
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Community Care (Direct Payments) Act 1996 (“the Act”) is to come into force on 1st April 1997. The Act inserts a new section 12B into the Social Work (Scotland) Act 1968 (“the 1968 Act”) which enables local authorities responsible for the provision of (or arranging the provision of) community care services to make direct payments to persons in respect of their securing the provision of such services.

These Regulations specify persons, to whom direct payments may be made under section 12B(1) of the 1968 Act, as being persons in need as defined by section 94(1) of the 1968 Act who are also suffering from illness or mental disorder or are substantially handicapped by any deformity or disability who appear to the local authority to be capable of managing a direct payment by themselves or with assistance. The Regulations except from this description any person who is aged sixty five or over (unless he received a direct payment in the year before he attained the age of 65) and persons whose liberty to arrange their own care is restricted by certain legislation relating to mental health and criminal justice (regulation 2). Secondly, these Regulations specify for the purposes of section 12B(3) of the 1968 Act the persons from whom services may not be secured by means of a direct payment as being the spouse of the payee and anyone who lives with him as his spouse and certain relatives who live in the same household as the payee as well as the spouse of such person and anyone living with such a person as his spouse (regulation 3).

Lastly, these regulations specify for the purposes of section 12B(4) of the 1968 Act the maximum period of residential accommodation which may be secured by means of a direct payment as being four weeks in any twelve month period. In calculating this period of four weeks, a period in residential care of less than four weeks is to be added to a succeeding period in residential care if the two periods are separated by a period of less than four weeks but not otherwise (regulation 4).

Businesses will not incur costs due to these Regulations.