



Health and Social Care Act 2001

2001 CHAPTER 15

PART 4

SOCIAL CARE

Nursing care

^{F1}49 Exclusion of nursing care from community care services

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Textual Amendments

F1 S. 49 omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **180**

Preserved rights

50 Preserved rights: transfer to local authorities of responsibilities as to accommodation

[^{F2}(1) The following provisions, namely—

- (a) section 26A of the National Assistance Act 1948 (c. 29) (which prevents local authorities in England or Wales providing residential accommodation for persons who were in such accommodation on 31st March 1993), and
- (b) section 86A of the Social Work (Scotland) Act 1968 (c. 49) (which makes corresponding provision for Scotland),

shall cease to have effect on the appointed day.

(2) For the purposes of this section a “qualifying person” is—

- (a) (in relation to any time before the appointed day) a person to whom section 26A(1) or section 86A(1) applies; or

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- (b) (in relation to any later time) a person to whom either of those sections applied immediately before that day.
- (3) Where a qualifying person is immediately before the appointed day ordinarily resident in relevant premises in the area of a local authority (“the responsible authority”), that authority shall secure that—
- (a) as from that day, or
 - (b) as soon thereafter as is reasonably practicable,
- the person is provided with such community care services with respect to his accommodation as appear to the authority to be appropriate having regard to his needs as assessed under section 47(1)(a) of the 1990 Act (assessment of needs for community care services in England or Wales) or section 12A(1)(a) of the 1968 Act (corresponding provision for Scotland).
- (4) Each local authority shall accordingly—
- (a) use their best endeavours to identify every person ordinarily resident in relevant premises in their area who is a qualifying person; and
 - (b) carry out such a programme of assessments under section 47(1)(a) or 12A(1)
 - (a) in respect of persons so identified as appears to the authority to be required for the purpose of enabling them to discharge their duty under subsection (3) in relation to such persons.
- (5) Where a person—
- (a) is a qualifying person immediately before the appointed day, and
 - (b) is provided by the responsible authority with any community care services with respect to his accommodation in accordance with subsection (3),
- his existing arrangements shall, by virtue of this subsection, terminate on the date as from which he is provided with those services.
- (6) Where any such person is not provided with any such services as from the appointed day, any liability of his to make any payment under his existing arrangements in respect of any period (or part of a period) falling within the period beginning with the appointed day and ending with—
- (a) the date as from which he is provided with any such services, or
 - (b) the date on which he notifies (or is in accordance with regulations to be treated as notifying) the responsible authority that he does not wish to be provided with any such services,
- shall instead be a liability of the responsible authority.
- (7) However, the responsible authority may, in respect of any payment made by them in pursuance of subsection (6), recover from the person such amount (if any) as may be prescribed; and any such amount shall be so recoverable in accordance with section 56 of the 1948 Act as if it were an amount due to the authority under that Act.
- (8) The provisions of subsections (3) to (7) do not apply, to such extent as may be prescribed, in relation to any person falling within any prescribed description of persons.
- (9) Regulations may also—
- (a) prescribe the circumstances in which persons are to be treated as ordinarily resident in any premises for the purposes of this section;

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- (b) for the purpose of prescribing any such amount as is mentioned in subsection (7), provide for any provision made by or under section 22 or 26 of the 1948 Act to apply with or without modifications.

(10) In this section—

“the appointed day” means the day appointed under section 70 for the coming into force of subsection (1);

“existing arrangements”, in relation to a person, means the arrangements for the provision of accommodation in the relevant premises mentioned in subsection (3), together with any arrangements for the provision of any services or facilities in connection with that accommodation;

“prescribed” means prescribed by regulations;

“relevant premises”—

(a) in relation to ^{F3}... Wales, has the same meaning as in section 26A of the 1948 Act;

(b) in relation to Scotland, has the same meaning as in section 86A of the 1968 Act.

“the responsible authority” shall be construed in accordance with subsection (3).]

Textual Amendments

F2 S. 50 omitted (E.W.) (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **181**

F3 Words in s. 50(10) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 63** (with arts. 1(3), 3)

Modifications etc. (not altering text)

C1 S. 50(3)-(7) excluded (E.) (19.12.2001) by [S.I. 2001/3776](#), **regs. 1(3), 2(1)**

S. 50(3)-(7) excluded (S.) (8.4.2002) by [The Preserved Rights \(Transfer to Responsible Authorities\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/76\)](#), **reg. 2**

C2 S. 50(7) modified (W.) (19.12.2001) by [S.I. 2001/3985](#), **regs. 1(3), 3(2)**

C3 S. 50(8) restricted (W.) (19.12.2001) by [S.I. 2001/3985](#), **regs. 1(3), 2(1)**

Commencement Information

I1 S. 50 partly in force; s. 50 in force for certain purposes at 11.5.2001, see s. 70(2); s. 50(1) in force at 8.4.2002 by [S.I. 2001/3752](#), **art. 2(1)**; s. 50(2)-(7)(10) in force for E. and s. 50(8) in force for E. in so far as not already in force at 20.12.2001 by [S.I. 2001/3752](#), **art. 2(2)**; s. 50(2)-(10) in force for W. at 19.12.2001 by [S.I. 2001/3807](#), **art. 3**; s. 50(2)-(10) in force for S. at 1.4.2002 by [S.S.I. 2002/75](#), **art. 2**

51 Preserved rights: disclosure of information

(1) For the purposes of this section a “claimant” is—

(a) (in relation to any time before the appointed day) a person who is ordinarily resident in relevant premises and has a preserved right by virtue of which enhanced payments are being made to or in respect of him by way of income support or jobseeker’s allowance, or

(b) (in relation to any later time) a person who fell within paragraph (a) immediately before that day.

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- (2) Any information—
- (a) held by, or by a person providing services to, the Secretary of State about a claimant, and
 - (b) relating to income support or jobseeker’s allowance,
- may be supplied, for qualifying purposes, to the local authority in whose area the relevant premises referred to in subsection (1) are situated or to any person providing services to, or authorised to exercise functions of, the authority.
- (3) Where information relating to a claimant is supplied to any authority or person (“the recipient”) in accordance with subsection (2), the information may be supplied by the recipient, for qualifying purposes—
- (a) to any local authority appearing to the recipient to be providing the claimant with community care services with respect to his accommodation; or
 - (b) to any person providing services to, or authorised to exercise functions of, any such local authority.
- (4) In subsections (2) and (3) “qualifying purposes”, in relation to information relating to a claimant, means—
- (a) purposes connected with the performance of functions under section 50 in relation to the claimant, or
 - (b) other purposes connected with the termination of his preserved right in consequence of section 52(1), or
 - (c) (in subsection (2)) any further supply of the information under subsection (3).
- (5) Where information relating to a particular person is supplied to any authority or person in accordance with subsection (2) or (3), section 123 of the Social Security Administration Act 1992 (c. 5) (unauthorised disclosure of information relating to particular persons) shall apply in relation to the disclosure of the information by—
- (a) the recipient of the information, or
 - (b) any officer or employee of the recipient,
- without lawful authority (within the meaning of that section) as it applies to any disclosure of information to which subsection (1) of that section applies.
- (6) In this section—
- “the appointed day”, “ordinarily resident” and “relevant premises” have the same meaning as they have for the purposes of section 50;
- “preserved right” means a preserved right within the meaning of the Income Support (General) Regulations 1987 (S.I. 1987/1967).

52 Preserved rights: alignment of social security benefits

- (1) The Secretary of State shall so exercise his powers under—
- (a) section 135(1) of the Social Security Contributions and Benefits Act 1992 (c. 4) (applicable amount in relation to income-related benefits), and
 - (b) section 4(5) of the Jobseekers Act 1995 (c. 18) (amount payable by way of jobseeker’s allowance),
- as to secure that any special provision made in exercise of those powers as respects income support or jobseeker’s allowance payable to or in respect of persons who have preserved rights ceases to have effect on the appointed day.
- (2) In this section—

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“the appointed day” means the day appointed under section 70 for the coming into force of section 50(1);

“preserved rights” means preserved rights within the meaning of the Income Support (General) Regulations 1987.

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.”

Commencement Information

- I2** S. 53 partly in force; s. 53 not in force at Royal Assent see s. 70(2); s. 53 in force for E. at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, [Sch.](#)
- I3** S. 53 in force at 1.4.2003 for W. by [S.I. 2003/939](#), art. 2, [Sch. 1](#)

^{F4}54 Funding by resident etc. of more expensive accommodation

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Textual Amendments

- F4** S. 54 omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [182](#)

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

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(b) any conditions specified in the directions are satisfied,
to enter into a deferred payment agreement with the resident.

[^{F5}(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.]

[^{F6}(2B) A local authority in Wales 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 2 of the Social Services and Well-being (Wales) Act 2014 came into force.]

- (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.

- [^{F7}(7) Any reference in this section to relevant contributions is a reference to—
- (a) 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; and

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- (b) any sum due to an authority by the resident under Part 1 of the Care Act 2014 or Part 5 of the Social Services and Well-being (Wales) 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.]
- (8) Any directions given by the relevant authority under this section shall be given to local authorities generally.

Textual Amendments

- F5** S. 55(2A) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 64(2)** (with arts. 1(3), 3)
- F6** S. 55(2B) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **183(a)**
- F7** S. 55(7) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **183(b)**

Commencement Information

- I4** S. 55 partly in force; s. 55 in force for certain purposes at 11.5.2001, see s. 70(2); s. 55(1)-(6)(8) in force for E. for certain purposes at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, **Sch.**
- I5** S. 55 in force at 1.4.2003 for W. by [S.I. 2003/939](#), art. 2, **Sch. 1**

^{F8}56 Cross-border placements

Textual Amendments

- F8** S. 56 omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **184**

Direct payments

57 Direct payments

- (1) Regulations may make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within [^{F9}subsection (2A)] to make, with that person's consent, such payments to him as they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in [^{F10}subsection ^{F11}... (2A)].

- [^{F12}(1A) Regulations may make provision for and in connection with requiring or authorising the responsible authority in the case of a person (“P”) of a prescribed description—
- who falls within subsection (2)(a), and
 - who falls within subsection (5A) or is reasonably believed by the authority to fall within that subsection,

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to make, with the requisite consent, such payments as the authority may determine in accordance with the regulations to a suitable person other than P in respect of the other person's securing the provision for P of the service mentioned in subsection (2)(a).

(1B) In subsection (1A) “the requisite consent” means—

- (a) the consent of the other person; and
- (b) where the other person is not a surrogate of P but there is at least one person who is a surrogate of P, the consent also of a surrogate of P.

(1C) For the purposes of subsection (1A), a person (whether or not an individual) is “suitable” if—

- (a) that person is a representative of P;
- (b) that person is not a representative of P (or there is no-one who is a representative of P), but—
 - (i) a surrogate of P, and
 - (ii) the responsible authority,

consider that person to be a suitable person to receive the payments for the purpose of securing provision for P of the service concerned; or

- (c) that person is not a representative of P (or there is no-one who is a representative of P), and there is no-one who is a surrogate of P, but the responsible authority considers that person to be a suitable person to receive the payments for that purpose.]

^{F13}(2)

[^{F14}(2A) A person falls within this subsection if the person is under 18 and a local authority ^{F15}... 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 [^{F16}subsection (2A)] are referred to in this section as “the responsible authority”.]

(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 [^{F17}or in respect of a person], whether those circumstances relate to the person in question or to the particular service mentioned in [^{F18}subsection (2A)];
- (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 (4) or (5) such determination as to—
 - (i) the payee’s means [^{F19}in the case of direct payments under subsection (1) or, in the case of direct payments under subsection (1A), the means of the person (“the beneficiary”) in respect of whom the payments are required or authorised to be made], and
 - (ii) the amount (if any) which it would be reasonably practicable for him 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 [^{F20}in the case of direct payments under subsection (1), or by the payee or by the beneficiary

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- in the case of direct payments under subsection (1A),] 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 [^{F21}in the case of direct payments under subsection (1), or by the payee or by the beneficiary in the case of direct payments under subsection (1A),] 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 [^{F22}subsection (2A)] 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.
 - [^{F23}(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 (5A) 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 (5A) for purposes of this section or for purposes of regulations under this section.]
- (4) 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 [^{F24}in the case of direct payments under subsection (1), or the beneficiary in the case of direct payments under subsection (1A),] pays to the responsible authority, by way of reimbursement, an amount or amounts determined under the regulations.
- (5) For the purposes of subsection (3)(b) “net payments” means payments—
- (a) which are made on the basis that the payee will himself [^{F25}in the case of direct payments under subsection (1), or the beneficiary will in the case of direct payments under subsection (1A),] 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 (4)(a) as reflects any such contribution by the payee [^{F26}or (as the case may be) the beneficiary].
- [^{F27}(5A) 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.
- (5B) In this section “representative”, in relation to a person, means such other person (whether or not an individual) as may be prescribed.

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- (5C) In this section “surrogate”, in relation to a person, means—
- (a) a deputy appointed for the person by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005, or
 - (b) a donee of a lasting power of attorney created by the person, whose powers, as deputy or donee, consist of or include such powers as may be prescribed.]
- (6) Regulations under this section shall provide that, where direct payments are made in respect of a service which, apart from the regulations, would be provided under section 117 of the Mental Health Act 1983 (c. 20) (after-care)—
- (a) the payments shall be made at the rate mentioned in subsection (4)(a); and
 - (b) subsection (4)(b) shall not apply.
- (7) 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.
- [^{F28}(7A) For the purposes of subsection (3)(d), the conditions that are to be taken to be conditions in relation to direct payments include, in particular, conditions in relation to—
- (a) the securing of the provision of the service concerned,
 - (b) the provider of the service,
 - (c) the person to whom payments are made in respect of the provision of the service, or
 - (d) the provision of the service.]
- [^{F29}(7B)
- (8) In this section “prescribed” means specified in or determined in accordance with regulations under this section.

Textual Amendments

- F9** Words in s. 57(1) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **185(a)(i)**
- F10** Words in s. 57(1) substituted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 65(2)(b)** (with arts. 1(3), 3)
- F11** Words in s. 57(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **185(a)(ii)**
- F12** S. 57(1A)-(1C) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008](#) (c. 14), **ss. 146(2), 170**; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F13** S. 57(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **185(b)**
- F14** S. 57(2A)(2B) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 65(4)** (with arts. 1(3), 3)
- F15** Words in s. 57(2A) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **185(c)**
- F16** Words in s. 57(2B) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **185(d)**

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2001, Part 4. (See end of Document for details)

- F17** Words in s. 57(3)(a) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(a\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F18** Words in s. 57(3)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [185\(e\)](#)
- F19** Words in s. 57(3)(c)(i) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(b\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F20** Words in s. 57(3)(d) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(c\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F21** Words in s. 57(3)(e)(ii) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(c\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F22** Words in s. 57(3)(g) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [185\(e\)](#)
- F23** S. 57(3)(j)-(l) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(d\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F24** Words in s. 57(4)(b) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(4\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F25** Words in s. 57(5)(a) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(5\)\(a\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F26** Words in s. 57(5)(b) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(5\)\(b\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F27** S. 57(5A)-(5C) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(6\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F28** S. 57(7A) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(7\)](#), 170; S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F29** S. 57(7B) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [185\(f\)](#)

Modifications etc. (not altering text)

- C4** S. 57(3)-(5)(7) applied (with modifications) by 1989 c. 41, s. 17A(3) (as substituted (16.3.2003 for E. for specified purposes, 8.4.2004 for E. in so far as not already in force, 8.7.2004 for W. for specified purposes, 1.11.2004 for W. in so far as not already in force) by [Health and Social Care Act 2001 \(c. 15\)](#), [ss. 58](#), [70\(2\)](#) (with [ss. 64\(9\)](#), [65\(4\)](#)); S.I. 2003/850, art. 3(1)(b)(2)(a); S.I. 2004/1754, art. 2(1)(2)(c))
- C5** S. 57(4)(a) applied (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\)](#), regs. 1(b), [6\(3\)\(a\)](#)
- C6** S. 57(4)(a) applied (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\)](#), regs. 1(b), [6\(4\)\(a\)](#)
- C7** S. 57(4)(b) excluded (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\)](#), regs. 1(b), [6\(4\)\(b\)](#)
- C8** S. 57(4)(b) excluded (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\)](#), regs. 1(b), [6\(3\)\(b\)](#)

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2001, Part 4. (See end of Document for details)

Commencement Information

- 16** S. 57 partly in force; s. 57 in force for certain purposes at 11.5.2001, see s. 70(2)
17 S. 57 in force at 16.3.2003 for E. in so far as not already in force by [S.I. 2003/850](#), [art. 3\(1\)\(a\)](#)
18 S. 57 in force at 1.11.2004 for W. in so far as not already in force by [S.I. 2004/1754](#), [art. 2\(2\)\(b\)](#)

58 Direct payments in respect of children

For section 17A of the Children Act 1989 (c. 41) there shall be substituted—

“17A Direct payments

- (1) The Secretary of State may by regulations make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person’s consent, such payments to him as they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in that subsection.
- (2) A person falls within this subsection if he is—
 - (a) a person with parental responsibility for a disabled child,
 - (b) a disabled person with parental responsibility for a child, or
 - (c) a disabled child aged 16 or 17,
 and a local authority (“the responsible authority”) have decided for the purposes of section 17 that the child’s needs (or, if he is such a disabled child, his needs) call for the provision by them of a service in exercise of functions conferred on them under that section.
- (3) Subsections (3) to (5) and (7) of section 57 of the 2001 Act shall apply, with any necessary modifications, in relation to regulations under this section as they apply in relation to regulations under that section.
- (4) Regulations under this section shall provide that, where payments are made under the regulations to a person falling within subsection (5)—
 - (a) the payments shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act (as applied by subsection (3)); and
 - (b) subsection (4)(b) of that section shall not apply.
- (5) A person falls within this subsection if he is—
 - (a) a person falling within subsection (2)(a) or (b) and the child in question is aged 16 or 17, or
 - (b) a person who is in receipt of income support, working families’ tax credit or disabled person’s tax credit under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) or of an income-based jobseeker’s allowance.
- (6) In this section—

“the 2001 Act” means the Health and Social Care Act 2001;

“disabled” in relation to an adult has the same meaning as that given by section 17(11) in relation to a child;

“prescribed” means specified in or determined in accordance with regulations under this section (and has the same meaning in the

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2001, Part 4. (See end of Document for details)

provisions of the 2001 Act mentioned in subsection (3) as they apply by virtue of that subsection).”

Commencement Information

- I9** S. 58 in force at 16.3.2003 for specified purposes for E. by S.I. 2003/850, **art. 3(1)(b)**
I10 S. 58 in force at 8.4.2004 for E. in so far as not already in force by S.I. 2003/850, **art. 3(2)(a)**
I11 S. 58 in force at 8.7.2004 for specified purposes for W. by S.I. 2004/1754, **art. 2(1)**
I12 S. 58 in force at 1.11.2004 for W. in so far as not already in force by S.I. 2004/1754, **art. 2(2)(c)**

Supplementary

59 Interpretation of Part 4

(1) In this Part—

“the 1948 Act” means the National Assistance Act 1948 (c. 29);

“the 1968 Act” means the Social Work (Scotland) Act 1968 (c. 49);

“community care services”—

(a) ^{F30} ...

(b) in relation to Scotland, has the same meaning as in the 1968 Act;

“local authority”—

(za) ^{F31} ...

(a) [^{F32} does not, except in sections 55 and 57, include a local authority in England and, for the purposes of those sections in their application to local authorities in England, means a county council in England, a district council for an area in England which has no county council, a London borough council or the Common Council of the City of London];

(aa) [^{F33} does not, except in section 55, include a local authority in Wales and, for the purpose of that section in its application to local authorities in Wales, means the council of a county or county borough in Wales;]

(b) in relation to Scotland, has the same meaning as in the 1968 Act;

“Part 3 accommodation” means (in accordance with section 54(3)) accommodation provided under sections 21 to 26 of the 1948 Act.

(2) In this Part any reference to Part 3 accommodation or to a local authority providing such accommodation shall be construed in accordance with section 21(5) or (6) of the 1948 Act, as the case may be.

(3) In this Part any reference (however expressed) to services provided by a local authority includes services which the authority arrange to provide, where they have power to do so.

Textual Amendments

- F30** Words in s. 59(1) omitted (E.W.) (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **186(a)**
F31 Words in s. 59(1) omitted (E.W.) (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **186(b)(i)**
F32 Words in s. 59(1) substituted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **186(b)(ii)**

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2001, Part 4. (See end of Document for details)

F33 Words in s. 59(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **186(b)(iii)**

Changes to legislation:

There are currently no known outstanding effects for the Health and Social Care Act 2001, Part 4.