



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Miscellaneous*

#### **75 After-care under the Mental Health Act 1983**

- (1) In section 117 of the Mental Health Act 1983 (after-care), in subsection (2), after “to provide” insert “ or arrange for the provision of ”.
- (2) In subsection (2D) of that section, for the words from “as if” to the end substitute “ as if the words “provide or” were omitted. ”
- (3) In subsection (3) of that section, after “means the local social services authority” insert “      ”
  - (a) if, immediately before being detained, the person concerned was ordinarily resident in England, for the area in England in which he was ordinarily resident;
  - (b) if, immediately before being detained, the person concerned was ordinarily resident in Wales, for the area in Wales in which he was ordinarily resident; or
  - (c) in any other case”.
- (4) After that subsection insert—
  - “(4) Where there is a dispute about where a person was ordinarily resident for the purposes of subsection (3) above—
    - (a) if the dispute is between local social services authorities in England, section 40 of the Care Act 2014 applies to the dispute as it applies to a dispute about where a person was ordinarily resident for the purposes of Part 1 of that Act;

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- (b) if the dispute is between local social services authorities in Wales, section 195 of the Social Services and Well-being (Wales) Act 2014 applies to the dispute as it applies to a dispute about where a person was ordinarily resident for the purposes of that Act;
  - (c) if the dispute is between a local social services authority in England and a local social services authority in Wales, it is to be determined by the Secretary of State or the Welsh Ministers.
- (5) The Secretary of State and the Welsh Ministers shall make and publish arrangements for determining which of them is to determine a dispute under subsection (4)(c); and the arrangements may, in particular, provide for the dispute to be determined by whichever of them they agree is to do so.”
- (5) After subsection (5) insert—
  - “(6) In this section, “after-care services”, in relation to a person, means services which have both of the following purposes—
    - (a) meeting a need arising from or related to the person's mental disorder; and
    - (b) reducing the risk of a deterioration of the person's mental condition (and, accordingly, reducing the risk of the person requiring admission to a hospital again for treatment for mental disorder).”
- (6) After section 117 of that Act insert—
 

**“117A After-care: preference for particular accommodation**

  - (1) The Secretary of State may by regulations provide that where—
    - (a) the local social services authority under section 117 is, in discharging its duty under subsection (2) of that section, providing or arranging for the provision of accommodation for the person concerned;
    - (b) the person concerned expresses a preference for particular accommodation; and
    - (c) any prescribed conditions are met,
 the local social services authority must provide or arrange for the provision of the person's preferred accommodation.
  - (2) Regulations under this section may provide for the person concerned, or a person of a prescribed description, to pay for some or all of the additional cost in prescribed cases.
  - (3) In subsection (2), “additional cost” means the cost of providing or arranging for the provision of the person's preferred accommodation less the amount that the local social services authority would expect to be the usual cost of providing or arranging for the provision of accommodation of that kind.
  - (4) The power to make regulations under this section—
    - (a) is exercisable only in relation to local social services authorities in England;
    - (b) includes power to make different provision for different cases or areas.”
  - (7) The ways in which a local authority may discharge its duty under section 117 of the Mental Health Act 1983 include by making direct payments; and for that purpose Part

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- 1 of Schedule 4 (which includes modifications of the provisions of this Part relating to direct payments) has effect.
- (8) In section 53 of the Social Services and Well-being (Wales) Act 2014 (direct payments: further provision), at the end insert—
- “(11) The ways in which a local authority may discharge its duty under section 117 of the Mental Health Act 1983 include by making direct payments; and for that purpose Schedule A1 (which includes modifications of sections 50 and 51 and this section) has effect.”
- (9) Before Schedule 1 to that Act insert the Schedule A1 contained in Part 2 of Schedule 4 to this Act.
- (10) In section 194 of that Act (ordinary residence), after subsection (4) insert—
- “(4A) A person 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 Act as ordinarily resident in the area of the local authority, or the local authority in England, on which the duty to provide that person with services under that section is imposed.”
- (11) In consequence of subsections (7) to (9), in subsection (2C) of section 117 of the Mental Health Act 1983—
- (a) in paragraph (a), for “regulations under section 57 of the Health and Social Care Act 2001 or” substitute “—
- (i) sections 31 to 33 of the Care Act 2014 (as applied by Schedule 4 to that Act),
- (ii) sections 50, 51 and 53 of the Social Services and Well-being (Wales) Act 2014 (as applied by Schedule A1 to that Act), or
- (iii) regulations under”,
- (b) in paragraph (b), after “apart from” insert “ those sections (as so applied) or”.
- (12) In the case of a person who, immediately before the commencement of subsections (3) and (4), is being provided with after-care services under section 117 of the Mental Health Act 1983, the amendments made by those subsections do not apply while those services are continuing to be provided to that person.
- (13) In section 145 of the Mental Health Act 1983 (interpretation), for the definition of “local social services authority” substitute—
- ““local social services authority” means—
- (a) an authority in England which is a local authority for the purposes of Part 1 of the Care Act 2014, or
- (b) an authority in Wales which is a local authority for the purposes of the Social Services and Well-being (Wales) Act 2014.”

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**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\(a\)](#)

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- 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)**

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#### **Commencement Information**

- I1** S. 75(1)-(5) (12) (13) in force at 1.4.2015 by [S.I. 2015/993](#), **art. 7(1)(a)** (with temp. modifications in [art. 7\(2\)\(5\)](#) and with transitional provisions in [S.I. 2015/995](#))
- I2** S. 75(6) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 2(1)(u)**
- I3** S. 75(6)(7) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993](#), **art. 7(1)(b)** and with transitional provisions in [S.I. 2015/995](#)
- I4** S. 75(7) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 2(1)(z)**
- I5** S. 75(8)-(11) in force at 6.4.2016 by [S.I. 2016/464](#), **art. 2(d)**
- I6** S. 75(11) in force at 1.4.2015 for specified purposes by [S.I. 2015/993](#), **art. 7(3)** (with temp. modification at [art. 7\(4\)](#))

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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\(4\)](#)