



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Miscellaneous

73 Human Rights Act 1998: provision of regulated care or support etc a public function

- (1) This section applies where—
- (a) in England, a registered care provider provides care and support to an adult or support to a carer, in the course of providing—
 - (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
 - (ii) residential accommodation together with nursing or personal care;
 - (b) in Wales, a person registered under Part 2 of the Care Standards Act 2000 [F1 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016] provides care and support to an adult, or support to a carer, in the course of providing—
 - (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
 - (ii) residential accommodation together with nursing or personal care;
 - (c) in Scotland, a person provides advice, guidance or assistance to an adult or support to a carer, in the course of providing a care service which is registered under section 59 of the Public Services Reform (Scotland) Act 2010 and which consists of the provision of—
 - (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
 - (ii) residential accommodation together with nursing or personal care;
 - (d) in Northern Ireland, a person registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland)

Changes to legislation: Care Act 2014, Section 73 is up to date with all changes known to be in force on or before 23 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

Order 2003 provides advice, guidance or assistance to an adult or services to a carer, in the course of providing—

- (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
- (ii) residential accommodation together with nursing or personal care.

In this section “the care or support” means the care and support, support, advice, guidance, assistance or services provided as mentioned above, and “the provider” means the person who provides the care or support.

- (2) The provider is to be taken for the purposes of section 6(3)(b) of the Human Rights Act 1998 (acts of public authorities) to be exercising a function of a public nature in providing the care or support, if the requirements of subsection (3) are met.
- (3) The requirements are that—
 - (a) the care or support is arranged by an authority listed in column 1 of the Table below, or paid for (directly or indirectly, and in whole or in part) by such an authority, and
 - (b) the authority arranges or pays for the care or support under a provision listed in the corresponding entry in column 2 of the Table.

TABLE

<i>Authority</i>	<i>Provisions imposing duty or conferring power to meet needs</i>
Local authority in England	Sections 2, 18, 19, 20, 38 and 48 of this Act.
Local authority in Wales	Part 4 and section 189 of the Social Services and Well-being (Wales) Act 2014. Section 50 of this Act.
Local authority in Scotland	Sections 12, 13A, 13B and 14 of the Social Work (Scotland) Act 1968. Section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013.
Health and Social Care trust	Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972. Section 51 of this Act.
Authority (within the meaning of section 10 of the Carers and Direct Payments Act (Northern Ireland) 2002)	Section 2 of the Carers and Direct Payments Act (Northern Ireland) 2002.

- (4) In this section—
 - “local authority in England” means a local authority for the purposes of this Part;
 - “local authority in Wales” means a local authority for the purposes of the Social Services and Well-being (Wales) Act 2014;

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“local authority in Scotland” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“nursing care”, for England, Wales and Northern Ireland, has the same meaning as in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, as amended from time to time;

“personal care”—

(a) for England, Wales and Northern Ireland, has the same meaning as in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, as amended from time to time;

(b) for Scotland, has the same meaning as in Part 5 of the Public Services Reform (Scotland) Act 2010, as amended from time to time.

Textual Amendments

F1 Words in s. 73(1)(b) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), [regs. 2\(1\)](#), 51

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\(q\)](#)

Commencement Information

I1 S. 73 in force at 1.4.2015 by [S.I. 2015/993](#), [art. 2\(r\)](#) (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\(4\)](#)