

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

COMMUNITY CARE (DELAYED DISCHARGES ETC.) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Local Authority Community Care and Carers’ Services

Section 15: Free provision of certain community care and carers’ services

53. Local authorities have the power, and in some cases a duty (subject to a means test), to charge for certain community care and carers’ services under the National Assistance Act 1948 and the Health and Social Services and Social Security Adjudications Act 1983. *Section 15* affects arrangements for the provision of certain community care services, removing local authorities’ discretionary charging power in respect of community equipment services and intermediate care.
54. Community equipment services and intermediate care are often needed quickly by people being discharged from hospital. Section 31 of the Health Act 1999 confers a power for the NHS and local authorities to pool monies and integrate services. Use of this power is restricted where the local authority has a power to charge for services, but the NHS does not. Removal of the discretionary charging power will assist easier integration of services and improved provision of services at the point of discharge.
55. *Subsection (1)* confers the power to make regulations to define the services for which the discretionary charging power is removed. These qualifying services as defined in the regulations are the provision of community equipment, whether that is supplied to the individual or to his carer to help the carer in providing care, and intermediate care.
56. *Community equipment services* include both aids to daily living and minor adaptations to help people stay independent in their homes. These services are provided to older people and disabled people or their carers. Community equipment aids include walking sticks, shower chairs and liquid level indicators. Minor adaptations include grab rails, lever taps and improved domestic lighting.
57. *Intermediate care* is generally accepted as services which offer a structured programme of time-limited (typically up to six weeks) rehabilitation to help people to recover as much of their independence as possible and remain living in their own homes. It includes services to prevent hospital admission or ensure timely discharge from hospital.
58. *Subsection (2)* allows for regulations to limit the period of time and conditions under which qualifying services are to be provided free of charge. *Subsection (3)* provides that qualifying services are services as prescribed under any of the enactments referred to in section 15(3) of the Act. These enactments are Part 3 of the National Assistance Act 1948 (provision of residential accommodation) and those enactments mentioned in section 17 of the Health and Social Services and Social Security Adjudications Act 1983.

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59. *Subsection (4)* then limits the scope of the regulation-making powers by providing that certain services cannot be made free of charge for more than six weeks. These services are residential accommodation provided by social services, personal care (i.e. care of an intimate nature such as bathing) provided where the individual is living (whether at home or in a residential or nursing home), or services provided to a carer under section 2 of the Carers and Disabled Children Act 2000 which fulfil the description of community equipment service or intermediate care service.

Section 16: Free provision of services in Wales

60. *Section 16* gives the National Assembly for Wales discretion over which community care services or services to carers are to be provided free of charge, subject to the general constraints imposed by section 15.

Section 17: Consequential amendments

61. *Section 17* makes two amendments to the National Assistance Act 1948 and one to the Health and Social Services and Social Security Adjudications Act 1983 to reflect the change introduced by section 15. These enactments confer a statutory power to charge. The amendments indicate that the power is subject to regulations made under the Act.