



Health and Social Care Act 2008

2008 CHAPTER 14

PART 5

MISCELLANEOUS

Social care

145 Human Rights Act 1998: provision of certain social care to be public function

- (1) A person (“P”) who provides accommodation, together with nursing or personal care, in a care home for an individual under arrangements made with P under the relevant statutory provisions is to be taken for the purposes of subsection (3)(b) of section 6 of the Human Rights Act 1998 (c. 42) (acts of public authorities) to be exercising a function of a public nature in doing so.
- (2) The “relevant statutory provisions” are—
 - (a) in relation to England and Wales, sections 21(1)(a) and 26 of the National Assistance Act 1948 (c. 29),
 - (b) in relation to Scotland, section 12 or 13A of the Social Work (Scotland) Act 1968 (c. 49), and
 - (c) in relation to Northern Ireland, Articles 15 and 36 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).
- (3) In subsection (1) “care home”—
 - (a) in relation to England and Wales, has the same meaning as in the Care Standards Act 2000 (c. 14), and
 - (b) in relation to Northern Ireland, means a residential care home as defined by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)) or a nursing home as defined by Article 11 of that Order.
- (4) In relation to Scotland, the reference in subsection (1) to the provision of accommodation, together with nursing or personal care, in a care home is to be read as a reference to the provision of accommodation, together with nursing, personal care or

Status: This is the original version (as it was originally enacted).

personal support, as a care home service as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 ([asp 8](#)).

- (5) Subsection (1) does not apply to acts (within the meaning of section 6 of the Human Rights Act 1998 ([c. 42](#))) taking place before the coming into force of this section.