



# Community Care (Direct Payments) Act 1996

## 1996 CHAPTER 30

*England and Wales*

### **1 Direct payments.**

(1) Where—

- (a) an authority have decided under section 47 of the <sup>M1</sup>National Health Service and Community Care Act 1990 (assessment by local authorities of needs for community care services) that the needs of a person call for the provision of any community care services, and
- (b) the person is of a description which is specified for the purposes of this subsection by regulations made by the Secretary of State,

the authority may, if the person consents, make to him, in respect of his securing the provision of any of the services for which they have decided his needs call, a payment of such amount as, subject to subsections (2) and (3) below, they think fit.

(2) If—

- (a) an authority pay under subsection (1) above at a rate below their estimate of the reasonable cost of securing the provision of the service concerned, and
- (b) the payee satisfies the authority that his means are insufficient for it to be reasonably practicable for him to make up the difference,

the authority shall so adjust the payment to him under that subsection as to avoid there being a greater difference than that which appears to them to be reasonably practicable for him to make up.

- (3) In the case of a service which, apart from this Act, would be provided under section 117 of the <sup>M2</sup>Mental Health Act 1983 (after-care), an authority shall not pay under subsection (1) above at a rate below their estimate of the reasonable cost of securing the provision of the service.

- (4) A payment under subsection (1) above shall be subject to the condition that the person to whom it is made shall not secure the provision of the service to which it relates

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by a person who is of a description specified for the purposes of this subsection by regulations made by the Secretary of State.

- (5) The Secretary of State may by regulations provide that the power conferred by subsection (1) above shall not be exercisable in relation to the provision of residential accommodation for any person for a period in excess of such period as may be specified in the regulations.
- (6) If the authority by whom a payment under subsection (1) above is made are not satisfied, in relation to the whole or any part of the payment—
  - (a) that it has been used to secure the provision of the service to which it relates, or
  - (b) that the condition imposed by subsection (4) above, or any condition properly imposed by them, has been met in relation to its use,
 they may require the payment or, as the case may be, the part of the payment to be repaid.
- (7) Regulations under this section may—
  - (a) make different provision for different cases, and
  - (b) include such supplementary, incidental, consequential and transitional provisions and savings as the Secretary of State thinks fit.
- (8) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section, “community care services” has the same meaning as in section 46 of the <sup>M3</sup>National Health Service and Community Care Act 1990.

**Modifications etc. (not altering text)**

C1 S. 1 applied (Isles of Scilly) (1.4.1997) by S.I. 1997/759, art. 2

**Marginal Citations**

M1 1990 c. 19.  
M2 1983 c. 20.  
M3 1990 c. 19.

## 2 Relationship with other functions.

- (1) Except as provided by subsection (2) below, the fact that an authority make a payment under section 1(1) above shall not affect their functions with respect to the provision under the relevant community care enactment of the service to which the payment relates.
- (2) Where an authority make a payment under section 1(1) above, they shall not be under any obligation to the payee with respect to the provision under the relevant community care 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 virtue of the payee’s own arrangements.
- (3) In subsections (1) and (2) above, references to the relevant community care enactment, in relation to the provision of a service, are to the enactment under which the service would fall to be provided apart from this Act.

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**Modifications etc. (not altering text)**

- C2** S. 2 applied (Isles of Scilly) (1.4.1997) by S.I. 1997/759, **art.2**
- C3** S. 2(1)(2) applied (with modifications) by 1989 c. 41, **s. 17A(5)** (as inserted (1.4.2001 for E. and 1.7.2001 for W.) by 2000 c. 16, **s. 7(1)**; S.I. 2001/510, **art. 2, Sch.**; S.I. 2001/2196, **art. 2, Sch.**)

**3 Consequential amendments.**

- (1) The <sup>M4</sup>Local Authority Social Services Act 1970 shall be amended as follows.
- (2) In section 7B(2) (persons entitled to use the procedure for complaining about the discharge of a local authority's social services functions) there shall be inserted at the end "or if he is in receipt of payment from the authority under the Community Care (Direct Payments) Act 1996".
- (3) In Schedule 1 (enactments conferring functions assigned to social services committee) at the end there shall be added—

"Community Care (Direct Payments)  
Act 1996.

Functions in connection with the  
making of payments to persons in  
respect of their securing the provision of  
community care services."

**Marginal Citations**

- M4** 1970 c. 42.

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