



Care Act 2014

2014 CHAPTER 23

PART 5

GENERAL

125 Regulations and orders

- (1) A power to make regulations under this Act is exercisable by the Secretary of State.
- (2) Regulations and orders under this Act must be made by statutory instrument.
- (3) Subject to subsections (4) and (6), a statutory instrument containing regulations or an order under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument which contains (whether alone or with other provision) any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—
 - (a) regulations under section 13(7) (the eligibility criteria);
 - (b) regulations under section 15(4) (the cap on care costs) other than those made in discharge of the duty under section 16(1);
 - (c) the first regulations under section 15(8) (the amount attributable to an adult's daily living costs);
 - (d) regulations under section 22(2)(b) (services or facilities which a local authority may not provide or arrange);
 - (e) regulations under section 35(9) or 36(3) (deferred payment agreements and loans and alternative financial arrangements) which include provision that amends or repeals a provision of an Act of Parliament, or provides for a provision of an Act of Parliament to apply with modifications;
 - (f) the first regulations under section 52(12) (meaning of references to business failure);
 - (g) the first regulations under section 53(1) (criteria for application of market oversight regime);

- (h) the first regulations under section 53(4) (disapplication of market oversight regime in particular cases);
 - (i) the first regulations under section 62(2) (exercise of power to meet child's carer's needs for support);
 - (j) the first regulations under section 72 (Part 1 appeals);
 - (k) subsequent regulations under that section which include provision that amends or repeals a provision of an Act of Parliament, or provides for a provision of an Act of Parliament to apply with modifications;
 - (l) an order under section 79(9) (delegation of local authority functions);
 - (m) regulations under section 92 (offence of supplying etc false or misleading information);
 - (n) an order under section 123 (consequential provision) which includes provision that amends or repeals a provision of an Act of Parliament, or provides for a provision of an Act of Parliament to apply with modifications;
 - (o) regulations under paragraph 18 of Schedule 7 (fees chargeable by the HRA).
- (5) Subsection (4) does not apply to a statutory instrument which contains regulations or an order within paragraph (e), (k) or (n) of that subsection, if the regulations or order are within the paragraph in question only because they include provision that applies an Act of Parliament with modifications for the purpose of making saving, transitional or transitory provision.
- (6) Subsection (3) does not apply to—
- (a) an order under section 96 (transfer order to new HEE);
 - (b) an order under section 109 (transfer order to new HRA);
 - (c) an order under section 124 (transitional etc. provision);
 - (d) an order under section 127 (commencement).
- (7) A power to make regulations or an order under this Act—
- (a) may be exercised for all cases to which the power applies, for those cases subject to specified exceptions, or for any specified cases or descriptions of case,
 - (b) may be exercised so as to make, for the cases for which it is exercised—
 - (i) the full provision to which the power applies or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases for which the power is exercised, or different provision for different cases or different descriptions of case, or different provision as respects the same case or description of case for different purposes of this Act;
 - (iii) any such provision either unconditionally or subject to specified conditions, and
 - (c) may, in particular, make different provision for different areas.
- (8) A power to make regulations or an order under this Act (other than the power to make an order under section 124 or 127) includes —
- (a) power to make incidental, supplementary, consequential, saving, transitional or transitory provision, and
 - (b) power to provide for a person to exercise a discretion in dealing with a matter.

- (9) Before making regulations under section 52(12) (meaning of references to business failure), the Secretary of State must consult the Welsh Ministers and the Department for Health, Social Services and Public Safety in Northern Ireland.