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## SCHEDULES

### SCHEDULE 4 **E+W**

Section 75

#### DIRECT PAYMENTS: AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983

#### **PART 1 E+W**

##### AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983: DIRECT PAYMENTS

- 1 (1) Sections 31 (adults with capacity to request direct payments), 32 (adults without capacity to request direct payments) and 33 (direct payments: further provision) apply in relation to section 117 of the Mental Health Act 1983 but as if the following modifications were made to those sections.
- (2) For subsection (1) of section 31, substitute—
  - “(1) This section applies where an adult to whom section 117 of the Mental Health Act 1983 (after-care) applies requests the local authority to make payments to the adult or a person nominated by the adult that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under that section.”
- (3) In subsection (5) of that section—
  - (a) in paragraph (a), for “meeting the adult's needs” substitute “discharging its duty under section 117 of the Mental Health Act 1983”, and
  - (b) in paragraph (b), for “to meet the adult's needs” substitute “to discharge its duty under that section”.
- (4) In subsection (7) of that section, for “to meet the needs in question” substitute “to discharge its duty under section 117 of the Mental Health Act 1983”.
- (5) For subsection (1) of section 32, substitute—
  - “(1) This section applies where—
    - (a) an adult to whom section 117 of the Mental Health Act 1983 (after-care) applies lacks capacity to request the local authority to make payments equivalent to the cost of providing or arranging for the provision of after-care services for the adult under that section, and
    - (b) an authorised person requests the local authority to make such payments to the authorised person.”
- (6) In subsection (4)(a) of that section, for “the adult's needs for care and support” substitute “the provision to the adult of after-care services under section 117 of the Mental Health Act 1983”.
- (7) In subsection (6) of that section—
  - (a) in paragraph (a), for “meeting the adult's needs” substitute “discharging its duty under section 117 of the Mental Health Act 1983”, and

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- (b) in paragraph (b), for “to meet the adult's needs” substitute “ to discharge its duty under that section ”.
- (8) In subsection (7) of that section, for “the provision of the care and support” substitute “ the provision of after-care services under section 117 of the Mental Health Act 1983 ”.
- (9) In subsection (9) of that section, for “to meet the needs in question” substitute “ to discharge its duty under section 117 of the Mental Health Act 1983 ”.
- (10) In subsection (2)(a) of section 33, for “meet needs” substitute “ discharge its duty under section 117 of the Mental Health Act 1983 ”.
- (11) For subsection (3) of that section, substitute—
- “(3) A direct payment is made on condition that it be used only to pay for arrangements under which after-care services for the adult are provided under section 117 of the Mental Health Act 1983.”

#### Commencement Information

- I1** Sch. 4 para. 1(1)-(9) in force at 1.4.2015 by [S.I. 2015/993](#), [art. 7\(1\)\(b\)](#) (with transitional provisions in [S.I. 2015/995](#))
- I2** Sch. 4 para. 1(10)(11) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), [art. 2\(1\)\(z\)](#)
- I3** Sch. 4 para. 1(10)(11) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993](#), [art. 7\(1\)\(b\)](#) (with transitional provisions in [S.I. 2015/995](#))

## PART 2 E+W

### PROVISION TO BE INSERTED IN SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014

PROSPECTIVE

#### “SCHEDULE A1 E+W”

##### DIRECT PAYMENTS: AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983

###### *General*

- 1 Sections 50 (direct payments to meet an adult's needs), 51 (direct payments to meet a child's needs) and 53 (direct payments: further provision) apply in relation to section 117 of the Mental Health Act 1983 but as if the following modifications were made to those sections.

###### *Modifications to section 50*

- 2 For subsection (1) of section 50 substitute—
- “(1) Regulations may require or allow a local authority to make payments to an adult to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under that section.”

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- 3 In subsection (3) of that section—
- (a) in paragraph (a), for “who has needs for care and support (“A”)” substitute “in respect of the provision to the adult (“A”) of after-care services under section 117 of the Mental Health Act 1983”, and
  - (b) in paragraph (c)(i), for “of meeting A's needs” substitute “of discharging its duty towards A under section 117 of the Mental Health Act 1983”.
- 4 In subsection (4) of that section—
- (a) in paragraph (a), for “who has needs for care and support (“A”)” substitute “to whom section 117 of the Mental Health Act 1983 applies (“A”)”, and
  - (b) in paragraph (d)(i), for “meeting A's needs” substitute “discharging its duty towards A under section 117 of the Mental Health Act 1983”.
- 5 In subsection (5) of that section—
- (a) in paragraph (a), for “A's needs for care and support” substitute “the provision to A of after-care services under section 117 of the Mental Health Act 1983”, and
  - (b) in paragraph (b), for “towards the cost of meeting A's needs for care and support” substitute “equivalent to the cost of providing or arranging the provision to A of after-care services under section 117 of the Mental Health Act 1983”.
- 6 In subsection (6)(b) of that section, for “A's needs for care and support” substitute “the provision to A of after-care services under section 117 of the Mental Health Act 1983”.

#### *Modifications to section 51*

- 7 For subsection (1) of section 51 substitute—
- “(1) Regulations may require or allow a local authority to make payments to a person in respect of a child to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging the provision of after-care services for the child under that section.”
- 8 In subsection (3)(a) and (b) of that section, for “who has needs for care and support” (in each place it occurs) substitute “to whom section 117 of the Mental Health Act 1983 applies”.
- 9 In subsection (5)(a) of that section, for “meeting the child's needs” substitute “discharging its duty towards the child under section 117 of the Mental Health Act 1983”.

#### *Modifications to section 53*

- 10 In subsection (1) of section 53—
- (a) in the opening words, for “50, 51 or 52” substitute “50 or 51”,
  - (b) omit paragraphs (a), (b) and (c),
  - (c) in paragraph (i), for “a local authority's duty or power to meet a person's needs for care and support or a carer's needs for support is displaced” substitute “a local authority's duty under section 117 of the Mental Health Act 1983 (after-care) is discharged”, and
  - (d) in paragraph (k), for “50 to 52” substitute “50 and 51”.

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- 11 Omit subsections (2) to (8) of that section.
- 12 After subsection (8) of that section insert—

“(8A) Regulations under sections 50 and 51 must specify that direct payments to meet the cost of providing or arranging for the provision of after-care services under section 117 of the Mental Health Act 1983 (after-care) must be made at a rate that the local authority estimates to be equivalent to the reasonable cost of securing the provision of those services to meet those needs.”
- 13 In subsection (9) of that section—
  - (a) for “, 51 or 52” substitute “ or 51 ”, and
  - (b) for “care and support (or, in the case of a carer, support)” substitute “ after-care services ”.
- 14 In subsection (10) of that section, for “care and support (or, in the case of a carer, support) to meet needs” substitute “ after-care services ”.”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 15(2)-(3B) substituted for s. 15(2)(3) by [2022 c. 31 s. 166\(2\)](#)
- s. 26(1)-(2A) substituted for s. 26(1)(2) by [2022 c. 31 s. 166\(4\)](#)