



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 4

#### SOCIAL CARE

##### *Measures to increase availability of Part 3 accommodation*

#### **53 Disregarding of resources when determining need for residential accommodation**

In section 21 of the 1948 Act (duties of local authorities to provide accommodation), for subsections (2A) and (2B) there shall be substituted—

“(2A) In determining for the purposes of paragraph (a) or (aa) of subsection (1) of this section whether care and attention are otherwise available to a person, a local authority shall disregard so much of the person’s resources as may be specified in, or determined in accordance with, regulations made by the Secretary of State for the purposes of this subsection.

(2B) In subsection (2A) of this section the reference to a person’s resources is a reference to his resources within the meaning of regulations made for the purposes of that subsection.”

#### **54 Funding by resident etc. of more expensive accommodation**

(1) Regulations may make provision for and in connection with the making, in respect of the provision of Part 3 accommodation, of additional payments—

- (a) by persons for whom such accommodation is provided (“residents”); or
- (b) by other persons (including persons liable to maintain residents by virtue of section 42 of the 1948 Act).

(2) In this section “additional payments”, in relation to a resident, means payments which—

- (a) are made for the purpose of meeting all or part of the difference between the actual cost of his Part 3 accommodation and the amount that the local

authority providing it would usually expect to pay in order to provide Part 3 accommodation suitable for a person with the assessed needs of the resident; and

- (b) (in the case of additional payments by the resident) are made out of such of his resources as may be specified in, or determined in accordance with, regulations under subsection (1);

and for this purpose “resources” has the meaning given by such regulations.

- (3) In this Part “Part 3 accommodation” means accommodation provided under sections 21 to 26 of the 1948 Act.

## **55 Power for local authorities to take charges on land instead of contributions**

- (1) Where a person (“the resident”)—
  - (a) is availing himself of Part 3 accommodation provided by a local authority, or is proposing to do so, and
  - (b) is liable, or would be liable, to pay for the accommodation (whether at the full standard rate determined in accordance with section 22(2) or 26(2) of the 1948 Act or at any lower rate),
 the local authority may enter into a deferred payment agreement with the resident.
- (2) The relevant authority may by directions require local authorities, where—
  - (a) they provide or are to provide Part 3 accommodation for a person falling within subsection (1) (“the resident”), and
  - (b) any conditions specified in the directions are satisfied,
 to enter into a deferred payment agreement with the resident.
- (3) A “deferred payment agreement” is an agreement whereby—
  - (a) during the exempt period the resident will not be required to make payment to the authority of any relevant contributions in respect of periods (or parts of periods) falling within the exempt period, but
  - (b) the total amount of the relevant contributions shall become payable to the authority on the day after the date on which the exempt period ends, and
  - (c) the resident will grant the authority a charge in their favour in respect of any land specified in the agreement in which he has a beneficial interest (whether legal or equitable) for the purpose of securing the payment to the authority of the total amount payable to them as mentioned in paragraph (b).
- (4) “The exempt period”, in relation to a deferred payment agreement, is the period beginning with the time when the agreement takes effect and ending—
  - (a) 56 days after the date of the resident’s death, or
  - (b) with any earlier date which, in accordance with the agreement, the resident has specified in a notice given by him to the authority for the purposes of subsection (5)(b).
- (5) The provisions of any deferred payment agreement and any such charge as is mentioned in subsection (3)(c)—
  - (a) shall be determined by the authority in accordance with any directions given by the relevant authority; but
  - (b) shall secure that the agreement and any such charge may be terminated by notice given to the authority by the resident on payment of the full amount

which he is liable to pay as mentioned in subsection (3)(a) down to the date of the payment.

- (6) Where a deferred payment agreement is in force in respect of the resident—
- (a) no interest shall accrue at any time on or before the date on which the exempt period ends in respect of any sum which he is liable to pay as mentioned in subsection (3)(a); but
  - (b) as from the day after that date, any such sum shall bear interest at such reasonable rate as the relevant authority may direct or, if no such directions are given, as the authority may determine;
- and accordingly any charge granted in pursuance of subsection (3)(c) shall secure payment to the authority of any interest falling due by virtue of paragraph (b) above.
- (7) Any reference in this section to relevant contributions is 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, or determined in accordance with, regulations made for the purposes of this subsection.
- (8) Any directions given by the relevant authority under this section shall be given to local authorities generally.

## **56 Cross-border placements**

- (1) Regulations may make provision for and in connection with authorising a local authority to make arrangements under section 21 of the 1948 Act for a person to be provided with residential accommodation in Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man.
- (2) Regulations under this section may, in particular, make provision—
- (a) specifying conditions which must be satisfied before a local authority make any arrangements in pursuance of the regulations in respect of a person;
  - (b) for the application of provisions of the 1948 Act in relation to—
    - (i) any such arrangements, or
    - (ii) the person in respect of whom any such arrangements are made,with or without modifications.