



# Welfare Reform Act 2009

## 2009 CHAPTER 24

### PART 2

#### DISABLED PEOPLE: RIGHT TO CONTROL PROVISION OF SERVICES

##### *Introductory*

#### **38 Purpose of Part 2**

The purpose of this Part is to enable disabled people aged 18 or over to exercise greater choice in relation to, and greater control over, the way in which relevant services (as defined by section 39) are provided to or for them, in cases where the provision of the relevant services is a function of a relevant authority (as defined by section 40).

#### **39 Relevant services**

- (1) In this Part “relevant services” means services—
  - (a) which are provided to or for the benefit of a disabled person (“P”) (whether or not in connection with P’s disability), and
  - (b) which relate to one or more of the following matters.
- (2) Those matters are—
  - (a) the provision of further education for P;
  - (b) facilitating the undertaking by P of further education or higher education;
  - (c) the provision of training for P;
  - (d) securing employment for P;
  - (e) facilitating P’s continued employment;
  - (f) enabling P to live independently or more independently in P’s home;
  - (g) the provision of residential accommodation for P;
  - (h) enabling P to overcome barriers to participation in society.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Relevant services also include the provision by or on behalf of a relevant authority to or for the benefit of a disabled person of grants or loans relating to one or more of the matters mentioned in subsection (2).
- (4) Relevant services do not include excluded services (provision as to direct payments relating to excluded services being made by other legislation).
- (5) Subsection (4) is subject to section 44(4) (which relates to pilot schemes) and to section 48 (which gives power to repeal the exclusion of community care services).
- (6) In relation to England and Wales, the following are excluded services—
  - (a) community care services,
  - (b) services provided under the [Carers and Disabled Children Act 2000 \(c. 16\)](#), and
  - (c) services provided under section 17 of the [Children Act 1989 \(c. 41\)](#) (provision of services for children in need, their families and others).
- (7) In relation to Scotland, the following are excluded services—
  - (a) community care services, and
  - (b) services provided under section 22(1) of the [Children \(Scotland\) Act 1995 \(c. 36\)](#) (promotion of welfare of children in need).
- (8) In this section “further education” and “higher education”—
  - (a) in relation to England and Wales, have the same meaning as in the [Education Act 1996 \(c. 56\)](#);
  - (b) in relation to Scotland, have the same meaning as in the [Further and Higher Education \(Scotland\) Act 1992 \(c. 37\)](#).

#### **40 Relevant authority**

- (1) In this Part “relevant authority” means—
  - (a) a Minister of the Crown or government department;
  - (b) the Scottish Ministers;
  - (c) the Welsh Ministers;
  - (d) a local authority;
  - (e) a person or body whose functions are exercised on behalf of the Crown;
  - (f) any other body which meets conditions A and B below.
- (2) Condition A is that the body is established by virtue of Her Majesty’s prerogative or by an enactment or is established in any other way by a Minister of the Crown acting as such or by a government department.
- (3) Condition B is that the body’s revenues derive wholly or mainly from public funds.
- (4) In subsection (1)(d) “local authority” means—
  - (a) a local authority within the meaning of the [Local Government Act 1972 \(c. 70\)](#),
  - (b) a council constituted under section 2 of the [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#),
  - (c) the Greater London Authority,
  - (d) the Common Council of the City of London in its capacity as a local authority, or

(e) the Council of the Isles of Scilly.

(5) In subsection (2) “Minister of the Crown” includes the Scottish Ministers and the Welsh Ministers.