insert—

“(5) This regulation is subject to regulation 3A.”.

(3) After regulation 3 insert—

**“Means testing for direct payments: carers**

**3A.**—(1) A local authority may not—

- (a) assess a direct payment user’s ability to contribute to the cost of securing the support to which a direct payment relates under regulation 3(1); or
- (b) require a direct payment user to contribute to a direct payment under regulation 3(3) or (4)

in the circumstances specified in paragraph (2).

(2) The circumstances are that the support to which the direct payment relates is—

- (a) support under section 3(4) of the Act; or
- (b) services under section 22 of the Children (Scotland) Act 1995 (promotion of welfare of children in need) where the direct payment user is a child who is in need because of the care which the child provides, or intends to provide, to another person.”.

St Andrew’s House,  
Edinburgh  
27th February 2014

*MICHAEL MATHESON*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

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

These Regulations oblige a local authority to waive charges for services provided under section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 and services provided to young carers under section 22 of the Children (Scotland) Act 1995. Section 87(1) of the Social Work (Scotland) Act 1968 allows a local authority to make charges in respect of services provided under those enactments. However, the power to charge is subject (among other things) to regulations made under section 87(5) waiving payments in specified circumstances.

Regulation 4 amends the Self-directed Support (Direct Payments) Regulations 2014 so that a local authority may not carry out a means test or require a direct payment user to make a contribution where the direct payment relates to support to adult or young carers under those enactments.

No Business and Regulatory Impact Assessment has been prepared in relation to these Regulations.