

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Deferred payment agreements

Section 35 – Deferred payment agreements: further provision

229. The section contains further provisions concerning conditions associated with deferred payments, including interest and administration charges, which may be imposed by regulations made under subsection (1) of section 34.
230. *Subsection (1)* enables regulations to be made to require or allow authorities to charge interest upon a deferred sum, an amount to cover their administrative costs and interest on those costs.
231. *Subsection (2)* enables regulations to be made to specify what costs are administration costs – for example the cost to a local authority of registering a charge at the Land Registry.
232. *Subsection (3)* enables regulations to be made to allow or require a local authority to add any interest or administrative costs to the charges or loan and obtain and specify what will constitute adequate security for the same.
233. *Subsection (4)* makes clear that a local authority may not charge interest at a rate which is higher than any rate specified in regulations.
234. *Subsection (5)* requires regulations to be made so that the adult is permitted to terminate the agreement before the date or occurrence of the event specified in the agreement by giving notice and repaying the sum in full to the authority.
235. *Subsection (6)* allows regulations to make other provision about the duration or termination of the agreement.
236. *Subsection (7)* allows for regulations to be made to address what may happen in a situation where somebody sells or otherwise disposes of property. For example in a case where the agreement provides that it must be repaid when an adult sells their home, regulations might allow the deferred payment agreement to continue rather than to be repaid in cases where a property is sold in order that a new property can be bought as a home for the adult or the adult's partner and that new home can be used as security for the agreement.
237. *Subsection (8)* allows regulations to be made to require authorities to include terms and conditions of a specified type in a deferred payment agreement, to allow local authorities to include such terms and conditions and others which they think are appropriate and to require statements relating to specified matters or in a specified form to be included in the agreement. Regulations under this subsection may provide, for example, that the agreement must contain a term which entitles the adult to receive an annual statement showing the amount they owe under the agreement.

These notes refer to the Care Act 2014 (c.23) which received Royal Assent on 14 May 2014

238. *Subsection (9)* allows regulations to be made to enable a local authority to protect or enforce the security it has obtained for the payment of the deferred amount or loan, and for this purpose to make necessary and appropriate amendments to legislation.
239. *Subsection (10)* makes clear that this section also applies to loan agreements.