

Status: Point in time view as at 01/04/2015.

Changes to legislation: Mental Capacity Act 2005, Cross Heading: Supervisory bodies: determination of place of ordinary residence is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE A1 **E+W**

HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY

Textual Amendments

- F1** Sch. A1 inserted (1.4.2008 for certain purposes and otherwise 1.4.2009) by [Mental Health Act 2007 \(c. 12\)](#), ss. 50, 56, [Sch. 7](#); [S.I. 2008/745](#), [art. 4\(a\)](#); [S.I. 2009/139](#), [art. 2\(c\)](#) (with [art. 3](#), [Sch. paras. 3, 4](#))

PART 13 **E+W**

INTERPRETATION

[^{F2}Supervisory bodies: determination of place of ordinary residence]

Textual Amendments

- F2** [Sch. A1 para. 183 heading](#) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 136\(5\)](#); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

- 183 (1) Subsections (5) and (6) of section 24 of the National Assistance Act 1948 (deemed place of ordinary residence) apply to any determination of where a person is ordinarily resident for the purposes of [^{F3}paragraphs 180, 181 and] 182 as those subsections apply to such a determination for the purposes specified in those subsections.
- (2) In the application of section 24(6) of the 1948 Act by virtue of sub-paragraph (1)[^{F4}to any determination of where a person is ordinarily resident for the purposes of paragraph 182], section 24(6) is to be read as if it referred to a hospital vested in a Local Health Board as well as to hospitals vested in the Secretary of State and the other bodies mentioned in section 24(6).
- [Section 39(1), (2) and (4) to (6) of the Care Act 2014 and paragraphs 1(1), 2(1) ^{F5}(2A) and 8 of Schedule 1 to that Act apply to any determination of where a person is ordinarily resident for the purposes of paragraphs 180, 181 and 182 as they apply for the purposes of Part 1 of that Act.]
- (3) Any question arising as to the ordinary residence of a person is to be determined by the Secretary of State or by the National Assembly for Wales.
- (4) The Secretary of State and the National Assembly must make and publish arrangements for determining which cases are to be dealt with by the Secretary of State and which are to be dealt with by the National Assembly.

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- (5) Those arrangements may include provision for the Secretary of State and the National Assembly to agree, in relation to any question that has arisen, which of them is to deal with the case.
- (6) Regulations may make provision about arrangements that are to have effect before, upon, or after the determination of any question as to the ordinary residence of a person.
- (7) The regulations may, in particular, authorise or require a local authority to do any or all of the following things—
- (a) to act as supervisory body even though it may wish to dispute that it is the supervisory body;
 - (b) to become the supervisory body in place of another local authority;
 - (c) to recover from another local authority expenditure incurred in exercising functions as the supervisory body.]

Textual Amendments

- F3** Words in Sch. A1 para. 183(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 136\(6\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in Sch. A1 para. 183(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 136\(6\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Sch. A1 para. 183(2A) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\), art. 1\(2\), Sch. para. 80](#) (with arts. 1(3), 3)

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