

# **SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 189 – Provider failure: temporary duty on local authority***

489. **Section 189** imposes a new duty on a local authority in Wales to take action in the event that a person registered under the Care Standards Act 2000 (a “registered person”) becomes unable to provide the accommodation or services that it normally provides within the area of the local authority as a result of business failure.
490. In such circumstances, the local authority has a temporary duty to meet the needs of the adults for whom the registered person was providing accommodation or services. The duty to provide such services lasts only for as long as the local authority considers it necessary.
491. Subsections (4) to (7) contain provision about the authority’s ability to charge or recover costs from another local authority for the provision of services provided as a result of the temporary duty imposed by subsection (2).
492. Subsection (8) makes provision about how disputes regarding application of this section should be resolved. The procedure referred to in this subsection applies only where the local authorities involved in the dispute are within Wales. Any dispute which involves a local authority or Health and Social Care Trust from outside Wales will be dealt with in accordance with the requirements set out in Part 1 of and Schedule 1 to the Care Act 2014.
493. Part 1 of the Care Act 2014 also places a temporary duty on a local authority in Wales to take action to meet adults’ needs for care and support (or support) in the event that a registered person becomes unable to provide accommodation or other services as a result of business failure, where those adults have been placed in the area of a Welsh local authority by:
- a) a local authority in England;
  - b) a local authority in Scotland;
  - c) a Health and Social Care Trust in Northern Ireland.
494. Accordingly, local authorities in Wales will be placed under the same temporary duty in respect of persons within their area who are in accommodation or receiving services arranged by (or as a result of a direct payment provided by) local authorities in England or Scotland or by a Health and Social Care Trust in Northern Ireland.
495. The Care Act 2014 also contains provisions to deal with disputes about such cross-border placements.

*These notes refer to the Social Services and Well-being (Wales)  
Act 2014 (c.4) which received Royal Assent on 1 May 2014*

496. The temporary duties imposed in the event of a business failure by this Act (and by the Care Act 2014) only apply in relation to services or accommodation provided for adults. A number of statutory safeguards are already in existence in the event of the failure of a provider which is meeting a child's needs for care and support (or support) by providing services or accommodation (for example provision is made under the Children Act 1989 and in secondary legislation which sets out the requirements for continuity in the provision of care and care settings).