
DRAFT STATUTORY INSTRUMENTS

2010 No.

**The Disabled People's Right to Control
(Pilot Scheme) (England) Regulations 2010**

Direct payments in case of person lacking capacity to request them

15.—(1) Where P falls within paragraph (2) or is believed by the responsible authority to fall within that paragraph, this regulation applies instead of regulation 14.

(2) P falls within this paragraph if P lacks capacity to consent to the making of direct payments under regulation 14.

(3) Where P's support plan has been approved by P or in accordance with regulation 9(3), the responsible authority must consider whether the conditions in regulation 16 could be met in relation to the making of payments ("direct payments") to a suitable person ("S") other than P in respect of S's securing the provision for P of services that secure one or more of those outcomes.

(4) The responsible authority may make direct payments to S if –

- (a) S so requests;
- (b) the conditions in regulation 16 are met; and
- (c) P is not a person excluded by Schedule 1.

(5) If direct payments are to be made to S under this regulation —

- (a) P's support plan must set out the level of such payments and include a statement by S confirming that S is aware of the obligation to repay any payment in the circumstances set out in regulation 18(1)(a) to (c), and
- (b) S and, where S is not a surrogate of P but there is a surrogate of P, that surrogate, must sign the support plan as amended in accordance with sub- paragraph (a).

(6) A direct payment under this regulation is to be subject to the condition that the service in respect of which it is made must not be secured from a person mentioned in regulation 14(6) unless the responsible authority is satisfied that securing the service from such a person is necessary to meet satisfactorily P's need for that service.

(7) The responsible authority may make a direct payment subject to such other conditions as it thinks fit.

(8) The conditions referred to in paragraph (7) may, in particular, require that S—

- (a) must not secure the service from a particular person; and
- (b) must provide such information to the responsible authority as the authority considers necessary in connection with the direct payment.