

# CARERS AND DISABLED CHILDREN ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 7: Vouchers and direct payments to disabled children and persons with parental responsibility for disabled children*

31. *Section 7(1)* inserts new sections 17A and 17B into the Children Act 1989. The effect of subsections (2) and (3) is that regulations made under the new sections 17A and 17B will be made in respect of England by the Secretary of State and in respect of Wales by the National Assembly for Wales.

#### **New Section 17A**

32. The new section 17A enables a local authority, instead of providing services under the Children Act, to make to the person who has parental responsibility for a disabled child a direct payment in lieu of those services to enable that person to arrange for the provision of those services rather than rely on direct service provision from the local authority. Similar provision is made in relation to a disabled child aged 16 or 17. Subsections (3) and (4) make similar provision to that contained in the 1996 Act. A person with parental responsibility for a disabled child or a disabled child aged 16 or 17 ("the payee") may not use the direct payment to secure services from a person who is of a prescribed description (subsection (3)). The limitations here are likely to include 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 a person and anyone living with such a person as his spouse.
33. Subsection (4) enables the Secretary of State or, as the case may be, the National Assembly for Wales to limit the period of residential accommodation which may be purchased by means of a direct payment.
34. Subsection (5) provides for the application (except as mentioned in subsection (6)) of section 1(2) and (6) and of section 2(1) and (2) of the Community Care (Direct Payments) Act 1996 in relation to payments under the new section 17A(1). Under section 1(2) of the 1996 Act the local authority may have regard to an individual's financial circumstances when determining the amount of direct payments. It may not require an individual to contribute more than it appears to the authority to be reasonably practicable for him to contribute. The amount of the direct payment will be equal to the local authority's estimate of the reasonable cost of securing the provision of the service (subsection (6)), in the case of -
- a) a person with parental responsibility for a disabled child, other than a parent of such a child under 16,
  - b) a person who is in receipt of income support, working families' tax credit or disabled person's tax credit under Part VII of the Social Security Contributions and Benefits Act 1992 or of an income-based jobseeker's allowance.

*These notes refer to the Carers and Disabled Children Act  
2000 (c.16) which received Royal Assent on 20th July 2000*

35. Under section 1(6) of the 1996 Act the local authority is empowered to recover all or part of a direct payment where it is not satisfied that it has been used for the purpose for which it was intended or that the conditions imposed on its use have been met.
36. The effect of section 2(1) and (2) of the 1996 Act is to ensure that a local authority which makes direct payments will not also have to arrange the services as long as it is satisfied that the individual's own arrangements are adequate to provide the service. However, the local authority will have a responsibility to arrange the services if it is not satisfied that the individual's needs are being met.

**New Section 17B**

37. This makes similar provision for vouchers to that contained in section 3 of the Act. It inserts a new section 17B into the Children Act which will enable the Secretary of State or, as the case may be, the National Assembly for Wales, to make provision in regulations for the issue of vouchers by local authorities to persons with parental responsibility for disabled children to enable such persons to arrange for someone to care for their disabled child while they take a short break from their caring responsibilities.