



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Miscellaneous*

#### **76 Prisoners and persons in approved premises etc.**

- (1) In its application to an adult who is detained in prison, this Part has effect as if references to being ordinarily resident in an area were references to being detained in prison in that area.
- (2) In its application to an adult who is residing in approved premises, this Part has effect as if references to being ordinarily resident in an area were references to being resident in approved premises in that area.
- (3) In its application to an adult who is residing in any other premises because a requirement to do so has been imposed on the adult as a condition of the grant of bail in criminal proceedings, this Part has effect as if references to being ordinarily resident in an area were references to being resident in premises in that area for that reason.
- (4) The power under section 30 (preference for particular accommodation) may not be exercised in the case of an adult who is detained in prison or residing in approved premises except for the purpose of making provision with respect to accommodation for the adult—
  - (a) on his or her release from prison (including temporary release), or
  - (b) on ceasing to reside in approved premises.
- (5) Sections 31 to 33 (direct payments) do not apply in the case of an adult who, having been convicted of an offence, is—
  - (a) detained in prison, or
  - (b) residing in approved premises.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Sections 37 and 38 (continuity of care), in their application to an adult who is detained in prison or residing in approved premises, also apply where it is decided that the adult is to be detained in prison, or is to reside in approved premises, in the area of another local authority; and accordingly—
- (a) references to the adult’s intention to move are to be read as references to that decision, and
  - (b) references to carers are to be ignored.
- (7) Sections 42 and 47 (safeguarding: enquiry by local authority and protection of property) do not apply in the case of an adult who is—
- (a) detained in prison, or
  - (b) residing in approved premises.
- (8) An SAB’s objective under section 43(2) does not include helping and protecting adults who are detained in prison or residing in approved premises; but an SAB may nonetheless provide advice or assistance to any person for the purpose of helping and protecting such adults in its area in cases of the kind described in section 42(1) (adults with needs for care and support who are at risk of abuse or neglect).
- (9) Section 44 (safeguarding adults reviews) does not apply to any case involving an adult in so far as the case relates to any period during which the adult was—
- (a) detained in prison, or
  - (b) residing in approved premises.
- (10) Regulations under paragraph 1(1)(d) of Schedule 2 (membership of Safeguarding Adults Boards) may not specify the governor, director or controller of a prison or a prison officer or prisoner custody officer.
- (11) “Prison” has the same meaning as in the Prison Act 1952 (see section 53(1) of that Act); and—
- (a) a reference to a prison includes a reference to a young offender institution, secure training centre or secure children’s home,
  - (b) the reference in subsection (10) to the governor, director or controller of a prison includes a reference to the governor, director or controller of a young offender institution, to the governor, director or monitor of a secure training centre and to the manager of a secure children’s home, and
  - (c) the reference in that subsection to a prison officer or prisoner custody officer includes a reference to a prison officer or prisoner custody officer at a young offender institution, to an officer or custody officer at a secure training centre and to a member of staff at a secure children’s home.
- (12) “Approved premises” has the meaning given in section 13 of the Offender Management Act 2007.
- (13) “Bail in criminal proceedings” has the meaning given in section 1 of the Bail Act 1976.
- (14) For the purposes of this section—
- (a) a person who is temporarily absent from prison is to be treated as detained in prison for the period of absence;
  - (b) a person who is temporarily absent from approved premises is to be treated as residing in approved premises for the period of absence;

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- (c) a person who is temporarily absent from other premises in which the person is required to reside as a condition of the grant of bail in criminal proceedings is to be treated as residing in the premises for the period of absence.