



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Establishing where a person lives, etc.

39 Where a person's ordinary residence is

- (1) Where an adult has needs for care and support which can be met only if the adult is living in accommodation of a type specified in regulations, and the adult is living in accommodation in England of a type so specified, the adult is to be treated for the purposes of this Part as ordinarily resident—
 - (a) in the area in which the adult was ordinarily resident immediately before the adult began to live in accommodation of a type specified in the regulations, or
 - (b) if the adult was of no settled residence immediately before the adult began to live in accommodation of a type so specified, in the area in which the adult was present at that time.
- (2) Where, before beginning to live in his or her current accommodation, the adult was living in accommodation of a type so specified (whether or not of the same type as the current accommodation), the reference in subsection (1)(a) to when the adult began to live in accommodation of a type so specified is a reference to the beginning of the period during which the adult has been living in accommodation of one or more of the specified types for consecutive periods.
- (3) The regulations may make provision for determining for the purposes of subsection (1) whether an adult has needs for care and support which can be met only if the adult is living in accommodation of a type specified in the regulations.
- (4) An adult who is being provided with accommodation under section 117 of the Mental Health Act 1983 (after-care) is to be treated for the purposes of this Part as ordinarily resident in the area of the local authority in England or the local authority in Wales

Changes to legislation: Care Act 2014, Section 39 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

on which the duty to provide the adult with services under that section is imposed; and for that purpose—

- (a) “local authority in England” means a local authority for the purposes of this Part, and
 - (b) “local authority in Wales” means a local authority for the purposes of the Social Services and Well-being (Wales) Act 2014.
- (5) An adult who is being provided with NHS accommodation is to be treated for the purposes of this Part as ordinarily resident—
- (a) in the area in which the adult was ordinarily resident immediately before the accommodation was provided, or
 - (b) if the adult was of no settled residence immediately before the accommodation was provided, in the area in which the adult was present at that time.
- (6) “NHS accommodation” means accommodation under—
- (a) the National Health Service Act 2006,
 - (b) the National Health Service (Wales) Act 2006,
 - (c) the National Health Service (Scotland) Act 1978, or
 - (d) Article 5(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (7) The reference in subsection (1) to this Part does not include a reference to section 28 (independent personal budget).
- (8) Schedule 1 (which makes provision about cross-border placements to and from Wales, Scotland or Northern Ireland) has effect.

Modifications etc. (not altering text)

- C1** Pt. 1 modified (1.4.2015) by [The Care and Support \(Isles of Scilly\) Order 2015 \(S.I. 2015/642\)](#), arts. 1, **2(2)(a)**; [S.I. 2015/993](#), **art. 2(a)**
- C2** Pt. 1 applied in part (with modifications) (1.4.2015 coming into force in accordance with reg. 1(1)) by [The Care and Support \(Children's Carers\) Regulations 2015 \(S.I. 2015/305\)](#), regs. 1(1), **2(1)(a)(2)**, 4-12; [S.I. 2015/993](#), **art. 2(q)**
- C3** S. 39(1)(2) applied by 2005 c. 9, Sch. A1 para. 183(2A) (as inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 80** (with arts. 1(3), 3); [S.I. 2015/993](#), art. 2(a))
- C4** S. 39(4)-(6) applied by 2005 c. 9, Sch. A1 para. 183(2A) (as inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 80** (with arts. 1(3), 3); [S.I. 2015/993](#), art. 2(a))

Commencement Information

- I1** S. 39(1)(3) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 2(1)(m)**
- I2** S. 39(1)(3) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993](#), **art. 2(l)** (with transitional provisions in [S.I. 2015/995](#))
- I3** S. 39(2)(4)-(7) in force at 1.4.2015 by [S.I. 2015/993](#), **art. 2(l)** (with [art. 6](#)) (and with transitional provisions in [S.I. 2015/995](#))
- I4** S. 39(8) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 2(1)(x)(2)**
- I5** S. 39(8) in force at 1.4.2015 for specified purposes by [S.I. 2015/993](#), **art. 2(l)** (with transitional provisions in [S.I. 2015/995](#))

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 15(2)-(3B) substituted for s. 15(2)(3) by [2022 c. 31 s. 166\(2\)](#)
- s. 26(1)-(2A) substituted for s. 26(1)(2) by [2022 c. 31 s. 166\(4\)](#)