2001 No. 442

CHILDREN AND YOUNG PERSONS, ENGLAND

The Disabled Children (Direct Payments) (England) Regulations 2001

Made - - - - -	*15th February 2001*
Laid before Parliament	*16th February 2001*
Coming into force - -	*1st April 2001*

The Secretary of State for Health, in exercise of the powers conferred by sections 17A(3) and (4) and 104(4) of the Children Act 1989(**a**) and of all other powers enabling him in that behalf hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Disabled Children (Direct Payments) (England) Regulations 2001 and shall come into force on 1st April 2001.

(2) In these Regulations "the Act" means the Children Act 1989.

(3) These Regulations extend to England only.

Persons from whom services may not be secured by means of a direct payment

2.—(1) In the case of a direct payment being made to a person falling within section 17A(2)(a) of the Act, the following persons are of a prescribed description for the purposes of section 17A(3) of the Act—

(a) the spouse of the payee;

(b) a person who lives with the payee as his spouse;

(c) a person living in the same household as the payee who is the payee's—

(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;

(d) the spouse of any person specified in sub-paragraph (c) who lives in the same household as the payee, and

(e) a person who lives with any person specified in sub-paragraph (c) as that person's spouse.

(**a**) 1989 c. 41; section 17A was inserted by section 7(1) of the Carers and Disabled Children Act 2000 (c. 16) ("the 2000 Act"). As regards Wales, the functions of the Secretary of State under the Children Act 1989 ("the 1989 Act") are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Under section 7(2) of the 2000 Act, that Order is to be treated as referring to the 1989 Act as amended by section 7 of the 2000 Act.

(2) In the case of a direct payment being made to a person falling within section 17A(2)(b) of the Act, the following persons are of a prescribed description for the purposes of section 17A(3) of the Act—

(a) the spouse of the payee;

(b) a person who lives with the payee as his spouse;

(c) a person living in the same household as the payee who is the payee's—

(i) parent or parent-in-law,

(ii) brother or sister,

(iii) aunt or uncle, or

(iv) grandparent;

(d) the spouse of any person specified in sub-paragraph (c) who lives in the same household as the payee; and

(e) a person who lives with any person specified in sub-paragraph (c) as that person's spouse.

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

3. The power to make a payment under section 17A(1) of the Act shall not be exercisable in relation to the provision of residential accommodation for any disabled child—

(a) for a period in excess of 28 days; and

(b) in any period of 12 months for periods which exceed 120 days in total.

John Hutton
Minister of State,
15th February 2001 Secretary of State for Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Carers and Disabled Children Act 2000 inserts into the Children Act 1989 a new section (section 17A) enabling local authorities to make direct payments to persons with parental responsibility for a disabled child or a disabled child aged 16 or 17, in lieu of services which would have otherwise been provided for them by the local authority under section 17 of the Children Act.

These Regulations specify those persons from whom services may not be secured by means of a direct payment (regulation 2).

These regulations also specify the maximum periods of residential accommodation which may be secured by means of a direct payment (regulation 3).

STATUTORY INSTRUMENTS

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