Draft Order laid before Parliament under section 125(4) of the Care Act 2014 and section 135(6) of the Children and Families Act 2014, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2015 No.

SOCIAL SERVICES

The Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015

Made - - - - ***

Coming into force in accordance with article 1(2)

The Secretary of State, in exercise of the powers conferred by sections 123(1) and (2) and 125(7) and (8) of the Care Act 2014(**a**) and sections 135(3) and 136(1) and (2) of the Children and Families Act 2014(**b**), makes the following Order.

In accordance with section 123(5) of the Care Act 2014, the Secretary of State has consulted the Scottish Ministers and the Welsh Ministers before making this Order.

In accordance with section 125(4) of the Care Act 2014 and section 135(6) of the Children and Families Act 2014, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015.

(2) This Order comes into force on the day on which section 1 of the Care Act 2014 comes into force.

(3) Where this Order amends an enactment that is not yet in force, paragraph (2) does not affect how that enactment, as amended, comes into force.

(4) An amendment or repeal made by this Order has the same extent as the enactment amended or repealed.

Amendments

2. The Schedule (amendments in consequence of provisions of the Care Act 2014 and the Children and Families Act 2014) has effect.

(**a**) 2014 c. 23.
(**b**) 2014 c. 6.

Savings and transitional provision

3.—(1) Despite the amendments made by this Order, on or after the date on which this Order comes into force—

(a) support or services may continue to be provided, and

(b) payments towards the cost of support or services may continue to be made,

in the case of a person to whom, or in relation to whom, support or services are being provided, or payments towards the cost of support or services are being made, immediately before this Order comes into force.

(2) Paragraph (1) applies until—

(a) Part 1 of the Care Act 2014 applies in relation to the provision of support or services, or the making of payments towards the cost of support or services, in that person's case by virtue of provision made for transitional purposes under a power conferred by that Act, or

(b) if earlier, 31st March 2016.

(3) Despite the amendments made by this Order—

(a) any provision that operates in relation to, or by reference to, support or services provided, or payments towards the cost of support or services made, before or (in accordance with paragraph (1)) on or after the date on which this Order comes into force, and

(b) anything done under such provision,

continue to have effect for the purposes of that support or those services or payments, subject to paragraph (6).

(4) The references in paragraph (3) to support or services provided, or payments made, before the date on which this Order comes into force include support or services that are not provided but are or may be required or permitted to be provided, or payments that are not made but are or may be required or permitted to be made, before that date.

(5) The provision referred to in paragraph (3) includes in particular provision about—

(a) costs and other amounts payable and their recovery;

(b) civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**a**));

(c) offences.

(6) Paragraph (3) does not authorise a local authority to do any of the following on or after the date on which this Order comes into force—

(a) create a charge under section 22(1) of the Health and Social Services and Social Security Adjudications Act 1983(**b**);

(b) make an order under section 23(1) of that Act;

(c) enter into a deferred payment agreement under section 55(1) of the Health and Social Care Act 2001(**c**).

(7) Where under this Order an enactment ceases to have effect for a purpose for which a local authority holds land immediately before the Order comes into force, the land is to be treated as appropriated for whatever purposes of Part 1 of the Care Act 2014 the authority may designate.

(8) Where under this Order an enactment ceases to have effect for a purpose for which a local authority has a right to use land immediately before the Order comes into force—

(a) the authority continues to have that right to use the land for whatever purposes of Part 1 of the Care Act 2014 the authority may designate, but

(b) that does not affect the circumstances (other than the enactment ceasing to have effect) in which the right ceases.

(**a**) 2012 c. 10.
(**b**) 1983 c. 41.
(**c**) 2001 c. 15.

(9) This article is without prejudice to section 16 of the Interpretation Act 1978(**a**) (general savings).

(10) In this article "local authority" has the meaning given by section 1(4) of the Care Act 2014.

Signed by authority of the Secretary of State for Health

Name
Minister of State
Date Department of Health

SCHEDULE

Amendments in consequence of provisions of the Care Act 2014 and the Children and Families Act 2014

National Assistance Act 1948 (c. 29)

1. The National Assistance Act 1948 is amended as follows.

2. In section 21 (duty of local authorities to provide accommodation) in subsection (4) after "another local authority" insert ", including a local authority in England,".

3. In section 24 (authority liable for provision of accommodation) in subsection (4) after "another local authority" insert ", including a local authority in England,".

4.—(1) Section 32(**b**) (adjustments between authorities) is amended as follows.

(2) In subsection (1), after "a reference to a local authority in" insert "England or".

(3) After subsection (5) insert—

"(6) Subsections (3) to (5) do not apply to a question which involves a dispute to which paragraph 5 of Schedule 1 to the Care Act 2014 applies (corresponding provision about cross-border placements)."

5.—(1) Section 33(1)(**c**) (local authorities for purposes of Part 3 of that Act) is amended as follows.

(2) After ""local authority"" insert "(except in "local authority in England")".

(3) Omit "England or".

(4) At the end insert "and "local authority in England" means a council which is a local authority for the purposes of the Local Authority Social Services Act 1970 in England."

6.—(1) Section 47 (removal to suitable premises of persons in need of care and attention) is amended as follows.

(2) In subsection (1), after "for persons" insert "in Wales".

(3) In subsection (12), omit "the councils of districts and London Boroughs and the Common Council of the City of London,".

(**a**) 1978 c. 30.
(**b**) Section 32(3) to (5) were substituted by the Health and Social Care Act 2008 (c. 14), section 148(2).
(**c**) Section 33(1) was amended by the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2, the Local Government (Scotland) Act 1973 (c. 65), Schedule 27, paragraph 89, the Residential Homes Act 1980 (c. 7), section 11(5) and Schedule 2, and the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 31(2).

(4) In subsection (12A)(a)(**a**), omit "England and".

7. In section 48(1) (duty of councils to provide temporary protection of property)—

(a) after "it appears to the council" insert ", in the case of any moveable property of that person that is for the time being situated in Wales,";

(b) for "any moveable property of his" substitute "the property".

8. In section 56(3)(**b**) (legal proceedings) after "1970" insert "in Wales".

9. In section 64 (interpretation), in subsection (1), in the definition of "local authority", for the words from "means", in the first place, to the end substitute "means the council of a county or county borough in Wales".

10. Section 66 of that Act (application to Isles of Scilly) ceases to have effect.

Disabled Persons (Employment) Act 1958 (c. 33)

11. In section 3(2)(**c**) of the Disabled Persons (Employment) Act 1958 (provision of sheltered employment by local authorities) omit "paragraph 2 of Schedule 20 to the National Health Service Act 2006 or".

Health Services and Public Health Act 1968 (c. 46)

12. Part 2 of the Health Services and Public Health Act 1968 (amendments connected with local authorities' services under the National Assistance Act 1948) is amended as follows.

13. In section 45(11) (local authorities' promotion of welfare of old people: meaning of local authority) for the words from "the council of a county" to "City of London" substitute "the council of a county or county borough in Wales".

14. Section 46 (application to Isles of Scilly) ceases to have effect.

Civil Evidence Act 1968 (c. 64)

15. In section 12 of the Civil Evidence Act 1968 (findings of adultery and paternity as evidence in civil proceedings), in subsection (5)(**d**), in the definition of "relevant proceedings", omit paragraph (a).

Local Authority Social Services Act 1970 (c. 42)

16. The Local Authority Social Services Act 1970 is amended as follows.

17. In section 7 (local authorities to act under general guidance of Secretary of State) after subsection (1) insert—

"(1A) Section 78 of the Care Act 2014 applies instead of this section in relation to functions given by Part 1 of that Act or by regulations under that Part."

18.—(1) Schedule 1(**e**) (social services functions) is amended as follows.

(2) In the entry for section 1 of the Chronically Sick and Disabled Persons Act 1970, after "welfare services" insert "; providing information about certain welfare services".

(3) After the entry for section 2 of that Act insert—

(**a**) Section 47(12A) was inserted by the Courts Act 2003 (c. 39), Schedule 8, paragraph 81.
(**b**) Section 56(3) was substituted by the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2.
(**c**) Section 3(2) was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 19.
(**d**) In section 12(5), the definition of "relevant proceedings" was substituted by the Courts and Legal Services Act 1990 (c. 41), Schedule 16, paragraph 2.
(**e**) Schedule 1 was amended by the Health and Social Care Act 2001 (c. 15), Schedule 5, paragraph 15.

"Section 2A	Welfare services: transition for children to adult care and support in England."

(4) Omit the entry for the National Health Service Act 1977.

(5) After the entry for section 117 of the Mental Health Act 1983 insert—

"Section 117A	Functions under regulations about provision of preferred accommodation under section 117."

(6) In column 1 of the entry for Part 4 of the Health and Social Care Act 2001 omit "England or".

(7) After the entries for the Mental Capacity Act 2005 insert—

"National Health Service (Wales) Act 2006 Schedule 15	Care of mothers and young children; prevention, care and after-care; home help and laundry facilities."

(8) At the end insert—

"Care Act 2014 Part 1, except section 78, so far as that Part and regulations under it give functions to local authorities in England	General responsibilities in relation to care and support services. Assessing and meeting needs for care and support, and carers' needs. Direct payments, deferred payment agreements and loans. Continuity of care and ordinary residence. Safeguarding adults. Provider failure. Children in transition to adult care and support. Independent advocacy support. Recovery of charges. Appeals against local authority decisions. Discharge of hospital patients. Registers. Delegation of functions."

Chronically Sick and Disabled Persons Act 1970 (c. 44)

19. The Chronically Sick and Disabled Persons Act 1970 is amended as follows.

20. In section 1 (information as to need for and existence of welfare services) after subsection (3) insert—

"(4) Subsection (5) applies to local authorities in England.

(5) A local authority must ensure that any disabled child who uses services which are provided under arrangements made by the authority under Part 3 of the Children Act 1989 is informed—

(a) of any other service provided by the authority (whether or not under those arrangements) which in the authority's opinion is relevant to the child's needs, and

(b) of any service provided by another authority or organisation which in the authority's opinion is relevant to the child's needs and which the authority have details of."

21.—(1) Section 2 (provision of welfare services) is amended as follows.

(2) Omit subsection (1A)(**a**).

(3) At the end insert—

"(3) Subsections (4) to (6) apply to local authorities in England.

(4) Where a local authority have functions under Part 3 of the Children Act 1989 in relation to a disabled child and the child is ordinarily resident in their area, they must, in exercise of those functions, make any arrangements within subsection (6) that they are satisfied it is necessary for them to make in order to meet the needs of the child.

(5) Subsection (4) is subject to sections 7(1) and 7A of the Local Authority Social Services Act 1970 (exercise of social services functions subject to guidance or directions of the Secretary of State).

(6) The arrangements mentioned in subsection (4) are arrangements for any of the following—

(a) the provision of practical assistance for the child in the child's home;

(b) the provision of wireless, television, library or similar recreational facilities for the child, or assistance to the child in obtaining them;

(c) the provision for the child of lectures, games, outings or other recreational facilities outside the home or assistance to the child in taking advantage of available educational facilities;

(d) the provision for the child of facilities for, or assistance in, travelling to and from home for the purpose of participating in any services provided under arrangements made by the authority under Part 3 of the Children Act 1989 or, with the approval of the authority, in any services, provided otherwise than under arrangements under that Part, which are similar to services which could be provided under such arrangements;

(e) the provision of assistance for the child in arranging for the carrying out of any works of adaptation in the child's home or the provision of any additional facilities designed to secure greater safety, comfort or convenience for the child;

(f) facilitating the taking of holidays by the child, whether at holiday homes or otherwise and whether provided under arrangements made by the authority or otherwise;

(g) the provision of meals for the child whether at home or elsewhere;

(h) the provision of a telephone for the child, or of special equipment necessary for the child to use one, or assistance to the child in obtaining any of those things.

(7) Any question arising under this section as to a person's ordinary residence in an area in England or Wales is to be determined by the Secretary of State or by the Welsh Ministers.

(8) The Secretary of State and the Welsh Ministers must make and publish arrangements for determining which cases are to be dealt with by the Secretary of State and which are to be dealt with by the Welsh Ministers.

(9) Those arrangements may include provision for the Secretary of State and the Welsh Ministers to agree, in relation to any question that has arisen, which of them is to deal with the case."

(**a**) Section 2(1A) was inserted by the Health and Social Care Act 2008 (c. 14), section 148(3).

22. In section 28A(**a**) (application of Act to authorities having functions under the Children Act 1989) after "local authority" insert "in Wales".

23. In section 29 (short title, extent and commencement), in subsection (2) for "Sections 1" substitute "Sections 1(1) and (2)".

Land Compensation Act 1973 (c. 26)

24. In section 38 of the Land Compensation Act 1973 (amount of disturbance payment for persons who do not have compensatable interests), in subsection (3), in paragraph (a), after "local authority" insert "in England having functions under Part 1 of the Care Act 2014 or a local authority in Wales".

Rating (Disabled Persons) Act 1978 (c. 40)

25. In section 8(1) of the Rating (Disabled Persons) Act 1978 (interpretation), in the definition of "disabled person", omit "for the purposes of section 29(1) of the National Assistance Act 1948 or,".

Reserve Forces Act 1980 (c. 9)

26. In Schedule 2 to the Reserve Forces Act 1980 (army and air-force pensioners and other former soldiers not liable to be recalled for service), after paragraph 2 insert—

"**2A**. A person registered as severely sight-impaired in a register kept under section 77(1) of the Care Act 2014."

Mental Health Act 1983 (c. 20)

27. The Mental Health Act 1983 is amended as follows.

28. After section 117A(**b**) insert—

"117B After-care: exception for provision of nursing care

(1) Section 117 does not authorise or require a local social services authority in England, in or in connection with the provision of services under that section, to provide or arrange for the provision of nursing care by a registered nurse.

(2) In this section "nursing care by a registered nurse" means a service provided by a registered nurse involving—

(a) the provision of care, or

(b) the planning, supervision or delegation of the provision of care,

other than a service which, having regard to its nature and the circumstances in which it is provided, does not need to be provided by a registered nurse."

29. In section 135 (warrant to search for and remove patients to place of safety), in subsection (6), after "under" insert "Part 1 of the Care Act 2014 or".

Health and Social Services and Social Security Adjudications Act 1983 (c. 41)

30. The Health and Social Services and Social Security Adjudications Act 1983 is amended as follows.

(**a**) Section 28A was inserted by the Children Act 1989 (c. 41), Schedule 13, paragraph 27.
(**b**) Section 117A was inserted by the Care Act 2014, section 75(6).

31.—(1) Section 17(**a**) (charges for local authority services in England and Wales) is amended as follows.

(2) Omit subsection (2)(a) to (d) and (f).

(3) In subsection (2)(e) omit the words from "other than" to the end.

(4) In subsection (3)(a), after "a service to which this section applies" insert "or a service within subsection (2A)".

(5) In subsection (5)—

(a) for "This section has" substitute "Subsection (2A), and subsections (3) and (4) so far as they relate to it, have";

(b) omit "15 or".

32.—(1) Section 22 (arrears of contributions charged on interest in land in England and Wales) is amended as follows.

(2) After subsection (2A) insert—

"(2B) A local authority in England may not create, or be required by directions under subsection (2A) to create, a charge under this section on or after the day on which section 1 of the Care Act 2014 came into force."

(3) Before subsection (4) insert—

"(3A) Subject to subsection (5) below, a charge under this section created by a local authority in England shall be in respect of any amount which is outstanding from time to time and is—

(a) assessed as due to be paid by the person to the authority for the Part III accommodation, or

(b) due by the person to the authority under Part 1 of the Care Act 2014 in respect of meeting needs for care and support by the provision of accommodation for the person, including anything provided in connection with that accommodation."

(4) In subsection (4), after "charge under this section" insert "created by a local authority in Wales or Scotland".

33.—(1) Section 23 (arrears of contributions secured over interest in land in Scotland) is amended as follows.

(2) After subsection (2A) insert—

"(2B) A local authority in England may not make, or be required by directions under subsection (2A) to make, a charging order on or after the day on which section 1 of the Care Act 2014 came into force."

(3) In subsection (3), for the words from "of securing" to the end substitute—

"mentioned in subsection (3A) or (as the case may be) (3B) below.

(3A) Where the charging order is made by a local authority in Scotland or Wales, the purpose referred to in subsection (3) above is the purpose of securing any debt due or to become due by the debtor to the local authority in respect of the provision of the Part III accommodation referred to in subsection (1) above, with interest on that amount as specified in section 24.

(3B) Where the charging order is made by a local authority in England, the purpose referred to in subsection (3) above is the purpose of securing any debt due or to become due by the debtor to the local authority—

(a) in respect of the provision of the Part III accommodation referred to in subsection (1) above, or

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(**a**) Section 17 was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 25, the Carers and Disabled Children Act 2000 (c. 16), section 8, and the Community Care (Delayed Discharges etc.) Act 2003 (c. 5), section 17.

(b) under Part 1 of the Care Act 2014 in respect of meeting needs for care and support by the provision of accommodation for the person, including anything provided in connection with that accommodation,

in either case, with interest on that amount as specified in section 24.

(3C) A local authority that records or registers a charging order as mentioned in subsection (1) above shall—

(a) intimate to the debtor in writing that they have made and recorded or registered the order, and

(b) inform the debtor of the order's effect."

Public Health (Control of Disease) Act 1984 (c. 22)

34. In section 46 of the Public Health (Control of Disease) Act 1984 (burial and cremation), in subsection (2)—

(a) after "immediately before his death" insert

"—

(a) ", and

(b) after "section 29 of that Act" insert

", or

(b) was being provided with accommodation under Part 1 of the Care Act 2014."

Transport Act 1985 (c. 67)

35. In section 104 of the Transport Act 1985 (travel concessions), in subsection (2)(b) after "made with that Executive" insert

"—

(i) by any local authority within the meaning of the Care Act 2014 in the discharge of their functions under Part 1 of that Act (meeting needs for care and support), or

(ii) ".

Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

36. The Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.

37. In section 2 (rights of authorised representatives of disabled persons), in subsection (5)—

(a) in paragraph (b), after "Part III of the 1948 Act" insert "or Part 1 of the Care Act 2014", and

(b) in paragraph (c), after "section 26 of the 1948 Act" insert "or Part 1 of the Care Act 2014".

38.—(1) In section 3 (assessment by local authorities of needs of disabled persons), in subsection (1) after "local authority" insert "in Wales or Scotland".

(2) In the heading of that section, after "local authorities" insert "in Wales or Scotland".

39.—(1) Section 4 (services under section 2 of the Chronically Sick and Disabled Persons Act 1970: duty to consider needs of disabled persons) is amended as follows.

(2) The existing words become subsection (1).

(3) In that subsection, after "2(1)" insert "or (4)".

(4) After that subsection insert—

"(2) In the case of a local authority in England this section applies only if the disabled person is aged under 18."

40.—(1) In section 8 (duty of local authority to take into account abilities of carer), in subsection (1)(b) after "local authority" insert "in Wales or Scotland".

(2) In the heading of that section, after "local authority" insert "in Wales or Scotland".

41.—(1) Section 16(**a**) (interpretation) is amended as follows.

(2) In the definition of "disabled person", before paragraph (a) insert—

"(za) in relation to England, means—

(i) in the case of a person aged 18 or over, a person who has a disability within the meaning of section 6 of the Equality Act 2010;

(ii) in the case of a person aged under 18, a person who is disabled within the meaning of Part 3 of the Children Act 1989;".

(3) In paragraph (a) of that definition, omit "England and".

(4) In the definition of "the welfare enactments", before paragraph (a) insert—

"(za) in relation to England, Part 3 of the Children Act 1989 and Part 1 of the Care Act 2014,".

(5) In paragraph (a) of that definition, omit "England and" and "Schedule 20 to the 2006 Act and".

Local Government Finance Act 1988 (c. 41)

42.—(1) In Schedule 5 to the Local Government Finance Act 1988 (non-domestic rating: exemption), paragraph 16 is amended as follows.

(2) After sub-paragraph (1) insert—

"(1A) For the purposes of this paragraph in its application to hereditaments in England, a person is disabled if he has a disability within the meaning given by section 6 of the Equality Act 2010."

(3) In sub-paragraph (2), at the beginning insert "For the purposes of this paragraph in its application to hereditaments in Wales,".

(4) In sub-paragraph (4) at the end insert "or, in the case of a local authority in England, had power to provide under that section immediately before it ceased to apply to local authorities in England."

Children Act 1989 (c. 41)

43. The Children Act 1989 is amended as follows.

44. In section 17ZA(**b**) (young carers' needs assessments: England) in subsection (6)(b) after sub-paragraph (iii) add—

"(iv) Part 1 of the Care Act 2014."

45. In section 17ZD (parent carers' needs assessments: England) in subsection (8)(b) after sub-paragraph (iii) add—

"(iv) Part 1 of the Care Act 2014."

46.—(1) Section 17A(**c**) is amended as follows.

(**a**) Section 16 was amended by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 39.
(**b**) Sections 17ZA to 17ZF were inserted by the Children and Families Act 2014 (c. 6), sections 96 and 97.
(**c**) Section 17A was substituted by the Health and Social Care Act 2001 (c. 15), section 58 and amended by the Health and Social Care Act 2008 (c. 14), Schedule 14, paragraph 1.

(2) For subsections (3) and (3A) substitute—

"(3) Regulations under this section may, in particular, make provision—

(a) specifying circumstances in which the responsible authority are not required or authorised to make any payments under the regulations to a person, whether those circumstances relate to the person in question or to the particular service mentioned in subsection (2);

(b) for any payments required or authorised by the regulations to be made to a person by the responsible authority ("direct payments") to be made to that person ("the payee") as gross payments or alternatively as net payments;

(c) for the responsible authority to make for the purposes of subsection (3A) or (3B) such determination as to—

(i) the payee's means, and

(ii) the amount (if any) which it would be reasonably practicable for the payee to pay to the authority by way of reimbursement or contribution,

as may be prescribed;

(d) as to the conditions falling to be complied with by the payee which must or may be imposed by the responsible authority in relation to the direct payments (and any conditions which may not be so imposed);

(e) specifying circumstances in which the responsible authority—

(i) may or must terminate the making of direct payments,

(ii) may require repayment (whether by the payee or otherwise) of the whole or part of the direct payments;

(f) for any sum falling to be paid or repaid to the responsible authority by virtue of any condition or other requirement imposed in pursuance of the regulations to be recoverable as a debt due to the authority;

(g) displacing functions or obligations of the responsible authority with respect to the provision of the service mentioned in subsection (2) only to such extent, and subject to such conditions, as may be prescribed;

(h) authorising direct payments to be made to any prescribed person on behalf of the payee;

(j) as to matters to which the responsible authority must, or may, have regard when making a decision for the purposes of a provision of the regulations;

(k) as to steps which the responsible authority must, or may, take before, or after, the authority makes a decision for the purposes of a provision of the regulations;

(l) specifying circumstances in which a person who has fallen within subsection (3D) but no longer does so (whether because of fluctuating capacity, or regaining or gaining of capacity) is to be treated, or may be treated, as falling within subsection (3D) for purposes of this section or for purposes of regulations under this section.

(3A) For the purposes of subsection (3)(b) "gross payments" means payments—

(a) which are made at such a rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned; but

(b) which may be made subject to the condition that the payee pays to the responsible authority, by way of reimbursement, an amount or amounts determined under the regulations.

(3B) For the purposes of subsection (3)(b) "net payments" means payments—

(a) which are made on the basis that the payee will pay an amount or amounts determined under the regulations by way of contribution towards the cost of securing the provision of the service concerned; and

(b) which are accordingly made at such a rate below that mentioned in subsection (3A)(a) as reflects any such contribution by the payee.

(3C) Regulations made for the purposes of subsection (3)(a) may provide that direct payments shall not be made in respect of the provision of residential accommodation for any person for a period in excess of a prescribed period.

(3D) A person falls within this subsection if the person lacks capacity, within the meaning of the Mental Capacity Act 2005, to consent to the making of direct payments."

(3) In subsection (4)—

(a) in paragraph (a), for the words from "(4)(a)" to the end substitute "(3A)(a)";

(b) in paragraph (b), for "(4)(b) of that section" substitute "(3A)(b)".

(4) In subsection (6)—

(a) omit the definition of "the 2001 Act";

(b) in the definition of "prescribed" omit the words from "(and has" to the end.

47.—(1) In section 17B(**a**) (vouchers for persons with parental responsibility for disabled children), in subsection (1) after "local authority" insert "in Wales".

(2) In the heading of that section, at the end insert ": Wales".

Opticians Act 1989 (c. 44)

48. In section 27(**b**) of the Opticians Act 1989 (sale and supply of optical appliances), in subsection (3)(e)(i), after "so far as the seller knows," insert "registered as sight-impaired or severely sight-impaired in a register kept by a local authority under section 77(1) of the Care Act 2014 or".

National Health Service and Community Care Act 1990 (c. 19)

49. The National Health Service and Community Care Act 1990 is amended as follows.

50. In section 46(**c**) (local authority plans for community care services), in paragraph (c) of the definition of "community care services" in subsection (3) omit "section 254 of, and Schedule 20 to, the National Health Service Act 2006, and".

51.—(1) Section 47 (assessment of needs for community care services) is amended as follows.

(2) In subsection (1) for "of community care services" substitute "of services under section 117 of the Mental Health Act 1983 (in the case of a local authority in England) or of community care services (in the case of a local authority in Wales)".

(3) In subsection (2) after "disabled person," insert "(and, in the case of a local authority in England, that he is under 18)".

(4) In subsection (5) for "community care services" substitute "services mentioned in subsection (1)".

(5) In subsection (6) omit "community care".

52.—(1) Section 48 (inspection of premises used for provision of community care services) is amended as follows.

(2) In subsection (1)—

(a) before "community care services" insert "services under section 117 of the Mental Health Act 1983, or services under Part 1 of the Care Act 2014 to meet adults' needs for care and support, are or are proposed to be provided by a local authority in England, or";

(b) after "local authority" insert "in Wales".

(**a**) Section 17B was inserted by the Carers and Disabled Children Act 2000 (c. 16), section 7.
(**b**) Section 27 was amended by S.I. 2005/848.
(**c**) Section 46 was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 129.

(3) In subsection (2)(b), for "community care services" substitute "services mentioned in subsection (1)".

(4) In subsection (4)(a)(i), for "community care services" substitute "services mentioned in subsection (1) that are".

(5) In subsection (4)(a)(ii), for "the community care services" substitute "any of those services".

Water Industry Act 1991 (c. 56)

53. In paragraph 8(2) of Schedule 4A(**a**) to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges) in the definition of "care home" after paragraph (b) insert—

"(c) a building or part of a building in which accommodation is provided under Part 1 of the Care Act 2014;".

Social Security Contributions and Benefits Act 1992 (c. 4)

54. In section 143 of the Social Security Contributions and Benefits Act 1992 (meaning of "person responsible for child or qualifying young person"), in subsection (3)(c)(i), omit "paragraph 2 of Schedule 20 to the National Health Service Act 2006 or".

Local Government Finance Act 1992 (c. 14)

55. In paragraph 7(2) of Schedule 1(**b**) to the Local Government Finance Act 1992 (persons disregarded for purposes of council tax discount), in the definition of "care home" after paragraph (b) insert—

", or

(c) a building or part of a building in which accommodation is provided under Part 1 of the Care Act 2014;".

Carers (Recognition and Services) Act 1995 (c. 12)

56.—(1) Section 1(**c**) of the Carers (Recognition and Services) Act 1995 (assessment of ability of carers to provide care: England and Wales) is amended as follows.

(2) In subsection (1)—

(a) for "subsection (3)" substitute "subsections (3) and (3A)";

(b) after "1990" insert "—

(i) in the case of a local authority in England, of the needs of a child ("the relevant person") for after-care services under section 117 of the Mental Health Act 1983(**d**), or

(ii) in the case of a local authority in Wales,".

(3) In subsection (2) for "subsection (3)" substitute "subsections (3) and (3A)".

(4) After subsection (3) insert—

"(3A) In the case of a local authority in England, no request may be made under subsection (1) or (2) if, in relation to the relevant person or the disabled child, the carer is—

(a) a young carer, within the meaning given by section 17ZA of the Children Act 1989(**e**), or

---

(**a**) Schedule 4A was inserted by the Water Industry Act 1999 (c. 9), section 17, and amended by the Care Standards Act 2000 (c. 14), Schedule 4, paragraph 18.
(**b**) Schedule 1 was amended by the Care Standards Act 2000 (c. 14), Schedule 4, paragraph 20.
(**c**) Section 1 was amended by the Carers (Equal Opportunities) Act 2004 (c.15), section 1.
(**d**) 1983 c. 20.
(**e**) 1989 c. 41. Section 17ZA was inserted by the Children and Families Act 2014 (c. 6), section 96.

(b) a parent carer, within the meaning given by section 17ZD of that Act(**a**)."

Housing Grants, Construction and Regeneration Act 1996 (c. 53)

57.—(1) Section 100 of the Housing Grants, Construction and Regeneration Act 1996 (disabled persons for the purposes of Part 1) is amended as follows.

(2) In subsection (2), before paragraph (a) insert—

"(za) the person is registered in a register maintained under section 77(1) or (3) of the Care Act 2014 (registers of sight-impaired adults, disabled adults, etc.),

(zb) in the opinion of the social services authority, the person falls within a category mentioned in section 77(4) of that Act (persons for whom register may be maintained),".

(3) In subsection (5)—

(a) after "regarded as" insert "having a disability for the purposes of section 77 of the Care Act 2014 or as";

(b) omit the words from "(which define" to the end.

Carers and Disabled Children Act 2000 (c. 16)

58. The Carers and Disabled Children Act 2000 is amended as follows.

59.—(1) Section 1 (right of carers to assessment) is amended as follows.

(2) In subsection (1)(b) after "local authority" insert "in Wales".

(3) In subsection (4) for the words from the beginning to "Wales)" substitute "The Welsh Ministers".

60.—(1) Section 6 (assessment: persons with parental responsibility for disabled children) is amended as follows.

(2) In subsection (1)(b) after "local authority" insert "in Wales".

(3) In subsection (3), for the words from the beginning to "Wales)" substitute "The Welsh Ministers".

61.—(1) Section 11 (interpretation and regulations) is amended as follows.

(2) In subsection (1), in the definition of "regulations", for the words from "Secretary of State" to the end substitute "Welsh Ministers".

(3) In subsection (3) for "Secretary of State (or the National Assembly for Wales) thinks" substitute "Welsh Ministers think".

(4) Omit subsection (4).

Health and Social Care Act 2001 (c. 15)

62. Part 4 of the Health and Social Care Act 2001 (social care) is amended as follows.

63. In section 50 (preserved rights: transfer to local authorities of responsibilities as to accommodation), in subsection (10), in the definition of "relevant premises" omit "England or".

64.—(1) Section 55 (power for local authorities to take charges on land instead of contributions) is amended as follows.

(2) After subsection (2) insert—

(**a**) Section 17ZD was inserted by the Children and Families Act 2014, section 97.

"(2A) A local authority in England may not enter into, or be required by directions under subsection (2) to enter into, a deferred payment agreement on or after the day on which section 1 of the Care Act 2014 came into force."

(3) For subsection (7) substitute—

"(7) Any reference in this section to relevant contributions is—

(a) in relation to a local authority in Wales, a reference to so much of the payments which the resident is liable to pay to an authority for Part 3 accommodation (including any payments which are additional payments for the purpose of section 54) as may be specified in, or determined in accordance with, regulations made for the purposes of this subsection;

(b) in relation to a local authority in England, a reference to—

(i) so much of any payments such as are mentioned in paragraph (a) as may be so specified or determined, and

(ii) any sum due to an authority by the resident under Part 1 of the Care Act 2014 in respect of meeting needs for care and support by the provision of accommodation for the resident, including anything provided in connection with that accommodation."

65.—(1) Section 57 (direct payments) is amended as follows.

(2) In subsection (1)—

(a) after "subsection (2)" insert "or (2A)";

(b) for "paragraph (a) or (b) of that subsection" substitute "subsection (2) or (as the case may be) (2A)".

(3) In subsection (2), after "a local authority" insert "in Wales", and omit "("the responsible authority")".

(4) After subsection (2) insert—

"(2A) A person falls within this subsection if the person is under 18 and a local authority in England have decided under section 47 of the 1990 Act that the person's needs call for the provision by them of services under section 117 of the Mental Health Act 1983 (after-care).

(2B) The local authority mentioned in subsection (2) or (2A) are referred to in this section as "the responsible authority"."

(5) In subsection (3)(a), for "paragraph (a) or (b) of subsection (2)" substitute "subsection (2) or (2A)".

(6) In subsection (3)(g), for "subsection (2)(a) or (b)" substitute "subsection (2) or (2A)".

66.—(1) Section 59(1) (interpretation of Part 4) is amended as follows.

(2) In the definition of "community care services", in paragraph (a) omit "England or".

(3) In the definition of "local authority"—

(a) before paragraph (a) insert—

"(za) does not, except in sections 55 and 57, include a local authority in England,";

(b) in paragraph (a) for "England or Wales," substitute "Wales or, in sections 55 and 57, England or Wales,".

Nationality, Immigration and Asylum Act 2002 (c. 41)

67.—(1) Paragraph 1(1) of Schedule 3(**a**) to the Nationality, Immigration and Asylum Act 2002 (ineligibility for support) is amended as follows.

(**a**) Paragraph 1(1) of Schedule 3 was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 229.

(2) In paragraph (e) omit "section 254 of, and Schedule 20 to, the National Health Service Act 2006, or".

(3) Omit "or" at the end of paragraph (l);

(4) After paragraph (m) insert

", or

(n) Part 1 of the Care Act 2014 (care and support provided by local authority)."

Community Care (Delayed Discharges) Act 2003 (c. 5)

68. The Community Care (Delayed Discharges) Act 2003 is amended as follows.

69. In section 1(**a**) (meaning of key terms), in the definition of "NHS body" omit paragraphs (ab), (c) and (d) (but not "and" after (d)).

70.—(1) Section 4 (duties of responsible authority following notice under section 2) is amended as follows.

(2) In subsection (3)(a), after "2000 (c. 16)" insert "or Part 1 of the Care Act 2014".

(3) In subsection (4), after paragraph (b) insert—

"; or

(c) is entitled to an assessment under section 10(1) of the Care Act 2014."

(4) In each of subsections (9) and (10)—

(a) before "(but without prejudice" insert "or, as the case may be, Part 1 of the Care Act 2014,";

(b) after "that section" insert "or that Part".

71.—(1) Section 12(**b**) (interpretation) is amended as follows.

(2) In the definition of "carer", after paragraph (b) insert—

"or a person who provides or intends to provide care for the patient and is entitled to an assessment under section 10(1) of the Care Act 2014;".

(3) After "community care service" insert

"—

(a) in relation to England, means services under Part 1 of the Care Act 2014 or section 117 of the Mental Health Act 1983, and

(b) in relation to Wales,".

(4) In the definition of "health service hospital" omit "the National Health Service Act 2006 or".

72.—(1) Section 14 (power to apply Part 1 to NHS patients in care homes) is amended as follows.

(2) In subsection (1) for "appropriate Minister" substitute "Welsh Ministers".

(3) In subsection (2)(a) for "appropriate Minister" substitute "Welsh Ministers".

73. Section 15 (free provision of services in England) ceases to have effect.

74. For section 16 substitute—

(**a**) Section 1 was amended by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 4, paragraph 130, and by S.I. 2013/2341, article 3.

(**b**) Section 12 was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 231, and by S.I. 2010/813, article 11.

"16 Free provision of services in Wales

(1) The Welsh Ministers may by regulations require that the provision of any qualifying service of a description prescribed in the regulations is to be free of charge to the person to whom it is provided.

(2) The regulations may (without prejudice to the generality of subsection (1))—

(a) prescribe circumstances in which a qualifying service is to be provided free of charge; and

(b) limit the period for which a qualifying service is to be so provided.

(3) In this section "qualifying service" means—

(a) the provision of accommodation under Part 3 of the National Assistance Act 1948 in pursuance of arrangements made by a local authority in Wales; or

(b) any service which is provided to a person by, or in pursuance of arrangements made by, a local authority in Wales under an enactment mentioned in subsection (4).

(4) The enactments referred to in subsection (3)(b) are—

(a) section 29 of the National Assistance Act 1948;

(b) section 45(1) of the Health Services and Public Health Act 1968;

(c) section 2 of the Carers and Disabled Children Act 2000.

(5) The regulations may not require any of the following services to be provided free of charge for a period of more than six weeks—

(a) the provision of accommodation under Part 3 of the National Assistance Act 1948;

(b) the provision of personal care to a person in any place where that person is living, other than accommodation provided under that Part of that Act;

(c) a service provided to a carer under section 2 of the Carers and Disabled Children Act 2000 which consists of the provision of personal care delivered to the person cared for (in accordance with subsection (3) of that section).

(6) The regulations may—

(a) make different provision for different descriptions of qualifying service; and

(b) make supplementary, consequential, incidental, transitional or saving provision."

Carers (Equal Opportunities) Act 2004 (c. 15)

75. The Carers (Equal Opportunities) Act 2004 is amended as follows.

76. In section 3(1)(**a**) (co-operation between authorities) after "local authority" insert "in Wales".

77. Section 6(5) and (6) (application of section 3 to Isles of Scilly) ceases to have effect.

Mental Capacity Act 2005 (c. 9)

78. The Mental Capacity Act 2005 is amended as follows.

79.—(1) Section 39 (provision of accommodation by local authority) is amended as follows.

(2) After subsection (1) insert—

"(1A) But this section applies only if—

(a) in the case of a local authority in England, subsection (1B) applies;

(b) in the case of a local authority in Wales, subsection (2) applies."

(3) After subsection (1A) (inserted by paragraph (2)) insert—

(**a**) Section 3 was amended by the Health and Social Care Act 2012 (c. 7), Schedule 5, paragraph 125.

"(1B) This subsection applies if the accommodation is to be provided in accordance with—

(a) Part 1 of the Care Act 2014, or

(b) section 117 of the Mental Health Act."

(4) In subsection (2), for "But this section applies only" substitute "This subsection applies".

80. In paragraph 183 of Schedule A1(**a**) (deprivation of liberty of hospital or care home residents: ordinary residence for purposes of identifying supervisory authority) after sub-paragraph (2) insert—

"(2A) Section 39(1), (2) and (4) to (6) of the Care Act 2014 and paragraphs 1(1), 2(1) and 8 of Schedule 1 to that Act apply to any determination of where a person is ordinarily resident for the purposes of paragraphs 180, 181 and 182 as they apply for the purposes of Part 1 of that Act."

National Health Service Act 2006 (c. 41)

81. The National Health Service Act 2006 is amended as follows.

82.—(1) Section 254 (local social services authorities) is amended as follows.

(2) Omit subsection (1).

(3) In subsection (4) omit paragraph (b) and the "or" before it.

(4) In subsection (5) omit "and Schedule 20".

83. Omit Schedule 20.

National Health Service (Wales) Act 2006 (c. 42)

84. In Schedule 15 to the National Health Service (Wales) Act 2006 (local social services authorities) after paragraph 2 insert—

"**2A**.—(1) Each local social services authority in Wales—

(a) must provide or arrange for the provision of home help, on a scale adequate for the needs of its area, for households where home help is required owing to the presence of a person to whom sub-paragraph (2) applies, and

(b) may provide or arrange for the provision of laundry facilities for households for which home help is being, or can be, provided under paragraph (a).

(2) This sub-paragraph applies to any person who—

(a) is suffering from illness,

(b) is pregnant or has recently given birth,

(c) is aged, or

(d) is handicapped as a result of having suffered from illness or by congenital deformity."

Safeguarding Vulnerable Groups Act 2006 (c. 47)

85. The Safeguarding Vulnerable Groups Act 2006 is amended as follows.

86. In section 30 (provision of vetting information) (until it ceases to have effect by virtue of section 72(1) of the Protection of Freedoms Act 2012(**b**)), in subsection (8) after "section 57 of the Health and Social Care Act 2001 (c 15)" insert ", or in accordance with section 31 or 32 of the Care Act 2014,".

(**a**) Schedule A1 was inserted by the Mental Health Act 2007 (c. 12), section 50, Schedule 7.
(**b**) 2012 c. 9.

87. In paragraph 7 of Schedule 4(**a**) (regulated activity), after sub-paragraph (3E) insert—

"(3EA) Relevant assistance in the conduct of a person's own affairs is also representing or supporting the person in pursuance of arrangements made under section 67 or 68 of the Care Act 2014 (independent advocacy support)."

Income Tax Act 2007 (c. 3)

88.—(1) Section 38 of the Income Tax Act 2007 (blind person's allowance) is amended as follows.

(2) In subsection (2), after "the individual is" insert

"—

(a) registered as a severely sight-impaired adult in a register kept under section 77(1) of the Care Act 2014 (registers kept by local authorities in England), or

(b) ".

(3) In that subsection, omit "England and".

(4) In subsection (4)—

(a) in paragraph (a), after "section 29 of the National Assistance Act 1948" insert "or as a severely sight-impaired person in a register kept under section 77(1) of the Care Act 2014", and

(b) in paragraph (b), after "blindness" insert "or of severe sight-impairment".

Health and Social Care Act 2008 (c. 14)

89. The Health and Social Care Act 2008 is amended as follows.

90. Section 145 ceases to have effect.

91. In section 156(2) (interpretation of provisions relating to financial assistance), in the definition of "social care services"—

(a) omit paragraphs (a) and (b);

(b) after paragraph (c) insert—

"(ca) Part 1 of the Care Act 2014,";

(c) omit paragraph (d).

92. In Schedule 14 (further amendments relating to Part 5), omit paragraph 1.

93.—(1) In paragraph 8 of Schedule 14 (further amendments relating to Part 5) the subsections inserted in section 6 of the Safeguarding Vulnerable Groups Act 2006(**b**) are amended as follows.

(2) In subsection (8A)—

(a) for " or section 57 of the Health and Social Care Act 2001" substitute ", section 57 of the Health and Social Care Act 2001 or sections 31 to 33 of the Care Act 2014";

(b) for "that section" substitute "any of those sections".

(3) After subsection (8B) insert—

"(8C) A person (S) who is authorised as mentioned in subsection (4)(a) of section 32 of the Care Act 2014 does not make arrangements for another to engage in a regulated activity by virtue of anything that S does under subsection (4)(b) of that section."

(**a**) Schedule 4 was amended by the Protection of Freedoms Act 2012, section 66.
(**b**) 2006 c. 47.

Welfare Reform Act 2009 (c. 24)

94. In section 50 of the Welfare Reform Act 2009 (interpretation of Part 2) in paragraph (a) of the definition of "community care services" for "(a) In relation to England and Wales," substitute—

"(a) in relation to England, services under Part 1 of the Care Act 2014 or section 117 of the Mental Health Act 1983;

(aa) in relation to Wales,".

Personal Care at Home Act 2010 (c. 18)

95.—(1) Section 1 of the Personal Care at Home Act 2010 (which makes amendments to section 15 of the Community Care (Delayed Discharges) Act 2003(**a**), with consequential amendments) is amended as follows.

(2) In subsection (1)—

(a) for "15" substitute "16";

(b) for "England" substitute "Wales".

(3) In subsections (7)(a) and (b) and (8), for "after "section 15" insert "or 16"" substitute "for "section 15" substitute "section 16"".

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

96. In Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services), in paragraph 6(3), in the definition of "community care services"—

(a) omit paragraph (l);

(b) after paragraph (m) insert—

"(n) Part 1 of the Care Act 2014 (local authority's functions of meeting adult's needs for care and support);".

Children and Families Act 2014 (c. 6)

97. In section 37 of the Children and Families Act 2014 (education, health and care plans), in subsection (2)(e), omit "(as it applies by virtue of section 28A of that Act)".

Social Services and Well-being (Wales) Act 2014 (anaw 4)

98. In section 190 of the Social Services and Well-being (Wales) Act 2014 (provider failure: exception to temporary duty) in subsection (1)(d) after sub-paragraph (i) insert—

"(ia) by virtue of sections 31 to 33 of the Care Act 2014,".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under provisions in the Care Act 2014 ("the Care Act") and the Children and Families Act 2014 ("the Children and Families Act").

The Care Act makes provision in respect of the provision of care and support for adults, and support for adult carers, in England. The Children and Families Act makes provision, amongst other things, in respect of carers under the age of 18 and in respect of adults caring for disabled children. This Order amends (subject to certain savings for transitional purposes) primary legislation that currently underpins the provision of care and support for adults and carer support in England ("the current social care legislation"). The current social care legislation applies in

(**a**) 2003 c. 5.

relation to both England and Wales. The amendments made in this Order mean that the current social care legislation will no longer apply in relation to England but will, however, continue to apply in relation to Wales.

The Order also makes consequential and incidental amendments to other primary legislative provisions which refer, for various purposes, to the current social care legislation. These amendments make, in respect of England, provision which reflects the new provisions relating to care and support for adults, and support for carers.

Article 2 and the Schedule to the Order make the amendments referred to above.

Article 3 makes transitional and saving provisions.

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