

# COMMUNITY CARE (DELAYED DISCHARGES ETC.) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1 – Delayed Discharge Payments

##### Delayed discharge payments

##### *Section 6: Liability to make delayed discharge payments*

34. *Section 6* requires a social services authority, in certain circumstances, to make payments to an NHS body in respect of delayed discharges. It applies where the NHS body has notified the social services authority of the patient's likely need for community care services upon discharge and has given notification to the authority of the proposed discharge date, and both notices are in force at that time.
35. *Subsections (2) and (3)* set out when the liability to make a payment is triggered. This can be firstly that a social services authority has not started or completed an assessment of the patient's needs as required under section 4(2). Secondly, payment can be triggered where discharge is not possible because, and only because, the social services authority have not provided a service they decided to provide to the patient or to his carer. The delay must be the sole responsibility of the authority. Thus, for example, if an NHS service required for safe discharge has also not been made available, the liability to make a payment will not arise.
36. *Subsection (2)* also provides for regulations to prescribe the amount of the charge which will apply per day of the delayed discharge period, if the social services authority do not carry out their duties. When making regulations the Minister must have regard to the cost to NHS bodies of providing accommodation and personal care to patients who are ready to be discharged and to the cost to social services authorities of providing services to those who have been discharged (see *section 7*).
37. *Subsection (4)* defines the "delayed discharge period". This period, subject to *subsections (5) and (7)*, begins the day after the relevant day (as defined in section 5(6)), and ends on the day on which the patient is discharged.
38. *Subsection (5)* makes provision for when the delayed discharge period will end. This is when the social services authority have notified the NHS body that they have assessed the patient and any carer and determined what services they will provide and have made those services available. If the patient is not discharged at this point for some reason connected with the NHS, then the social services authority are not liable to make any further payment, as they are not responsible for the further delay.
39. *Subsection (6)* provides that, in a case where the social services authority have made changes to the services they intend to provide to a patient or carer and have informed the NHS body of this change, it is the revised services which are to be provided to the

*These notes refer to the Community Care (Delayed Discharges etc.) Act 2003 (c.5) which received Royal Assent on 8 April 2003*

patient or carer if the social services authority are not to be liable to make a delayed discharge payment.

40. *Subsection (7)(a)* allows regulations to provide for days that may be disregarded as part of the delayed discharge period. *Subsection (7)(b)* allows for other circumstances to end the delayed discharge period.
41. *Subsection (7)(c)* provides for regulations to define the day on which discharge can be regarded as occurring.

### ***Section 7: Delayed discharge payments***

42. *Subsection (1)* sets out matters to which the Minister must have regard when exercising the power in section 6(2) to make regulations setting the amount of the payment. *Subsection (1)(a)* provides that the level of the charge is to be set with regard to the cost of providing accommodation and personal care in a hospital to a patient is ready for discharge. *Subsection (1)(b)* provides that the charge must also be set with regard to the costs borne by social services authorities in providing community care services, with which the charge needs to compare unfavourably if it is to be an incentive.
43. *Subsections (2) and (3)* provide that payments for delayed discharges are to be made to the responsible NHS body, or in cases prescribed in regulations to a person other than the responsible NHS body prescribed in those regulations.