



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 11

### MISCELLANEOUS AND GENERAL

#### *Supplementary*

#### **193 Recovery of costs between local authorities**

- (1) Subsection (2) applies where—
  - (a) a local authority (“authority A”) provides or arranges care and support to a person who is ordinarily resident in the area of another local authority (“authority B”), and
  - (b) the care and support was provided either—
    - (i) to meet urgent needs in order to safeguard the person’s well-being, or
    - (ii) with the consent of authority B.
- (2) Authority A may recover from authority B any reasonable expenses incurred by it in providing or arranging the care and support.
- (3) Where a local authority provides accommodation under section 76(1) for a child who was (immediately before it began to look after the child) ordinarily resident within the area of another local authority, it may recover from that other authority any reasonable expenses incurred by it in providing the accommodation and maintaining the child.
- (4) Subsection (5) applies where a local authority (“authority A”) provides accommodation under section 77(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority (“authority B”) and it is not maintaining the child in—
  - (a) a community home provided by authority A,
  - (b) a controlled community home, or

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*Status: This is the original version (as it was originally enacted).*

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- (c) a hospital vested in the Welsh Ministers, an NHS Trust, an NHS Foundation Trust or the Secretary of State, or any other hospital made available pursuant to arrangements made by a Local Health Board, an NHS Trust, an NHS Foundation Trust, the Welsh Ministers, the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group.
- (5) Authority A may recover from authority B any reasonable expenses incurred by it in providing the accommodation and maintaining the child.
- (6) Except where subsection (7) applies, where a local authority complies with any request under section 164(1) or (2) in relation to a person who is not ordinarily resident within its area, it may recover from the local authority in whose area the person is ordinarily resident any reasonable expenses incurred by it in respect of that person.
- (7) Where a local authority (“authority A”) complies with any request under section 164(1) or (2) from another local authority (“authority B”) in relation to a person for whom authority B is the responsible local authority within the meaning of section 104, authority A may recover from authority B any reasonable expenses incurred by it in exercising its functions under sections 105 to 115 in respect of that person.

#### **194 Ordinary residence**

- (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 Wales of a type so specified, the adult is to be treated for the purposes of this Act 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 regulations.
- (4) A person who is being provided with accommodation under a health enactment is to be treated for the purposes of this Act as ordinarily resident—
  - (a) in the area in which the person was ordinarily resident immediately before the accommodation was provided, or
  - (b) if the person was of no settled residence immediately before the accommodation was provided, in the area in which the person was present at that time.
- (5) In subsection (4) “health enactment” means—
  - (a) the National Health Service (Wales) Act 2006;

- (b) the National Health Service Act 2006;
  - (c) the National Health Service (Scotland) Act 1978;
  - (d) the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(S.I. 1972/1265 \(N.I. 14\)\)](#);
  - (e) the Health and Social Care (Reform) Act (Northern Ireland) 2009.
- (6) In determining the ordinary residence of a child for the purposes of this Act, the child's residence in the following places is to be disregarded—
- (a) a school or other institution;
  - (b) a place in which the child is placed in accordance with the requirements of a supervision order under the Children Act 1989;
  - (c) a place in which the child is placed in accordance with the requirements of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008;
  - (d) accommodation provided by or on behalf of a local authority or a local authority in England;
  - (e) a place specified in regulations.
- (7) See also sections 185(1) to (3) and 186(2) for provision as to the ordinary residence of persons in prison, youth detention accommodation or bail accommodation etc.

## **195 Disputes about ordinary residence and portability of care and support**

- (1) A dispute between local authorities about where a person is ordinarily resident in Wales for the purposes of this Act, or a dispute between a sending and receiving authority under section 56 about the application of that section in relation to a person, is to be determined by—
- (a) the Welsh Ministers, or
  - (b) a person appointed by the Welsh Ministers for that purpose (“an appointed person”).
- (2) Regulations may make further provision about the resolution of disputes of the type mentioned in subsection (1); the regulations may, for example, make—
- (a) provision for ensuring that care and support is provided to a person while a dispute is unresolved;
  - (b) provision requiring local authorities in dispute to take specified steps before referring a dispute to the Welsh Ministers or an appointed person;
  - (c) provision about the procedure for referring a dispute to the Welsh Ministers or an appointed person;
  - (d) provision about the review of a determination made under subsection (1).