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STATUTORY INSTRUMENTS

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**2014 No. 2871**

**The Care and Support (Direct Payments) Regulations 2014**

**Conditions which must apply to the making of direct payments**

3.—(1) Direct payments must be made subject to the condition that they must not be used to pay any person mentioned in paragraph (3) to meet the needs of the adult in respect of whose needs the direct payment is made.

(2) Except that, if the local authority considers it is necessary to do so, direct payments may be used to pay a person mentioned in paragraph (3)—

- (a) to meet the care needs of the adult; or
- (b) to provide administrative and management support or services for the purpose of enabling a person to whom the direct payments are made to—
  - (i) comply with legal obligations arising from the making of and use of the direct payment, or
  - (ii) monitor the receipt and expenditure of the direct payment.

(3) The persons referred to in paragraph (1) are—

- (a) the spouse or civil partner of the adult;
- (b) a person who lives with the adult as if their spouse or civil partner;
- (c) a person living in the same household as the adult who is the adult's—
  - (i) parent or parent-in-law,
  - (ii) son or daughter,
  - (iii) son-in-law or daughter-in-law,
  - (iv) stepson or stepdaughter,
  - (v) brother or sister,
  - (vi) aunt or uncle, or
  - (vii) grandparent;
- (d) the spouse or civil partner of any person specified in sub-paragraph (c) who lives in the same household as the adult; and
- (e) a person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner.

(4) A direct payment made under section 32 must be made subject to the condition that the authorised person<sup>(1)</sup> must—

- (a) notify the local authority if the authorised person reasonably believes that the adult no longer lacks the capacity to request the making of direct payments; and
- (b) if paragraph (5) applies, obtain—

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(1) See section 32(4) of the Act for the meaning of “authorised person”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (i) an enhanced criminal record certificate issued under section 113B (enhanced criminal record certificate) of the Police Act 1997(2), or
  - (ii) verification that a satisfactory certificate of that type under that Act has been obtained,
- in respect of any person from whom a service in respect of which a direct payment is made is secured.
- (5) This paragraph applies if the authorised person is—
- (a) a body corporate;
  - (b) an unincorporated body of persons;
  - (c) an individual who is not a person mentioned in paragraph (3); or
  - (d) an individual who is not a friend of the adult who is involved in the provision of care for the adult.

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(2) [1997 c.50](#); section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act [2005 \(c.15\)](#) and was amended by the Safeguarding Vulnerable Groups Act [2006 \(c.47\)](#), Schedule 9, paragraph 14(1) and (3); the Armed Forces Act [2006 \(c.52\)](#), Schedule 16, paragraph 149; the Protection of Vulnerable Groups (Scotland) Act [2007 \(asp 14\)](#), sections 79(1) and 80; the Policing and Crime Act [2009 \(c.26\)](#), sections 97(2) and 112(2) and Schedule 8, Part 8; the Criminal Justice and Licensing (Scotland) Act [2010 \(asp 13\)](#), section 108(1) and (2); the Protection of Freedoms Act [2012 \(c.9\)](#), sections 79(2) (b), 80(1), 82(1), 82(2) and (3) and Schedule 9, paragraphs 35 and 37 and Schedule 10, Parts 5 and 6; the [Crime and Courts Act 2013 \(c.22\)](#), Schedule 8, Part 2, paragraphs 55 and 60; and by [S.I. 2009/203](#), [S.I. 2010/1146](#) and [2012/3006](#).