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WELSH STATUTORY INSTRUMENTS

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**2009 No. 783**

**The Mental Capacity (Deprivation of Liberty:  
Assessments, Standard Authorisations and Disputes  
about Residence) (Wales) Regulations 2009**

**PART 6**

Supervisory bodies: care homes

Dispute about the Place of Ordinary Residence

**Application of Part 6**

**14.** This Part applies where —

- (a) a local authority (“local authority A”) (1) receives a request —
  - (i) from a care home for a standard authorisation under paragraphs 24, 25 or 30 of Schedule A1 to the Act;
  - (ii) under paragraph 68 of Schedule A1 to the Act from an eligible person to decide whether or not there is an unauthorised deprivation of liberty in a care home.
- (b) local authority A wishes to dispute that it is the appropriate supervisory body; and
- (c) a question as to the ordinary residence of the relevant person is to be determined by the Welsh Ministers in accordance with paragraph 183(3) of Schedule A1 to the Act.

**Arrangements where there is a question as to the ordinary residence**

**15.—**(1) Local authority A must act as supervisory body in relation to the request for a standard authorisation until the determination of any question as to the ordinary residence of the relevant person.

(2) But where another local authority agrees to act as the supervisory body in place of local authority A, that local authority will become the supervisory body until the determination of any question as to the ordinary residence of the relevant person.

(3) When the question about the ordinary residence of the relevant person has been determined, the local authority (“local authority B”) which has been identified as the supervisory body will become the supervisory body.

**Effect of change in supervisory body following determination of any question about ordinary residence**

**16.—**(1) This regulation applies where local authority B has been identified in accordance with regulation 14, and that local authority is the supervisory body in accordance with regulation 15(3).

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(1) “Local authority” is defined in paragraph 182(4) (in relation to England) and paragraph 182(5) (in relation to Wales) of Schedule A1 to the Act.

(2) Anything done by or in relation to local authority A in connection with the authorisation or request, as the case may be, has effect, so far as is necessary for continuing its effect after the change, as if done by or in relation to local authority B.

(3) Anything which relates to the authorisation or request and which is in the process of being done by or in relation to local authority A at the time of the change may be continued by or in relation to local authority B.

(4) But—

(a) local authority A does not, by virtue of this regulation cease to be liable for anything done by it in connection with the authorisation or request before the change; and

(b) local authority B does not, by virtue of this regulation become liable for any such thing.

(5) Local authority A may recover expenditure incurred in connection with the authorisation or request from local authority B.