

# CARE ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – Care and Support**

#### **Establishing where a person lives, etc.**

#### *Section 39 – Where a person’s ordinary residence is*

255. The section defines where a person, who is being provided with accommodation to meet their care and support needs, is considered to be “ordinarily resident”. This is to help identify where responsibility lies for funding and/or provision of care.
256. For example, where a person who resides in the area of local authority A (and local authority A funds their care and support) enters a care home in the area of local authority B, their ordinary residence will remain with local authority A. Local authority A therefore retains responsibility for funding their care. They are considered “ordinarily resident” in the area of local authority A during their stay in the care home in local authority B.
257. It is intended that the types of accommodation to which this provision applies will be set out in regulations and for statutory guidance to be available to assist local authorities in deciding where a person is ordinarily resident in complex circumstances.
258. *Subsection (5)* applies the same principle to NHS accommodation. NHS accommodation means accommodation provided as part of the NHS under any relevant NHS legislation. It ensures that a stay in a hospital in England, Scotland, Wales or Northern Ireland will not affect a person’s ordinary residence. This means that their care and support must continue to be provided by the local authority in whose area they were ordinarily resident before their hospital stay.
259. *Subsection (4)* provides that an adult who is being provided with accommodation under section 117 of the Mental Health Act 1983 will be treated as ordinarily resident in the area of the local authority in England or Wales which is under a duty to provide the adult with services by virtue of that section.