

2014 No. 513

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

SOCIAL CARE

**The Social Care (Self-directed Support) (Scotland) Act 2013
(Consequential Modifications and Savings) Order 2014**

Made - - - - *4th March 2014*

Laid *6th March 2014*

Coming into force - - *1st April 2014*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2), (4) and (5) of the Scotland Act 1998(a).

Citation, commencement and extent

1.—(1) This Order may be cited as the Social Care (Self-directed Support) (Scotland) Act 2013 (Consequential Modifications and Savings) Order 2014.

(2) This Order comes into force on 1st April 2014.

(3) Any modification made by the Schedule has the same extent as the provision being modified.

Modifications

2. The modifications contained in the Schedule have effect.

Savings

3. Notwithstanding article 2, the modifications contained in the Schedule are of no effect in respect of a payment made under section 12B of the Social Work (Scotland) Act 1968(a) after this Order comes into force.

Signed by the authority of the Secretary of State

David Mundell
Parliamentary Under Secretary of State
Scotland Office

Dover House
London
4th March 2014

(a) 1968 c.49, section 12B is repealed by section 25 of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1) but saved in respect of certain payments made under that section on or after 1st April 2014 (see S.S.I. 2014/32 (C.2)).

SCHEDULE MODIFICATIONS

Article 2

Income Support (General) Regulations 1987

1. In—

- (a) paragraph 58 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings); and
- (b) paragraph 67 of Schedule 10 (capital to be disregarded),

to the Income Support (General) Regulations 1987(a), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013(b)”.

Family Credit (General) Regulations 1987

2. In paragraph 57 of Schedule 2 (sums to be disregarded in the calculation of income other than earnings) to the Family Credit (General) Regulations 1987(c), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

Disability Working Allowance (General) Regulations 1991

3. In paragraph 55 of Schedule 3 (sums to be disregarded in the calculation of income other than earnings) to the Disability Working Allowance (General) Regulations 1991(d), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

Child Support (Maintenance Assessments and Special Cases) Regulations 1992

4. In paragraph 48C of Schedule 2 (amounts to be disregarded when calculating or estimating N and M (parent’s net income)) to the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(e), for “section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

Jobseeker’s Allowance Regulations 1996

5. In—

- (a) paragraph 56 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings); and
- (b) paragraph 60 of Schedule 8 (capital to be disregarded),

to the Jobseeker’s Allowance Regulations 1996(f), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

(a) S.I. 1987/1967; relevant amending instruments are S.I. 1997/65, 2003/2279, 2004/1748, 2009/583 and 2010/641.
(b) 2013 asp 1.
(c) S.I. 1987/1973; relevant amending instruments are S.I. 1997/65, 2004/1748.
(d) S.I. 1991/2887; relevant amending instruments are S.I. 1997/65, 2003/762, 2004/1748.
(e) S.I. 1992/1815; relevant amending instruments are S.I. 1996/3196, 2004/1748.
(f) S.I. 1996/207; relevant amending instruments are S.I. 1997/65, 2003/762, 2004/1748, 2009/583, 2010/641.

Housing Renewal Grants Regulations 1996

6. In paragraph 59 of Schedule 3 (sums to be disregarded in the determination of income other than earnings) to the Housing Renewal Grants Regulations 1996(a), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

State Pension Credit Regulations 2002

7. In paragraph 23C of Part I (capital disregarded for the purpose of calculating income) of Schedule V (income from capital) to the State Pension Credit Regulations 2002(b)—

- (a) omit “by virtue of regulations made under”;
- (b) at the beginning of paragraphs (a) and (c) insert “by virtue of regulations made under”;
and
- (c) for paragraph (b) substitute—
 “(b) as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013; or”.

Tax Credits (Definition and Calculation of Income) Regulations 2002

8. In item 14 of Table 6 (sums disregarded in the calculation of income) in regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002(c)—

- (a) omit “section 12B of the Social Work (Scotland) Act 1968,”; and
- (b) after “2002”, insert “or as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

Non-Contentious Probate Fees Order 2004

9. In paragraph 1(1) (interpretation) of Schedule 1A (remissions and part remissions) to the Non-Contentious Probate Fees Order 2004(d), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Housing Benefit Regulations 2006

10. In—

- (a) paragraph 57 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings); and
- (b) paragraph 58 of Schedule 6 (capital to be disregarded),

to the Housing Benefit Regulations 2006(e), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

(a) S.I. 1996/2890; relevant amending instruments are S.I. 1998/808, 2004/1748.
(b) S.I. 2002/1792, amended by S.I. 2011/2425; there are other amending instruments but none is relevant.
(c) S.I. 2002/2006, amended by S.I. 2003/2815; there are other amending instruments but none is relevant.
(d) S.I. 2004/3120, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.
(e) S.I. 2006/213; relevant amending instruments are S.I. 2009/583, 2010/641.

Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

11. In paragraph 26D of Part 1 (capital to be disregarded generally) of Schedule 6 (capital to be disregarded) to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(a)—

- (a) omit “by virtue of regulations made under”;
- (b) at the beginning of paragraphs (a) and (c) insert “by virtue of regulations made under”;
and
- (c) for paragraph (b) substitute—
 - “(b) as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013; or”.

Gender Recognition (Application Fees) Order 2006

12. In paragraph 1(1) (interpretation) of the Schedule (remissions and part remissions) to the Gender Recognition (Application Fees) Order 2006(b), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Court of Protection Fees Order 2007

13. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the Court of Protection Fees Order 2007(c), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Employment and Support Allowance Regulations 2008

14. In—

- (a) paragraph 53 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings); and
- (b) paragraph 56 of Schedule 9 (capital to be disregarded),

to the Employment and Support Allowance Regulations 2008(d), for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”.

Magistrates’ Courts Fees Order 2008

15. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the Magistrates’ Courts Fees Order 2008(e), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

(a) S.I. 2006/214, amended by S.I. 2011/2425; there are other amending instruments but none is relevant.
(b) S.I. 2006/758, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.
(c) S.I. 2007/1745, amended by S.I. 2013/2302; there is another amending instrument which is not relevant.
(d) S.I. 2008/794; relevant amending instruments are S.I. 2009/583, 2010/641.
(e) S.I. 2008/1052, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.

Civil Proceedings Fees Order 2008

16. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the Civil Proceedings Fees Order 2008(a), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Family Proceedings Fees Order 2008

17. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the Family Proceedings Fees Order 2008(b), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013(c)”.

Upper Tribunal (Lands Chamber) Fees Order 2009

18. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the Upper Tribunal (Lands Chamber) Fees Order 2009(d), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Supreme Court Fees Order 2009

19. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the Supreme Court Fees Order 2009(e), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

First-tier Tribunal (Gambling) Fees Order 2010

20. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the First-tier Tribunal (Gambling) Fees Order 2010(f), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011

21. In paragraph 1(1) (interpretation) of Schedule 2 (remissions) to the Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011(g), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

22. In Schedule 6 (capital disregards) to the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012(h)—

- (a) in paragraph 29, omit paragraph (b); and

(a) S.I. 2008/1053, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.
(b) S.I. 2008/1054, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.
(c) 2013 asp 1.
(d) S.I. 2009/1114, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.
(e) S.I. 2009/2131, amended by S.I. 2013/2302; there are other amending instruments but none is relevant.
(f) S.I. 2010/42, amended by S.I. 2013/2302; there is another amending instrument which is not relevant.
(g) S.I. 2011/2344, amended by S.I. 2013/2302; there is another amending instrument which is not relevant.
(h) S.I. 2012/2885, to which there are amendments not relevant to this Order.

(b) after paragraph 29 insert—

“**29ZA.** Any payment made as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013.”.

First-tier Tribunal (Property Chamber) Fees Order 2013

23. In paragraph 1(1) (interpretation) of Schedule 2 (remissions and part remissions) to the First-tier Tribunal (Property Chamber) Fees Order 2013(**a**), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013

24. In paragraph 1(1) (interpretation) of Schedule 3 (remissions and part remissions) to the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013(**b**), in paragraph (e) of the definition of “excluded benefits” for “section 12B(1) of the Social Work (Scotland) Act 1968” substitute “the Social Care (Self-directed Support) (Scotland) Act 2013”.

Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013

25.—(1) The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013(**c**) are amended as follows.

(2) In paragraph 28 of Schedule 5 (capital disregards: pensioners), omit paragraph (b).

(3) After paragraph 28 of Schedule 5 insert—

(a) in the English text—

“**28A.** Any payment made as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013.”; and

(b) in the Welsh text—

“**28A.** Unrhyw daliad a wneir ar ffurf taliad uniongyrchol fel y’i diffinnir yn adran 4(2) o Ddeddf Gofal Cymdeithasol (Cymorth Hunangyfeiriedig) (Yr Alban) 2013.”.

(4) In paragraph 59 of Schedule 9 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) and paragraph 60 of Schedule 10 (capital disregards: persons who are not pensioners)—

(a) in the English text, for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”; and

(b) in the Welsh text, for “o dan adran 12B o Ddeddf Gwaith Cymdeithasol (Yr Alban) 1968” substitute “ar ffurf taliad uniongyrchol fel y’i diffinnir yn adran 4(2) o Ddeddf Gofal Cymdeithasol (Cymorth Hunangyfeiriedig) (Yr Alban) 2013”.

Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013

26.—(1) The scheme set out in the Schedule to the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013(**d**) is amended as follows.

(a) S.I. 2013/1179, amended by S.I. 2013/2302.

(b) S.I. 2013/1893, amended by S.I. 2013/2302.

(c) S.I. 2013/3029 (W.301).

(d) S.I. 2013/3035 (W.303).

(2) In paragraph 59 of Schedule 7 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners)—

- (a) in the English text, for “under section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”; and
- (b) in the Welsh text, for “o dan adran 12B o Ddeddf Gwaith Cymdeithasol (Yr Alban) 1968” substitute “ar ffurf taliad uniongyrchol fel y’i diffinnir yn adran 4(2) o Ddeddf Gofal Cymdeithasol (Cymorth Hunangyfeiriedig) (Yr Alban) 2013”.

(3) In paragraph 28 of Part 1 of Schedule 8 (capital to be disregarded), omit paragraph (b).

(4) After paragraph 28 of Schedule 8 insert—

- (a) in the English text—

“**28A.** Any payment made as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013.”; and

- (b) in the Welsh text—

“**28A.** Unrhyw daliad a wneir ar ffurf taliad uniongyrchol fel y’i diffinnir yn adran 4(2) o Ddeddf Gofal Cymdeithasol (Cymorth Hunangyfeiriedig) (Yr Alban) 2013.”.

(5) In paragraph 60 of Schedule 9 (capital disregards: persons who are not pensioners)—

- (a) in the English text, for “section 12B of the Social Work (Scotland) Act 1968” substitute “as a direct payment as defined in section 4(2) of the Social Care (Self-directed Support) (Scotland) Act 2013”; and
- (b) in the Welsh text, for “o dan adran 12B o Ddeddf Gwaith Cymdeithasol (Yr Alban) 1968” substitute “ar ffurf taliad uniongyrchol fel y’i diffinnir yn adran 4(2) o Ddeddf Gofal Cymdeithasol (Cymorth Hunangyfeiriedig) (Yr Alban) 2013”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications in consequence of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”).

Section 25 of the 2013 Act repeals sections 12B and 12C of the Social Work (Scotland) Act 1968 (“the 1968 Act”) which make provision in relation to direct payments in respect of community care services. New provision for direct payments is made in the 2013 Act.

Article 2 and the Schedule to this Order make modifications to secondary legislation consequential on the repeal of section 12B of the 1968 Act and the enactment of new provisions in relation to direct payments in the 2013 Act.

Article 3 contains a saving provision so that the enactments specified in the Schedule continue to apply without modification in relation to any payments which are made under section 12B of the 1968 Act on or after 1st April 2014.

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