



Community Care (Delayed Discharges etc.) Act 2003

2003 CHAPTER 5

PART 1

DELAYED DISCHARGE PAYMENTS

Supplemental

10 Adjustments between social services authorities

- (1) Regulations may make provision as to the application of this Part in cases where, in relation to a qualifying hospital patient, it appears to the responsible authority for the time being that the patient is ordinarily resident in the area of another social services authority.
- (2) The regulations may, among other things, authorise or require a social services authority—
 - (a) to accept a notice given to it under section 2 notwithstanding that it may wish to dispute that it was the right authority to be notified;
 - (b) to become the responsible authority for a patient's case in place of the social services authority previously responsible;
 - (c) to recover expenditure incurred—
 - (i) in the performance of functions under this Part in relation to a qualifying patient;
 - (ii) in the provision of community care services which are the subject of a decision under section 4(2)(b); or
 - (iii) in the provision of services to a carer which are the subject of a decision under section 4(3)(b),from another social services authority.

- (3) The regulations may modify the effect of any provision of this Part as it applies in any cases falling within subsection (1).

11 Regulations and orders

- (1) Any power to make regulations or an order under this Part is exercisable by the appropriate Minister by statutory instrument.
- (2) Regulations under this Part may—
- (a) make different provision for different cases and circumstances and different provision for different areas;
 - (b) make supplementary, consequential, incidental, transitional or saving provision.
- (3) Regulations under section 1 which—
- (a) prescribe care for the purposes of the definition of “qualifying hospital patient”; and
 - (b) are made by the Secretary of State (or by the Secretary of State and the Assembly acting jointly),
- may not prescribe a description of care which is, or includes, mental health care unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument which—
- (a) contains regulations or an order under this Part, other than regulations which fall to be approved in draft by virtue of subsection (3); and
 - (b) is made by the Secretary of State (or by the Secretary of State and the Assembly acting jointly),
- is subject to annulment in pursuance of a resolution of either House of Parliament.

12 Interpretation

In this Part—

- “carer”, in relation to a qualifying hospital patient, means a person who—
- (a) provides or intends to provide a substantial amount of care on a regular basis for the patient; and
 - (b) is entitled to ask for an assessment under section 1 of the Carers and Disabled Children Act 2000 (c. 16);
- “community care service” has the meaning given by section 46(3) of the National Health Service and Community Care Act 1990;
- “health service hospital” has the same meaning as in the National Health Service Act 1977;
- “independent hospital” has the same meaning as in the Care Standards Act 2000;
- “mental health care” means any health services relating to mental health which are of a description prescribed by order;
- “NHS body” has the meaning given by section 1;
- “qualifying hospital patient” has the meaning given by section 1;
- “the relevant day” has the meaning given in section 5(6);

“the responsible authority” has the meaning given by section 2(6);
“the responsible NHS body” has the meaning given by section 2(5);
“social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970.

13 Application of Local Authority Social Services Act 1970

In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions to which that Act applies) at the appropriate place there is inserted—

“Community Care (Delayed Discharges
etc.) Act 2003

Part 1	Functions relating to hospital patients likely to need community care services to be made available in order to be discharged safely.”
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14 Power to apply Part 1 to NHS patients in care homes

- (1) The appropriate Minister may by order provide for this Part to apply in relation to qualifying care home patients as it applies to qualifying hospital patients.
- (2) An order under this section may—
 - (a) specify such modifications of this Part as appear to the appropriate Minister to be necessary for it to apply satisfactorily in relation to qualifying care home patients; and
 - (b) make supplementary, consequential, incidental, transitional or saving provision.
- (3) In this section—

“care home” has the same meaning as in the Care Standards Act 2000 (c. 14); and

“qualifying care home patient” means a person being accommodated at a care home, in pursuance of arrangements made by an NHS body, who is receiving (or who has received or is expecting to receive) care of a description prescribed in regulations.
- (4) The care prescribed under subsection (3) must be care which is prescribed under section 1 for the purposes of the definition of “qualifying hospital patient” (or which as nearly as possible corresponds to care that is so prescribed).