STATUTORY RULES OF NORTHERN IRELAND

1997 No. 131

HEALTH AND PERSONAL SOCIAL SERVICES

The Personal Social Services (Direct Payments) Regulations (Northern Ireland) 1997

Made - - - -	*6th March 1997*
Coming into operation	*1st April 1997*

The Department of Health and Social Services, in exercise of the power conferred on it by Article 15A(1)(*b*), (2), (3) and (8) of the Health and Personal Social Services (Northern Ireland) Order 1972(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal Social Services (Direct Payments) Regulations (Northern Ireland) 1997 and shall come into operation on 1st April 1997.

(2) In these Regulations—

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972; and

"the 1986 Order" means the Mental Health (Northern Ireland) Order 1986(**2**).

Persons to whom direct payments may be made

2.—(1) Subject to paragraph (2) a person—

(a) to whom section 1(1) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(**3**) applies, and

(b) who appears to the Department to be capable of managing a direct payment by himself or with assistance,

is hereby prescribed for the purposes of Article 15A(1)(*b*) of the Order.

(2) Paragraph (1) does not apply to a person:—

(a) aged 65 or over unless a payment was made to him under Article 15A of the Order in the period of twelve months which ended on the day before his sixty-fifth birthday;

(**1**) S.I. 1972/1265 (N.I. 14); Article 15A was inserted by Article 3 of the Personal Social Services (Direct Payments) (Northern Ireland) Order 1996 (S.I. 1996/1923 (N.I. 19))

(**2**) S.I. 1986/595 (N.I. 4); Relevant amending instruments are S.I. 1994/429 (N.I. 2) and S.I. 1996/3160 (N.I. 24)

(**3**) 1978 c. 53; Section 1(1) was amended by Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))

(b) who is required to submit to treatment for his mental condition or for his drug or alcohol dependency by virtue of a requirement of—

(i) a probation order within the meaning of section 1 of the Probation Act (Northern Ireland) 1950(**4**); or

(ii) a combination order within the meaning of Article 15 of the Criminal Justice (Northern Ireland) Order 1996(**5**);

(c) who is placed under guardianship in pursuance of—

(i) an application made in accordance with Article 18 of the 1986 Order; or

(ii) an order made under Article 44 of that Order;

(d) who is absent from hospital with leave given in accordance with Article 15 of the 1986 Order;

(e) in respect of whom there is in force a condition imposed in accordance with Article 48(2) or 78(4) (including such a condition which has been varied in accordance with Article 78(5) or 80(3)) of the 1986 Order; or

(f) in respect of whom there is in force a supervision and treatment order within the meaning given by Part I of Schedule 2A to the 1986 Order(**6**).

Persons from whom services may not be secured by means of a direct payment

3. The following persons are prescribed for the purposes of Article 15A(2) of the Order—

(a) the spouse of the payee;

(b) a person who lives with the payee as his spouse;

(c) a person living in the same household as the payee who is the payee'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 of any person specified in sub-paragraph (*c*) who lives in the same household as the payee; and

(e) a person who lives with any person specified in sub-paragraph (*c*) as that person's spouse.

Maximum period of residential accommodation which may be secured by means of a direct payment

4.—(1) Subject to paragraph (2), the power to make a payment under Article 15A(1) of the Order shall not be exercisable in relation to the provision of residential accommodation for any person for a period in excess of four weeks in any period of twelve months.

(2) In calculating the period of four weeks mentioned in paragraph (1) a period in residential accommodation of less than four weeks shall be added to any succeeding period in residential

(**4**) 1950 c. 7; Section 1 is prospectively repealed by S.I. 1996/3160 (N.I. 24) Schedule 7 and replaced by Article 10 thereof
(**5**) S.I. 1996/3160 (N.I. 24)
(**6**) Schedule 2A is prospectively inserted by S.I. 1996/3160 (N.I. 24) Schedule 4