
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 41 of the Welfare Reform Act 2009 enables the Secretary of State by regulations to make provision for the purpose of enabling disabled people aged 18 or over to exercise greater choice in relation to, and greater control over, the way in which certain services are provided to or for them by or on behalf of public bodies. Section 44 enables regulations under section 41 to make temporary provision as a pilot scheme.

These Regulations make temporary provision for the purpose mentioned above. They apply only in the pilot areas listed in regulation 3.

The Independent Living Fund trust deed referred to in regulation 2 can be obtained free of charge from the Independent Living Fund, Equinox House, Island Business Quarter, City Link, Nottingham, NG2 4LA or from funds@ilf.org.uk.

Regulations 7 to 20 relate only to the “qualifying services” specified in regulation 4. These include two programmes known as “Access to Work” and “Work Choice Specialist Disability Employment Programme” (‘Work Choice’), which are administered by Jobcentre Plus. They also include certain housing-related assistance provided by local authorities. Information about Access to Work and Work Choice can be obtained from Jobcentre Plus offices. Alternatively, such information can be obtained from the contact centres, details of which are available at <http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/index.htm>.

Regulation 7 places a duty on the responsible authority to inform an individual (referred to as ‘P’) who is eligible for qualifying services of the rights and choices available under these Regulations and under other right to control services. ‘Right to control services’ is defined in regulation 2(1) and includes qualifying services together with other specified services.

Regulations 8 to 13 contain provisions relating to the support plan which must be developed by the responsible authority. Regulation 11 provides that, subject to some limitations, requests by P as to the manner in which services are to be provided must be given effect in the support plan. Services must, so far as is practicable, be provided in accordance with the support plan (regulation 12).

Regulations 14 to 16 set out when direct payments are to be made to P or to a suitable person on P’s behalf.

Regulation 17 provides for circumstances in which direct payments must terminate and regulation 18 gives a power for the responsible authority to recover payments made.

Regulation 19 provides for the review of certain decisions made by the responsible authority.

Regulation 21 relates to the sharing of information between relevant authorities in relation to right to control services for certain purposes.

Regulation 22 contains transitional provisions relating to support plans made under these Regulations before the expiry of the Regulations.

Regulation 23 and Schedule 2 modify the provisions of Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996, which relate to disabled facilities grants, in their application to certain cases relating to premises within certain of the pilot areas. The main effect of the modifications is to require the local housing authority to prepare a support plan and (subject to certain conditions) to give the disabled occupant a wider choice of contractors and enable the disabled occupant to receive direct payment of the grant in certain circumstances.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Disabled People's Right to Control (Pilot Scheme) (England) Regulations 2010 No. 2862*

Regulation 24 imposes a duty on relevant authorities other than the Secretary of State to have regard to guidance issued by the Secretary of State.

A full impact assessment has not been made for this instrument as it has no impact on the private sector and civil society organisations.