
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable the Secretary of State for Health to make pilot schemes in accordance with which direct payments may be made to secure the provision of certain health services under the National Health Service Act 2006 or the Mental Health Act 1983.

Part 2 (Pilot Schemes) provides for the making and review of pilot schemes. Functions relating to direct payments under a scheme may be delegated to a Primary Care Trust (regulation 2(6)). After-care services which a Primary Care Trust must provide under section 117 of the Mental Health Act 1983 (after-care) may be provided under a pilot scheme (regulation 2(7)). Regulation 3 makes provision about the pilot proposal that initiates a scheme. Regulation 4 describes the powers of the Secretary of State in relation to a scheme. Regulation 5 sets out how a scheme may be reviewed.

Part 3 (Direct Payments) deals with the making of direct payments. Regulations 7 and 8 specify the persons for whom direct payments may be made, and regulation 9 provides for nominees. A decision to make direct payments must be made in accordance with regulation 10.

Regulation 11 sets out the requirements in relation to the preparation of a care plan for a patient and regulation 12 provides for information, advice or other support. The conditions that apply to the making of a direct payment are set out in regulation 13 and regulation 14 sets out conditions to be complied with by the patient and any representative or nominee. Regulation 16 contains provisions relating to the amount of a direct payment.

Monitoring and review of direct payments is provided for in regulation 17. Regulations 18 to 20 provide for the repayment, recovery and stopping of direct payments.

Part 4 contains an amendment to the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 providing for the making of direct payments to be an NHS function for the purposes of partnership arrangements under those Regulations (regulation 21).

A full impact assessment of the effect of this instrument is available in pages 67 to 72, 77 to 78 and 83 to 89 of “Impact Assessments for the Health Bill, Updated for the House of Commons, May 2009” at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_093305 or from Dr. Alison Austin at the Department of Health, telephone: 0207 210 4947 or email: Alison.austin@dh.gsi.gov.uk.