



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

*Deferred payment agreements, etc.*

#### **34 Deferred payment agreements and loans**

- (1) Regulations may, in such cases or circumstances and subject to such conditions as may be specified, require or permit a local authority to enter into a deferred payment agreement with an adult.
- (2) A “deferred payment agreement” is an agreement under which a local authority agrees not to require until the specified time either or both of the following—
  - (a) the payment of the specified part of the amounts due from an adult to the authority under such provision of this Part or of regulations under this Part as is specified in regulations;
  - (b) the repayment of the specified part of a loan made under the agreement by the authority to an adult for the purpose of assisting the adult to obtain the provision of care and support for the adult.
- (3) The care and support mentioned in subsection (2)(b) includes care and support the provision of which—
  - (a) the authority does not consider to be necessary to meet the adult’s needs;
  - (b) is in addition to care and support which is being provided, arranged for, or paid for (in whole or in part) by the authority.
- (4) Regulations under subsection (1) may, in particular, prohibit a local authority from entering into, or permit it to refuse to enter into, a deferred payment agreement unless it obtains adequate security for the payment of the adult’s deferred amount.
- (5) Regulations may specify what constitutes adequate security for the purposes of subsection (4); they may, for example, specify—

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*Status: This is the original version (as it was originally enacted).*

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- (a) an obligation on the adult to give the authority a charge over the adult's legal or beneficial interest in the property which the adult occupies as his or her only or main residence (or in a property which the adult used to occupy as such) to secure payment of the adult's deferred amount;
  - (b) a guarantee from another person to pay the adult's deferred amount.
- (6) A reference in this section or section 35 to an adult's deferred amount, in relation to a deferred payment agreement, is a reference to the amount of which the local authority agrees not to require payment or repayment until the specified time.
- (7) "Specified", in relation to a time or a part of an amount or loan, means specified in or determined in accordance with regulations; and the specified part of an amount or loan may be 100%.
- (8) This section applies in relation to an agreement under which a local authority agrees to make a loan to an adult for the purpose of assisting the adult to obtain the provision of care and support for the adult as it applies in relation to a deferred payment agreement; and for that purpose—
- (a) the reference in subsection (3) to subsection (2)(b) is to be read as a reference to this subsection; and
  - (b) the references in subsections (4) and (5) to payment of the adult's deferred amount are to be read as references to repayment of the loan.

### **35 Deferred payment agreements and loans: further provision**

- (1) Regulations may require or permit a local authority to charge—
- (a) interest on an adult's deferred amount;
  - (b) such amount relating to the authority's administrative costs as is specified in or determined in accordance with the regulations;
  - (c) interest on an amount charged under paragraph (b).
- (2) The regulations may specify costs which are, or which are not, to be regarded as administrative costs for the purposes of subsection (1)(b).
- (3) The regulations may—
- (a) require or permit adequate security to be obtained for the payment of any interest or other amount referred to in subsection (1);
  - (b) require or permit any such interest or other amount to be treated in the same way as the adult's deferred amount;
  - (c) specify what constitutes adequate security for the purposes of paragraph (a).
- (4) The authority may not charge interest under regulations made under subsection (1) or under a deferred payment agreement at a rate that exceeds the rate specified in or determined in accordance with the regulations; the regulations may, for example, provide for a rate to be determined by reference to a specified interest rate or other specified criterion.
- (5) The regulations must enable the adult to terminate a deferred payment agreement by—
- (a) giving the authority notice, and
  - (b) paying the authority the full amount for which the adult is liable with respect to the adult's deferred amount and any interest or other amount charged under regulations made under subsection (1) or under the agreement.

- (6) The regulations may make other provision about the duration of a deferred payment agreement and for its termination by either party.
- (7) The regulations may make provision as to the rights and obligations of the authority and the adult where the adult disposes of any legal or beneficial interest in a property to which a deferred payment agreement relates and acquires a legal or beneficial interest in another property (whether or not it is in the area of that authority); they may, for example, make provision—
  - (a) for the authority not to require payment of the amounts referred to in subsection (5)(b) until the time specified in or determined in accordance with the regulations;
  - (b) for the adult to give the authority a charge over the adult’s legal or beneficial interest in the other property.
- (8) The regulations may—
  - (a) require or permit terms or conditions of a specified description, or in a specified form, to be included in a deferred payment agreement;
  - (b) permit such other terms or conditions as the authority considers appropriate to be included in such an agreement;
  - (c) require statements or other information relating to specified matters, or in a specified form, to be included in such an agreement.
- (9) The regulations may make provision for the purpose of enabling local authorities to protect (for example, by registration) or enforce security obtained for the payment of the adult’s deferred amount or the payment of any interest or other amount referred to in subsection (1); and, for that purpose, the regulations may amend, repeal, or revoke an enactment, or provide for an enactment to apply with specified modifications.
- (10) This section applies in relation to an agreement of the kind mentioned in section 34(8) as it applies in relation to a deferred payment agreement; and for that purpose—
  - (a) the references in subsections (1), (3) and (5) to the adult’s deferred amount are to be read as references to the loan; and
  - (b) the reference in subsection (9) to payment of the adult’s deferred amount is to be read as a reference to repayment of the loan.

### **36 Alternative financial arrangements**

- (1) Regulations may, in such cases or circumstances and subject to such conditions as may be specified, require or permit a local authority to enter into alternative financial arrangements of a specified description with an adult.
- (2) “Alternative financial arrangements” means arrangements which in the Secretary of State’s opinion—
  - (a) equate in substance to a deferred payment agreement or an agreement of the kind mentioned in section 34(8), but
  - (b) achieve a similar effect to an agreement of the kind in question without including provision for the payment of interest.
- (3) The regulations may make provision in connection with alternative financial arrangements to which they apply, including, in particular, provision of the kind that may (or must) be made in regulations under section 34 or 35 (apart from provision for the payment of interest).