

SCHEDULE 1

Regulation 14(3) and 15(4)(c)

PERSONS EXCLUDED FROM DIRECT PAYMENTS

The following persons are excluded by this Schedule from direct payments—

- (a) a person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(1), imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;
- (b) a person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;
- (c) a person who is released on licence under Part 2 of the Criminal Justice Act 1991(2), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(3) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol-related behaviour;
- (d) a person who is required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000(4) or a community punishment and rehabilitation order within the meaning of section 51 of that Act;
- (e) a person who is subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000(5);
- (f) a person who is required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995 or is subject to a drug treatment and testing order within the meaning of section 234B of that Act(6);
- (g) a person who is released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989(7) or under section 1 or 1AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993(8) and is subject to a condition that they submit to treatment for their drug or alcohol dependency.

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- (1) 2003 c. 44 ('the 2003 Act'). Section 209 was amended by paragraph 88 of Schedule 4 to the Criminal Justice and Immigration Act 2008 (c.4) and by S.I. 2008/912. Section 177 was amended by paragraph 82 of Schedule 4 to that Act. Section 189 was amended by S.I. 2005/643.
 - (2) 1991 c. 53. Part 2 was repealed, with savings (as to which see paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Savings Provisions) Order 2005 (S.I. 2005/950)), by sections 303(a) and 332 of, and Part 7 of Schedule 37 to, the 2003 Act.
 - (3) 1997 c. 43. There are amendments to this Chapter of the Act not relevant to these Regulations.
 - (4) 2000 c. 6. Sections 41 and 51 were repealed, with savings, by Schedule 37 to the 2003 Act.
 - (5) Section 52 was repealed, with savings, by Schedule 37 to the 2003 Act.
 - (6) 1995 c.46. Section 228 was amended by paragraph 21 of Schedule 1 to the Crime and Punishment (Scotland) Act 1997 (c.48), by paragraph 1 of Schedule 6 to the Crime and Disorder Act 1998 (c.37), by paragraph 122 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c.43), by section 42(11) of the Criminal Justice (Scotland) Act 2003 (asp 7) and by S.I. 2001/1149 and 2008/912. Section 229 was amended by section 49(4) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Section 229A was inserted by section 12(2) of the Management of Offenders etc (Scotland) Act 2005 (asp 14) ("MOSA"). Section 230 was amended by Schedule 6 to the Adults with Incapacity (Scotland) Act 2000 (asp 4), by section 135 of, and paragraph 8 of Schedule 4 and Schedule 5 to, the Mental Health (Care and Treatment) Scotland Act 2003 (asp 13) and by S.I. 2009/1182. Section 234B was inserted by section 89 of the Crime and Disorder Act 1998.
 - (7) 1989 c. 45. Sections 22 and 26 were repealed, with savings, by Schedule 7 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9).
 - (8) 1993 c. 9. Section 1 was amended by paragraph 98 of Schedule 8 to the Crime and Disorder Act 1998, by section 1(2) of the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7) and by section 15(2) of MOSA. Section 1AA was inserted by section 15(3) of MOSA.

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SCHEDULE 2

Regulation 23(1)

MODIFICATIONS OF CHAPTER 1 OF PART 1 OF THE HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996

1. In this Schedule “the 1996 Act” means the Housing Grants, Construction and Regeneration Act 1996, and expressions used in this Schedule and in Chapter 1 of Part 1 of that Act have the same meaning as in that Chapter.

2. Section 2 of the 1996 Act has effect as if it required the local housing authority, in any case where the authority has not given a direction that no estimates are required but an application under that section does not contain the estimates that would (apart from this paragraph) be required by subsection (2)(b) of that section, to obtain those estimates that would otherwise be required.

3. If the local housing authority notifies the applicant under section 34(1) of the 1996 Act that the application is approved, it must provide the following information to the disabled occupant—

- (a) an explanation of the right of the disabled occupant, subject to the provisions of paragraph 5, to choose a contractor other than the contractor, or one of the contractors, whose estimate accompanied the application,
- (b) an explanation of the right of the disabled occupant, subject to the provisions of paragraph 6, to require the grant to be paid to the disabled occupant rather than to the contractor or the applicant (if not the disabled occupant),
- (c) information about the existence of other right to control services and the relevant authorities by which they are provided, and
- (d) information about organisations which provide advice and assistance in connection with the exercise of the rights available by virtue of these Regulations.

4.—(1) If the local housing authority approves an application for a grant under section 1(1) of the 1996 Act(9), the authority must work with the disabled occupant to develop a support plan for the disabled occupant.

(2) The support plan must set out—

- (a) the amount of the grant,
- (b) the works to be carried out and the contractor by whom they are to be carried out,
- (c) whether the grant is to be paid to the disabled occupant, to the applicant (if different) or to the contractor,
- (d) whether the grant is to be payable in instalments and if so when they are to be payable, and
- (e) the purpose falling within section 23(1)(10) of the 1996 Act that the carrying out of the works is intended to achieve.

(3) The part of the support plan which relates to the matters referred to in sub-paragraph (2)(b) requires the approval of—

- (a) the applicant, and
- (b) any person who in relation to the application gave an owner’s certificate for the purposes of section 22(3)(11) of the 1996 Act or a consent certificate for the purposes of section 22A(3)(12) of that Act.

(9) Paragraphs (a) and (b) of subsection (1) were repealed by S.I. 2002/1860, articles 11(1) and 15, Schedule 3, paragraphs 1 and 2(a)(i) and Schedule 6 and paragraph (c) (i) and (ii) was inserted by article 11(1), Schedule 3, paragraphs 1 and 2(a) (ii). ‘Caravans’ was inserted by the Housing Act 2004 (c.34), section 224(1) and (2).

(10) Subsection (1) was amended by S.I. 2002/1860, articles 11(1) and 15, Schedule 3, paragraphs 1 and 7 and Schedule 6. For the insertion of the word ‘caravan’ please see footnote (a) in relation to sub-paragraph (1).

(11) Section 22(3) was amended by SI 2002/1860, articles 11(1) and 15(1), Schedule 3, paragraphs 1 and 5(c) and Schedule 6.

(4) If the support plan provides for the grant to be paid to the disabled occupant, the support plan also requires the consent of the disabled occupant.

(5) The support plan must be in writing and be signed by or on behalf of the local housing authority.

(6) The local housing authority must give a copy of the support plan to the disabled occupant and the applicant (if different).

(7) The local housing authority may arrange for a support plan under this Schedule to be combined with a support plan developed in relation to any other right to control service.

5. Section 38 of the 1996 Act (conditions as to contractors employed) does not apply unless the local housing authority notifies the applicant and the disabled occupant that it considers that the disabled occupant is incapable of managing —

- (a) a grant, either alone or with such assistance as may be available to the disabled occupant, or
- (b) the proposed works, either alone or with such assistance as may be available to the disabled occupant.

6. Section 39 of the 1996 Act (payment of grant to contractor) is not to be regarded as enabling the local housing authority to pay a grant or part of a grant as mentioned in subsection (1)(a) or (b) of that section unless—

- (a) the disabled occupant so requests,
- (b) it appears to the authority that the disabled occupant is incapable of managing a grant, either alone or with such assistance as may be available to the disabled occupant,
- (c) it appears to the authority that the disabled occupant is incapable of managing the proposed works, either alone or with such assistance as may be available to the disabled occupant, or
- (d) where part of the grant has been paid, it appears to the authority that that part has not been applied in accordance with the support plan.

7.—(1) If the support plan so provides, the local housing authority must pay a grant or part of a grant to the disabled occupant, even if the disabled occupant was not the applicant for the grant.

(2) Sub-paragraph (1) does not apply if the disabled occupant is a person excluded by Schedule 1 to these Regulations.

8. Section 52 of the 1996 Act (power to impose other conditions) has effect as if it enabled a condition imposed under that section, in a case where the grant was paid to a disabled occupant other than the applicant, also to enable the amounts mentioned, together with interest as mentioned in subsection (1) of that section, to be required to be paid by the person to whom the grant was paid.

9. The local housing authority must maintain arrangements under which disabled occupants affected by decisions of the local housing authority by virtue of paragraph 5 or 6 may apply for a review of those decisions.

10.—(1) The functions of the local housing authority under any of paragraphs 3, 4 and 7 may be exercised by a person authorised by the local housing authority for the purpose or by employees of such a person.

(2) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the local housing authority.

(12) Section 22A was inserted by [S.I. 2002/1860](#), article 11(1), Schedule 3, paragraphs 1 and 6 and subsection (3) was amended by the Housing Act 2004, section 224.

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- (3) But sub-paragraph (2) does not apply—
- (a) for the purposes of so much of any contract made between the authorised person and the local housing authority as relates to the exercise of the function, or
 - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by an authorised person (or an employee of that person).
- (4) In sub-paragraphs (2) and (3) “authorised person” means a person authorised to exercise any function by virtue of sub-paragraph (1).

11. Where an application for a grant has been approved before the expiry date, the provisions of this Schedule are to continue to apply during the period of 12 months beginning with the expiry date.