Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

SCHEDULES

SCHEDULE 1 U.K.

Section 39

CROSS-BORDER PLACEMENTS

Placements from England to Wales, Scotland or Northern Ireland

1 (1) Where a local authority in England is meeting an adult's needs for care and support by arranging for the provision of accommodation in Wales, the adult—

(a) is to be treated for the purposes of this Part as ordinarily resident in the local authority's area, and

(b) is accordingly not to be treated for the purposes of the Social Services and Well-being (Wales) Act 2014 as ordinarily resident anywhere in Wales.

(2) Where a local authority in England, in reliance on section 22(4), is making arrangements which include the provision of accommodation in Wales, section 22(4) is to have effect as if for paragraph (a) there were substituted—

"(a) the authority has obtained consent for it to arrange for the provision of the nursing care from the Local Health Board for the area in which the accommodation is provided,".

(3) Where a local authority in England is meeting an adult's needs for care and support by arranging for the provision of accommodation in Scotland—

(a) the adult is to be treated for the purposes of this Part as ordinarily resident in the local authority's area, and

(b) no duty under Part 2 of the Social Work (Scotland) Act 1968 or sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 applies in the adult's case.

(4) Where a local authority in England is meeting an adult's needs for care and support by arranging for the provision of accommodation in Northern Ireland—

(a) the adult is to be treated for the purposes of this Part as ordinarily resident in the local authority's area, and

(b) no duty under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Social Care (Reform) Act (Northern Ireland) 2009 to provide or secure the provision of accommodation or other facilities applies in the adult's case.

(5) Section 22 (prohibition on provision of health services) is to have effect—

(a) in its application to a case within sub-paragraph (1)—

(i) as if the references in subsections (1) and (6) to the National Health Service Act 2006 included a reference to the National Health Service (Wales) Act 2006, and

(ii) as if the reference in subsection (6) to **[**[F1]an integrated care board**]** or **[**[F2]NHS England**]** included a reference to a Local Health Board;

(b) in its application to a case within sub-paragraph (3)—

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(i) as if the references in subsections (1) and (6) to the National Health Service Act 2006 included a reference to the National Health Service (Scotland) Act 1978, and

(ii) as if the reference in subsection (6) to **[**[F3]an integrated care board**]** or **[**[F2]NHS England**]** included a reference to a Health Board or Special Health Board;

(c) in its application to a case within sub-paragraph (4)—

(i) as if the references in subsections (1) and (6) to a service or facility provided under the National Health Service Act 2006 included a reference to health care provided under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Social Care (Reform) Act (Northern Ireland) 2009, and

(ii) as if the reference in subsection (6) to **[**[F4]an integrated care board**]** or **[**[F2]NHS England**]** included a reference to a Health and Social Care trust.

(6) Regulations may make further provision in relation to arrangements of the kind referred to in this paragraph.

(7) The regulations may specify circumstances in which, in a case within sub-paragraph (3), specified duties under Part 2 of the Social Work (Scotland) Act 1968 are nonetheless to apply in the case of the adult concerned (and paragraph (b) of that sub-paragraph is to be read accordingly).

Textual Amendments

F1 Words in Sch. 1 para. 1(5)(a)(ii) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 197**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F2 Words in Sch. 1 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)**(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F3 Words in Sch. 1 para. 1(5)(b)(ii) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 197**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F4 Words in Sch. 1 para. 1(5)(c)(ii) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 197**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Modifications etc. (not altering text)

C1 Sch. 1 para. 1(1) applied by 2005 c. 9, Sch. A1 para. 183(2A) (as 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); S.I. 2015/993, art. 2(a))

Commencement Information

I1 Sch. 1 para. 1(1)-(5) in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

I2 Sch. 1 para. 1(6)(7) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, **art. 2(1)(x)**

I3 Sch. 1 para. 1(6)(7) in force at 1.4.2015 in so far as not already in force by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

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Placements from Wales to England, Scotland or Northern Ireland

2 (1) Where a local authority in Wales is discharging its duty under section 35 of the Social Services and Well-being (Wales) Act 2014 by arranging for the provision of accommodation in England, the adult concerned—

(a) is to be treated for the purposes of that Act as ordinarily resident in the local authority's area, and

(b) is accordingly not to be treated for the purposes of this Part of this Act as ordinarily resident anywhere in England.

(2) Where a local authority in Wales is arranging for the provision of accommodation in England in the exercise of its power under section 36 of the Social Services and Well-being (Wales) Act 2014—

(a) the adult concerned is to be treated for the purposes of that Act—

(i) in a case where the adult was within the local authority's area immediately before being provided by the local authority with accommodation in England, as remaining within that area;

(ii) in a case where the adult was outside but ordinarily resident in the local authority's area immediately before being provided by the local authority with accommodation in England, as remaining outside but ordinarily resident in that area, and

(b) the adult concerned is not to be treated for the purposes of this Part of this Act as ordinarily resident anywhere in England (unless the adult was so ordinarily resident immediately before being provided by the local authority with accommodation in England).

(3) Where a local authority in Wales is discharging its duty under section 35 of the Social Services and Well-being (Wales) Act 2014 by arranging for the provision of accommodation in Scotland—

(a) the adult is to be treated for the purposes of that Act as ordinarily resident in the local authority's area, and

(b) no duty under Part 2 of the Social Work (Scotland) Act 1968 or sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 applies in the adult's case.

(4) Where a local authority in Wales is arranging for the provision of accommodation in Scotland in the exercise of its power under section 36 of the Social Services and Well-being (Wales) Act 2014—

(a) the adult concerned is to be treated for the purposes of that Act—

(i) in a case where the adult was within the local authority's area immediately before being provided by the local authority with accommodation in Scotland, as remaining within that area;

(ii) in a case where the adult was outside but ordinarily resident in the local authority's area immediately before being provided by the local authority with accommodation in Scotland, as remaining outside but ordinarily resident in that area, and

(b) no duty under Part 2 of the Social Work (Scotland) Act 1968 or sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 applies in the adult's case.

(5) But paragraph (b) of sub-paragraph (4) does not prevent a duty mentioned in that paragraph from applying in the case of an adult who was ordinarily

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resident in Scotland immediately before being provided by the local authority with accommodation in Scotland.

(6) Where a local authority in Wales is discharging its duty under section 35 of the Social Services and Well-being (Wales) Act 2014 by arranging for the provision of accommodation in Northern Ireland—

(a) the adult is to be treated for the purposes of that Act as ordinarily resident in the local authority's area, and

(b) no duty under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Social Care (Reform) Act (Northern Ireland) 2009 to provide or secure the provision of accommodation or other facilities applies in the adult's case.

(7) Where a local authority in Wales is arranging for the provision of accommodation in Northern Ireland in the exercise of its power under section 36 of the Social Services and Well-being (Wales) Act 2014—

(a) the adult concerned is to be treated for the purposes of that Act—

(i) in a case where the adult was within the local authority's area immediately before being provided by the local authority with accommodation in Northern Ireland, as remaining within that area;

(ii) in a case where the adult was outside but ordinarily resident in the local authority's area immediately before being provided by the local authority with accommodation in Northern Ireland, as remaining outside but ordinarily resident in that area, and

(b) no duty under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Social Care (Reform) Act (Northern Ireland) 2009 to provide or secure the provision of accommodation or other facilities applies in the adult's case.

(8) But paragraph (b) of sub-paragraph (7) does not prevent a duty mentioned in that paragraph from applying in the case of an adult who was ordinarily resident in Northern Ireland immediately before being provided by the local authority with accommodation in Northern Ireland.

(9) Regulations may make further provision in relation to arrangements of the kind referred to in this paragraph.

(10) The regulations may specify circumstances in which, in a case within sub-paragraph (3) or (4), specified duties under Part 2 of the Social Work (Scotland) Act 1968 are nonetheless to apply in the case of the adult concerned (and paragraph (b) of each of those sub-paragraphs is to be read accordingly).

Modifications etc. (not altering text)

C2 Sch. 1 para. 2(1) applied by 2005 c. 9, Sch. A1 para. 183(2A) (as 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); S.I. 2015/993, art. 2(a))

Commencement Information

I4 Sch. 1 para. 2(1) in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

I5 Sch. 1 para. 2(2)-(8) in force at 6.4.2016 by S.I. 2016/464, **art. 2(c)**

I6 Sch. 1 para. 2(9)(10) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, **art. 2(1)(x)**

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I7 Sch. 1 para. 2(9)(10) in force at 1.4.2015 in so far as not already in force by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

Placements from Scotland to England, Wales or Northern Ireland

3 (1) Where a local authority in Scotland is discharging its duty under section 12 or 13A of the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 by securing the provision of accommodation in England, the adult in question is not to be treated for the purposes of this Part of this Act as ordinarily resident anywhere in England.

(2) Where a local authority in Scotland is discharging its duty under a provision referred to in sub-paragraph (1) by securing the provision of accommodation in Wales, the adult in question is not to be treated for the purposes of the Social Services and Well-being (Wales) Act 2014 as ordinarily resident anywhere in Wales.

(3) Where a local authority in Scotland is discharging its duty under a provision referred to in sub-paragraph (1) by securing the provision of accommodation in Northern Ireland, no duty under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Social Care (Reform) Act (Northern Ireland) 2009 to provide or secure the provision of accommodation or other facilities applies in the case of the adult in question.

(4) In section 5 of the Community Care and Health (Scotland) Act 2002 (local authority arrangements for residential accommodation outside Scotland)—

(a) in subsection (1), after "the 1968 Act" insert " or under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support) ",

(b) in subsection (2), for "such arrangements" substitute " persons for whom such arrangements are made ", and

(c) for subsections (5) and (6) substitute—

"(5) In subsections (1) and (3) above, "appropriate establishment" means an establishment of such description or conforming to such requirements as may be specified in regulations under subsection (1)."

(5) Regulations may make further provision in relation to arrangements of the kind referred to in this paragraph.

Commencement Information

I8 Sch. 1 para. 3(1)-(3) (5) in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

I9 Sch. 1 para. 3(4) in force at 1.10.2014 by S.I. 2014/2473, **art. 2(2)**

I10 Sch. 1 para. 3(4) in force at 1.4.2015 in so far as not already in force by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

Placements from Northern Ireland to England, Wales or Scotland

4 (1) Where there are arrangements under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 for the provision of accommodation in England, the adult in question—

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(a) is to be treated for the purposes of that Order and the Health and Social Care (Reform) Act (Northern Ireland) 2009 as ordinarily resident in the area of the relevant Health and Social Care trust, and

(b) is accordingly not to be treated for the purposes of this Part of this Act as ordinarily resident anywhere in England.

(2) Where there are arrangements under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 for the provision of accommodation in Wales, the adult in question—

(a) is to be treated for the purposes of that Order and the Health and Social Care (Reform) Act (Northern Ireland) 2009 as ordinarily resident in the area of the relevant Health and Social Care trust, and

(b) is accordingly not to be treated for the purposes of the Social Services and Well-being (Wales) Act 2014 as ordinarily resident anywhere in Wales.

(3) Where there are arrangements under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 for the provision of accommodation in Scotland—

(a) the adult in question is to be treated for the purposes of that Order and the Health and Social Care (Reform) Act (Northern Ireland) 2009 as ordinarily resident in the area of the relevant Health and Social Care trust, and

(b) no duty under Part 2 of the Social Work (Scotland) Act 1968 or sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 applies in the adult's case.

(4) The reference to the relevant Health and Social Care trust is a reference to the Health and Social Care trust in whose area the adult in question was ordinarily resident immediately before the making of arrangements of the kind referred to in this paragraph.

(5) Regulations may make further provision in relation to arrangements of the kind referred to in this paragraph.

(6) The regulations may specify circumstances in which, in a case within sub-paragraph (3), specified duties under Part 2 of the Social Work (Scotland) Act 1968 are nonetheless to apply in the case of the adult concerned (and paragraph (b) of that sub-paragraph is to be read accordingly).

Commencement Information

I11 Sch. 1 para. 4(1)-(4) in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

I12 Sch. 1 para. 4(5)(6) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, **art. 2(1)(x)**

I13 Sch. 1 para. 4(5)(6) in force at 1.4.2015 in so far as not already in force by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

Dispute resolution

5 (1) Any dispute about the application of any of paragraphs 1 to 4 to an adult's case is to be determined in accordance with this paragraph.

(2) If the dispute is between a local authority in England and a local authority in Wales, it is to be determined by the Secretary of State or the Welsh Ministers.

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(3) If the dispute is between a local authority in England and a local authority in Scotland, it is to be determined by the Secretary of State or the Scottish Ministers.

(4) If the dispute is between a local authority in England and a Health and Social Care trust, it is to be determined by the Secretary of State or the Northern Ireland Department.

(5) If the dispute is between a local authority in Wales and a local authority in Scotland, it is to be determined by the Welsh Ministers or the Scottish Ministers.

(6) If the dispute is between a local authority in Wales and a Health and Social Care trust, it is to be determined by the Welsh Ministers or the Northern Ireland Department.

(7) If the dispute is between a local authority in Scotland and a Health and Social Care trust, it is to be determined by the Scottish Ministers or the Northern Ireland Department.

(8) In Article 36 of the Health and Personal Social Services (Northern Ireland) Order 1972, after paragraph (2) insert—

"(2A) Any question under this Order as to the ordinary residence of a person is to be determined by the Department."

(9) Regulations must make provision for determining which of the persons concerned is to determine the dispute; and the regulations may, in particular, provide for the dispute to be determined by whichever of them they agree is to do so.

(10) Regulations may make provision for the determination of disputes between more than two parties.

(11) Regulations may make further provision about determination of disputes under this paragraph or under regulations under sub-paragraph (10); the regulations may, for example, include—

(a) provision requiring parties to a dispute to take specified steps before referring the dispute for determination under this paragraph;

(b) provision about the procedure for referring the dispute under this paragraph.

Modifications etc. (not altering text)

C3 Sch. 1 para. 5 applied by 1968 c. 49, **s. 86(2)** (as amended (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 1 para. 7(2)**; S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995))

Commencement Information

I14 Sch. 1 para. 5(1)-(8) in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

I15 Sch. 1 para. 5(9)-(11) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, **art. 2(1)(x)**

I16 Sch. 1 para. 5(9)-(11) in force at 1.4.2015 in so far as not already in force by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

Financial adjustments

6 (1) This paragraph applies where—

(a) an adult has been provided with accommodation in England, Wales, Scotland or Northern Ireland, and

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(b) it transpires (whether following the determination of a dispute under paragraph 5 or otherwise) that an authority in another of the territories was, for some or all of the time that the accommodation was being provided, liable to provide the adult with accommodation.

(2) The authority which made the arrangements may recover from the authority in the other territory the amount of any payments it made towards the making of the arrangements at a time when the other authority was liable to provide the adult with accommodation.

(3) A reference to an authority is a reference to a local authority in England, Wales or Scotland or a Health and Social Care trust in Northern Ireland.

Commencement Information

I17 Sch. 1 para. 6 in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

7 (1) In section 86 of the Social Work (Scotland) Act 1968 (adjustments between authorities providing accommodation), in subsections (1) and (10), after "a local authority in England or Wales" insert " and to a Health and Social Care trust in Northern Ireland ".

(2) In subsection (2) of that section, after "the ordinary residence of a person shall" insert " , in a case where there is a dispute about the application of any of paragraphs 1 to 4 of Schedule 1 to the Care Act 2014 (cross-border placements), be determined in accordance with paragraph 5 of that Schedule; and in any other case, the question shall ".

(3) After subsection (10) of that section insert—

"(10A) A person who, as a result of Schedule 1 to the Care Act 2014 (cross-border placements), is treated as ordinarily resident in an area in England, Wales or Northern Ireland (as the case may be) is to be treated as ordinarily resident in that area for the purposes of this section.

(10B) A person who, as a result of that Schedule, is not treated as ordinarily resident anywhere in England or Wales (as the case may be) is not to be treated as ordinarily resident there for the purposes of this section."

(4) In section 97 of that Act (extent)—

(a) in subsection (1), for "sections 86 and 87" substitute " section 87 ", and

(b) after that subsection insert—

"(1A) Section 86 of this Act shall extend to England and Wales and to Northern Ireland."

Commencement Information

I18 Sch. 1 para. 7 in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

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Provision of NHS accommodation not to affect deemed ordinary residence etc.

8 (1) In a case where, as a result of this Schedule, an adult is treated as ordinarily resident in an area in England, Wales or Northern Ireland (as the case may be), the adult does not cease to be so treated merely because the adult is provided with NHS accommodation.

(2) In a case where, as a result of this Schedule, an adult is not treated as ordinarily resident anywhere in England or Wales (as the case may be), the adult continues not to be so treated even if the adult is provided with NHS accommodation.

(3) In a case where, as a result of this Schedule, no duty under a relevant enactment applies, the duty does not apply merely because the adult in question is provided with NHS accommodation; and for this purpose "relevant enactment" means—

(a) Part 2 of the Social Work (Scotland) Act 1968,

(b) sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003,

(c) the Health and Personal Social Services (Northern Ireland) Order 1972, or

(d) the Health and Social Care (Reform) Act (Northern Ireland) 2009.

(4) In a case where, as a result of paragraph 2(2), (4) or (7), an adult is treated as remaining within, or as remaining outside but ordinarily resident in, an area in Wales, the adult does not cease to be so treated merely because the adult is provided with NHS accommodation.

Modifications etc. (not altering text)

C4 Sch. 1 para. 8 applied by 2005 c. 9, Sch. A1 para. 183(2A) (as 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); S.I. 2015/993, art. 2(a))

Commencement Information

I19 Sch. 1 para. 8 in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

PROSPECTIVE

Direct payments

9 (1) Regulations may provide for this Schedule to apply, with such modifications as may be specified, to a case where accommodation in England, Wales, Scotland or Northern Ireland is provided for an adult by means of direct payments made by an authority in another of the territories.

(2) The reference in sub-paragraph (1) to direct payments accordingly includes a reference to direct payments made—

(a) under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014,

(b) as a result of a choice made by the adult pursuant to section 5 of the Social Care (Self-directed Support) (Scotland) Act 2013, or

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(c) by virtue of section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.

PROSPECTIVE

Particular types of accommodation

10 (1) Regulations may provide for this Schedule to apply, with such modifications as may be specified, to a case where—

(a) an adult has needs for care and support which can be met only if the adult is living in accommodation of a type specified in the regulations,

(b) the adult is living in accommodation in England, Wales, Scotland or Northern Ireland that is of a type so specified, and

(c) the adult's needs for care and support are being met by an authority in another of the territories providing or arranging for the provision of services other than the accommodation.

(2) In section 5 of the Community Care and Health (Scotland) Act 2002 (the title to which becomes " Local authority arrangements for residential accommodation etc. outwith Scotland "), in subsection (1), at the end insert " or for the provision in England and Wales or in Northern Ireland of a service or facility of such other description as may be specified in the regulations ".

Regulations

11 Regulations under this Schedule—

(a) if they include provision relating to Wales, may not be made without the consent of the Welsh Ministers;

(b) if they include provision relating to Scotland, may not be made without the consent of the Scottish Ministers;

(c) if they include provision relating to Northern Ireland, may not be made without the consent of the Northern Ireland Department.

Commencement Information

I20 Sch. 1 para. 11 in force at 1.10.2014 for specified purposes by S.I. 2014/2473, **art. 2(1)(x)**

I21 Sch. 1 para. 11 in force at 1.4.2015 in so far as not already in force by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

Interpretation

12 (1) This paragraph applies for the purposes of this Schedule.

(2) "Accommodation in England" means accommodation in England of a type specified in regulations under section 39 but not of a type specified in regulations under this paragraph.

(3) "Accommodation in Wales" means accommodation in Wales of a type specified in regulations under section 194 of the Social Services and Well-being (Wales) Act 2014 but not of a type specified in regulations under this paragraph.

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(4) "Accommodation in Scotland" means residential accommodation in Scotland of a type which may be provided under or by virtue of section 12 or 13A of the Social Work (Scotland) Act 1968, or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003, but not of a type specified in regulations under this paragraph.

(5) "Accommodation in Northern Ireland" means residential or other accommodation in Northern Ireland of a type which may be provided under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972.

(6) "Local authority in England" means a local authority for the purposes of this Part.

(7) "Local authority in Wales" means a local authority for the purposes of the Social Services and Well-being (Wales) Act 2014.

(8) "Local authority in Scotland" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

(9) "The Northern Ireland Department" means the Department of Health, Social Services and Public Safety in Northern Ireland.

(10) "NHS accommodation" has the meaning given in section 39(6).

Commencement Information

I22 Sch. 1 para. 12 in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

Consequential provision

13 In section 194 of the Social Services and Well-being (Wales) Act 2014 (ordinary residence), at the end insert—

"(8) For provision about cross-border placements to and from England, Scotland or Northern Ireland, see Schedule 1 to the Care Act 2014.

(8) Am ddarpariaeth ynghylch lleoliadau trawsffiniol i Loegr, yr Alban neu Ogledd Iwerddon neu o Loegr, yr Alban neu Ogledd Iwerddon, gweler Atodlen 1 i Ddeddf Gofal 2014."

Transitory provision

14 (1) Pending the commencement of Part 4 of the Social Services and Well-being (Wales) Act 2014, this Schedule is to have effect with the modifications set out in this paragraph.

(2) A reference to that Act in paragraphs 1, 3 and 4 is to be read as a reference to Part 3 of the National Assistance Act 1948.

(3) In paragraph 2—

(a) the references in sub-paragraphs (1), (3) and (6) to discharging a duty under section 35 of the Social Services and Well-being (Wales) Act 2014 by arranging for the provision of accommodation are to be read as references to providing residential accommodation under Part 3 of the National Assistance Act 1948;

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(b) the references in paragraph (a) of each of those sub-paragraphs to the Social Services and Well-being (Wales) Act 2014 are to be read as references to Part 3 of the National Assistance Act 1948;

(c) sub-paragraphs (2), (4) and (7) are to be ignored; and

(d) in sub-paragraph (10), the references to sub-paragraph (4) and paragraph (b) of sub-paragraph (4) are to be ignored.

(4) In paragraph 9, the reference to sections 50 and 52 of the Social Services and Well-being (Wales) Act 2014 is to be read as a reference to section 57 of the Health and Social Care Act 2001.

(5) In paragraph 12, sub-paragraph (3) is to be read as if the following were substituted for it—

"(3) Accommodation in Wales" means residential accommodation in Wales of a type that may be provided under Part 3 of the National Assistance Act 1948 but not of a type specified in regulations under this paragraph."

(6) In that paragraph, sub-paragraph (7) is to be read as if the following were substituted for it—

"(7) Local authority in Wales" means a local authority in Wales for the purposes of Part 3 of the National Assistance Act 1948."

(7) This paragraph does not affect the generality of section 124(2).

Commencement Information

I23 Sch. 1 para. 14(1)(2)(5)-(7) in force at 1.4.2015 by S.I. 2015/993, **art. 2(x)(i)** (with transitional provisions in S.I. 2015/995)

I24 Sch. 1 para. 14(3) in force at 1.4.2015 for specified purposes by S.I. 2015/993, **art. 2(x)(ii)** (with transitional provisions in S.I. 2015/995)

SCHEDULE 2 E+W

Section 43

SAFEGUARDING ADULTS BOARDS

Membership, etc.

1 (1) The members of an SAB are—

(a) the local authority which established it,

(b) **[**[F5]an integrated care board**]** the whole or part of whose area is in the local authority's area,

(c) the chief officer of police for a police area the whole or part of which is in the local authority's area, and

(d) such persons, or persons of such description, as may be specified in regulations.

(2) The membership of an SAB may also include such other persons as the local authority which established it, having consulted the other members listed in sub-paragraph (1), considers appropriate.

Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

(3) A local authority, having consulted the other members of its SAB, must appoint as the chair a person whom the authority considers to have the required skills and experience.

(4) Each member of an SAB must appoint a person to represent it on the SAB; and the representative must be a person whom the member considers to have the required skills and experience.

(5) Where more than one **[**[F6]integrated care board**]** or more than one chief officer of police comes within sub-paragraph (1), a person may represent more than one of the **[**[F7]integrated care boards**]** or chief officers of police.

(6) The members of an SAB (other than the local authority which established it) must, in acting as such, have regard to such guidance as the Secretary of State may issue.

(7) Guidance for the local authority on acting as a member of the SAB is to be included in the guidance issued for the purposes of section 78(1).

(8) An SAB may regulate its own procedure.

Textual Amendments

F5 Words in Sch. 2 para. 1(1)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 198(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F6 Words in Sch. 2 para. 1(5) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 198(3)(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F7 Words in Sch. 2 para. 1(5) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 198(3)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

I25 Sch. 2 para. 1 in force at 1.4.2015 by S.I. 2015/993, **art. 2(n)** (with transitional provisions in S.I. 2015/995)

Funding and other resources

2 (1) A member of an SAB listed in paragraph 1(1) may make payments towards expenditure incurred by, or for purposes connected with, the SAB—

(a) by making the payments directly, or

(b) by contributing to a fund out of which the payments may be made.

(2) A member of an SAB listed in paragraph 1(1) may provide staff, goods, services, accommodation or other resources for purposes connected with the SAB.

Commencement Information

I26 Sch. 2 para. 2 in force at 1.4.2015 by S.I. 2015/993, **art. 2(n)** (with transitional provisions in S.I. 2015/995)

Strategic plan

3 (1) An SAB must publish for each financial year a plan (its "strategic plan") which sets out—

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(a) its strategy for achieving its objective (see section 43), and
(b) what each member is to do to implement that strategy.

(2) In preparing its strategic plan, the SAB must—
(a) consult the Local Healthwatch organisation for its area, and
(b) involve the community in its area.

(3) In this paragraph and paragraph 4, "financial year", in relation to an SAB, includes the period—
(a) beginning with the day on which the SAB is established, and
(b) ending with the following 31 March or, if the period ending with that date is 3 months or less, ending with the 31 March following that date.

Commencement Information

I27 Sch. 2 para. 3 in force at 1.4.2015 by S.I. 2015/993, **art. 2(n)** (with transitional provisions in S.I. 2015/995)

Annual report

4 (1) As soon as is feasible after the end of each financial year, an SAB must publish a report on—
(a) what it has done during that year to achieve its objective,
(b) what it has done during that year to implement its strategy,
(c) what each member has done during that year to implement the strategy,
(d) the findings of the reviews arranged by it under section 44 (safeguarding adults reviews) which have concluded in that year (whether or not they began in that year),
(e) the reviews arranged by it under that section which are ongoing at the end of that year (whether or not they began in that year),
(f) what it has done during that year to implement the findings of reviews arranged by it under that section, and
(g) where it decides during that year not to implement a finding of a review arranged by it under that section, the reasons for its decision.

(2) The SAB must send a copy of the report to—
(a) the chief executive and the leader of the local authority which established the SAB,
(b) the local policing body the whole or part of whose area is in the local authority's area,
(c) the Local Healthwatch organisation for the local authority's area, and
(d) the chair of the Health and Wellbeing Board for that area.

(3) "Local policing body" has the meaning given by section 101 of the Police Act 1996.

Commencement Information

I28 Sch. 2 para. 4 in force at 1.4.2015 by S.I. 2015/993, **art. 2(n)** (with transitional provisions in S.I. 2015/995)

Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

[F8]SCHEDULE 3 E+W

Section 74

. . . . . .

Textual Amendments

F8 Sch. 3 omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 91(1)(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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."

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(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

(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

I29 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)

I30 Sch. 4 para. 1(10)(11) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, **art. 2(1)(z)**

I31 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.

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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."

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 ",

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(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 ".

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 "."

[F9]SCHEDULE 5 U.K.

Section 96

. . . . . .

Textual Amendments

F9 Sch. 5 omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 13(17)** (with reg. 7)

[F10]SCHEDULE 6 E+W

Section 104

. . . . . .

Textual Amendments

F10 Sch. 6 omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 90(8)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

SCHEDULE 7 U.K.

Section 109

THE HEALTH RESEARCH AUTHORITY

PART 1 U.K.

CONSTITUTION

Membership

1 (1) The HRA consists of—
- (a) a chair appointed by the Secretary of State,
- (b) at least three but no more than four other members appointed by the Secretary of State,
- (c) a chief executive appointed by the members appointed under paragraphs (a) and (b), and
- (d) at least two but no more than three other members appointed by the members appointed under paragraphs (a) and (b).

(2) The members appointed under sub-paragraph (1)(a) and (b)—
- (a) are not employees of the HRA, and
- (b) are referred to in this Schedule as the "non-executive members".

(3) The members appointed under sub-paragraph (1)(c) and (d)—
- (a) are employees of the HRA, and
- (b) are referred to in this Schedule as the "executive members".

(4) The number of non-executive members must exceed the number of executive members.

Commencement Information

I32 Sch. 7 para. 1 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Non-executive members: terms of office

2 (1) A person holds office as a non-executive member of the HRA on the terms of that person's appointment.

(2) A person may not be appointed as a non-executive member for a period of more than four years.

(3) A person who ceases to be a non-executive member is eligible for re-appointment.

(4) A person may resign from office as a non-executive member by giving notice to the Secretary of State.

(5) The Secretary of State may remove a person from office as a non-executive member on any of the following grounds—
- (a) incapacity;
- (b) misbehaviour;

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(c) failure to carry out his or her duties as a non-executive member.

(6) The Secretary of State may suspend a person from office as a non-executive member if it appears to the Secretary of State that there are or may be grounds to remove that person from office under sub-paragraph (5).

Commencement Information

I33 Sch. 7 para. 2 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Non-executive members: suspension from office

3 (1) Having decided to suspend a person under paragraph 2(6), the Secretary of State must give notice of the decision to the person; and the suspension takes effect when the person receives the notice.

(2) The notice may be—

(a) delivered in person (in which case the person is taken to receive it when it is delivered), or

(b) sent by first class post to the person's last known address (in which case, the person is taken to receive it on the third day after the day on which it is posted).

(3) The initial period of suspension must not exceed six months.

(4) The Secretary of State may review the suspension.

(5) The Secretary of State—

(a) must review the suspension, if requested in writing by the person to do so, but

(b) need not review the suspension less than three months after the beginning of the initial period of suspension.

(6) Following a review during a period of suspension, the Secretary of State may—

(a) revoke the suspension, or

(b) suspend the person for a period of no more than six months from the expiry of the current period.

(7) The Secretary of State must revoke the suspension if the Secretary of State—

(a) decides that there are no grounds to remove the person from office under paragraph 2(5), or

(b) decides that there are grounds to do so but nonetheless decides not to do so.

Commencement Information

I34 Sch. 7 para. 3 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

4 (1) Where a person is suspended from office as the chair under paragraph 2(6), the Secretary of State may appoint a non-executive member as interim chair to exercise the chair's functions.

(2) Appointment as interim chair is for a term not exceeding the shorter of—

(a) the period ending with either—

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(i) the appointment of a new chair, or

(ii) the revocation or expiry of the existing chair's suspension, and

(b) the remainder of the interim chair's term as a non-executive member.

(3) A person who ceases to be the interim chair is eligible for re-appointment.

Commencement Information

I35 Sch. 7 para. 4 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Non-executive members: pay

5 (1) The HRA must pay its non-executive members such remuneration as the Secretary of State may decide.

(2) The HRA must pay, or provide for the payment of, such allowances or gratuities as the Secretary of State may decide to a person who is or has been a non-executive member of the HRA.

Commencement Information

I36 Sch. 7 para. 5 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Employees: terms of office

6 (1) Each executive member of the HRA is appointed as an employee of the HRA on such terms as it decides.

(2) A person may not be appointed as chief executive without the consent of the Secretary of State.

(3) The HRA may appoint, on such terms as it decides, other persons as employees of the HRA (in addition to those appointed as executive members).

Commencement Information

I37 Sch. 7 para. 6 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Employees: pay

7 (1) The HRA must pay its employees such remuneration as it decides.

(2) The HRA may pay, or provide for the payment of, such pensions, allowances or gratuities as it decides to or in respect of a person who is or has been an employee of the HRA.

(3) Before making a decision about pay under this paragraph, the HRA must obtain the approval of the Secretary of State to its policy on the matter.

Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

Commencement Information

I38 Sch. 7 para. 7 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Committees and sub-committees

8 (1) The HRA must appoint a committee for the purpose of giving advice—

(a) to the HRA in connection with the exercise of the HRA's function under regulation 5(1)(a) of the Health Service (Control of Patient Information) Regulations 2002 (S.I. 2002/1438) (approval for processing confidential patient information);

(b) to the Secretary of State in connection with the exercise of the Secretary of State's functions under regulations 2, 3(4) and 5 of those Regulations (processing of confidential patient information);

(c) to **[**[F11]NHS England**]** in connection with—

(i) the exercise by **[**[F12]NHS England**]** of functions conferred in regulations under section 251 of the National Health Service Act 2006 (processing of patient information for medical purposes) **[**[F13], so far as those functions relate to information obtained by NHS England in connection with the exercise of its relevant data functions (as defined by section 253(3) of the Health and Social Care Act 2012)**]**;

(ii) any publication or other dissemination by **[**[F14]NHS England of such information**]** which is in a form which identifies an individual to whom the information relates or enables the identity of such an individual to be ascertained.

(2) The HRA may appoint other committees and sub-committees.

(3) The committee appointed under sub-paragraph (1) must consist of persons who are not members or employees of the HRA.

(4) Any other committee or sub-committee may consist of or include such persons.

(5) The HRA may pay such remuneration and allowances as it decides to a person who is a member of a committee or sub-committee, but is not an employee of the HRA, regardless of whether the person is a non-executive member of the HRA.

Textual Amendments

F11 Words in Sch. 7 para. 8(1)(c) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 18(3)(a)** (with reg. 3)

F12 Words in Sch. 7 para. 8(1)(c)(i) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 18(3)(b)(i)** (with reg. 3)

F13 Words in Sch. 7 para. 8(1)(c)(i) inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 18(3)(b)(ii)** (with reg. 3)

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F14 Words in Sch. 7 para. 8(1)(c)(ii) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 18(3)(c)** (with reg. 3)

Commencement Information

I39 Sch. 7 para. 8 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

9 Regulations may provide for the committee appointed under paragraph 8(1) to be required, in giving advice, to have regard to specified factors or matters.

Commencement Information

I40 Sch. 7 para. 9 in force at 15.7.2014 for specified purposes by S.I. 2014/1714, **art. 3(3)(b)**

I41 Sch. 7 para. 9 in force at 1.1.2015 in so far as not already in force by S.I. 2014/2473, **art. 5(m)**

Procedure

10 (1) The HRA may regulate its own procedure.

(2) A vacancy among the members of the HRA, or a defect in the appointment of a member, does not affect the validity of any act of the HRA.

Commencement Information

I42 Sch. 7 para. 10 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Seal and evidence

11 (1) The application of the HRA's seal must be authenticated by the signature of a member of the HRA or a person who has been authorised (whether generally or specifically) for the purpose.

(2) A document purporting to be duly executed under the HRA's seal or to be signed on its behalf must be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

(3) But this paragraph does not apply in relation to a document which is, or is to be, signed in accordance with the law of Scotland.

Commencement Information

I43 Sch. 7 para. 11 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Status of the HRA

12 (1) The HRA is not to be regarded as a servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown.

(2) The HRA's property is not to be regarded as property of, or property held on behalf of, the Crown.

Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

Commencement Information

I44 Sch. 7 para. 12 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

PART 2 U.K.

FUNCTIONS

Exercise of functions

13 (1) The HRA must exercise its functions effectively, efficiently and economically.

(2) The HRA may arrange for any of its committees, sub-committees or members or any other person (other than a devolved authority) to exercise any of its functions on its behalf.

(3) The HRA may arrange for any person to help it in the exercise of its functions (whether in a particular case or in cases of a particular description).

(4) Arrangements under sub-paragraph (2) or (3) may provide for the payment of remuneration and allowances to the persons with whom the HRA makes the arrangements.

(5) The HRA may do anything which appears to it to be necessary or desirable for the purposes of or in connection with the exercise of its functions.

Commencement Information

I45 Sch. 7 para. 13 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Help or advice for other public authorities

14 (1) The HRA may provide help or advice to another public authority for the purpose of the exercise by that authority of its functions.

(2) Help or advice under this paragraph may be provided on such terms as the HRA decides (including terms relating to payment of remuneration and allowances).

(3) "Public authority"—

(a) includes any person certain of whose functions are functions of a public nature, but

(b) does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

(4) A reference to a public authority—

(a) includes a public authority in the Channel Islands or the Isle of Man, but

(b) subject to that, does not include a reference to a public authority outside the United Kingdom.

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Commencement Information

I46 Sch. 7 para. 14 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Arrangements with devolved authorities

15 (1) The HRA may arrange with a devolved authority for the HRA—

(a) to exercise on behalf of the devolved authority any function which corresponds to a function of the HRA;

(b) to provide services or facilities in so far as the devolved authority requires them in connection with the exercise of such a function.

(2) The terms and conditions on which arrangements under this paragraph may be made include provision for payment to the HRA in respect of its costs in giving effect to the arrangements.

Commencement Information

I47 Sch. 7 para. 15 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Failure to exercise functions

16 (1) If the Secretary of State considers that the HRA is failing or has failed to exercise any of its functions, and that the failure is significant, the Secretary of State may direct the HRA to exercise such of its functions, in such manner and within such period, as the direction specifies.

(2) If the HRA fails to comply with a direction under this paragraph, the Secretary of State may—

(a) exercise the functions specified in the direction, or

(b) make arrangements for some other person to exercise them on the Secretary of State's behalf.

(3) Where the Secretary of State exercises a power under sub-paragraph (1) or (2), the Secretary of State must publish the reasons for doing so.

(4) The reference in sub-paragraph (1) to exercising a function includes a reference to exercising it properly.

Commencement Information

I48 Sch. 7 para. 16 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Changes to legislation: *Care Act 2014 is up to date with all changes known to be in force on or before 25 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) View outstanding changes*

PART 3 U.K.

FINANCE AND REPORTS

Funding

17 The Secretary of State may, with the consent of the Treasury, make payments to the HRA at such times and on such conditions (if any) as the Secretary of State considers appropriate.

Commencement Information

I49 Sch. 7 para. 17 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Fees and indemnities

18 (1) Regulations may require payment of a fee in relation to the exercise of a specified function of the HRA; and the amount of the fee is to be the amount specified in, or determined in accordance with, the regulations.

(2) Where the amount of a fee is to be specified in regulations under this paragraph—

(a) the Secretary of State must, before specifying the amount of the fee, have regard to the cost incurred in the exercise of the function to which the fee relates, and

(b) the HRA must provide the Secretary of State with such information, in such form, as the Secretary of State may request.

(3) Regulations under this paragraph may require the HRA to determine the amount of a fee; and, where they do so, the regulations—

(a) must require the HRA, before determining the amount of the fee, to have regard to the cost incurred in the exercise of the function to which the fee relates, and

(b) must require the HRA to obtain the approval of the Secretary of State to the proposed amount of the fee.

(4) Regulations under this paragraph which provide for the amount of a fee to be determined may specify factors in accordance with which it is to be determined.

(5) Regulations under this paragraph may include provision—

(a) for determining the time by which a fee is payable;

(b) for any unpaid balance to be recoverable as a debt due to the HRA (but for this not to affect any other method of recovery).

(6) Before making regulations under this paragraph, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(7) Section 265 of the Public Health Act 1875 (which relates to the protection of members and officers of certain authorities from personal liability) has effect as if there were included in the authorities referred to in that section a reference to the HRA.

(8) In its application to the HRA as a result of sub-paragraph (7), section 265 of that Act has effect as if any reference in that section to that Act were a reference to this Act.

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(9) In section 71(2) of the National Health Service Act 2006 (schemes for meeting losses and liabilities etc. of certain health service bodies), after paragraph (f) insert—

"(fa) the Health Research Authority;".

Commencement Information

I50 Sch. 7 para. 18 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Accounts

19 (1) The HRA must keep accounts in such form as the Secretary of State may determine.

(2) The HRA must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.

(3) The HRA must send copies of the annual accounts to—

(a) the Secretary of State, and

(b) the Comptroller and Auditor General,

within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on the annual accounts, and

(b) lay copies of them and the report on them before Parliament.

(5) In this paragraph and paragraph 20, "financial year" includes the period—

(a) beginning with the day on which the HRA is established, and

(b) ending with the following 31 March or, if the period ending with that date is 3 months or less, ending with the 31 March following that date.

Commencement Information

I51 Sch. 7 para. 19 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Annual report

20 (1) As soon as is feasible after the end of each financial year, the HRA must prepare an annual report on—

(a) the activities it has undertaken during the year, and

(b) the activities it proposes to undertake during the current financial year.

(2) The report must set out the steps the HRA has taken during the year to fulfil its main objective (see section 110(2)).

(3) The HRA must—

(a) lay a copy of the report before Parliament, and

(b) send a copy of it to the Secretary of State.

(4) The HRA must provide the Secretary of State with such other reports and information relating to the exercise of its functions as the Secretary of State may request.

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Commencement Information

I52 Sch. 7 para. 20 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

PART 4 U.K.

CONSEQUENTIAL AMENDMENTS

Public Records Act 1958

21 In Part 2 of the Table in Schedule 1 to the Public Records Act 1958, at the appropriate place insert— " Health Research Authority. "

Commencement Information

I53 Sch. 7 para. 21 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Public Bodies (Admission to Meetings) Act 1960

22 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960, after paragraph (bm) (inserted by paragraph 30 of Schedule 5 to this Act) insert—

"(bn) the Health Research Authority;".

Commencement Information

I54 Sch. 7 para. 22 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Parliamentary Commissioner Act 1967

23 In Schedule 2 to the Parliamentary Commissioner Act 1967, at the appropriate place insert— " Health Research Authority. "

Commencement Information

I55 Sch. 7 para. 23 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

House of Commons Disqualification Act 1975

24 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975, at the appropriate place insert— " The Health Research Authority. "

Commencement Information

I56 Sch. 7 para. 24 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

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Copyright, Designs and Patents Act 1988

25 In section 48(6) of the Copyright, Designs and Patents Act 1988 (definition of "the Crown"), after "Health Education England" (inserted by paragraph 33 of Schedule 5 to this Act) insert " , the Health Research Authority ".

Commencement Information

I57 Sch. 7 para. 25 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Freedom of Information Act 2000

26 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies), at the appropriate place insert— " The Health Research Authority. "

Commencement Information

I58 Sch. 7 para. 26 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

Equality Act 2010

27 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading "Health, social care and social security", after the entry for Health Education England (inserted by paragraph 35 of Schedule 5 to this Act) insert— " The Health Research Authority. "

Commencement Information

I59 Sch. 7 para. 27 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(m)**

SCHEDULE 8 U.K.

Section 113

RESEARCH ETHICS COMMITTEES: AMENDMENTS

Ionising Radiation (Medical Exposure) Regulations 2000 (S.I. 2000/1059)

1 In regulation 2(1) of the Ionising Radiation (Medical Exposure) Regulations 2000 (S.I. 2000/1059), in the definition of "ethics committee"—

(a) omit paragraph (a), and

(b) for paragraph (c) substitute—

"(c) a research ethics committee recognised or established by or on behalf of the Health Research Authority under the Care Act 2014, or

(d) any other group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Welsh Ministers or the Scottish Ministers;".

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Commencement Information
I60 Sch. 8 para. 1 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Ionising Radiation (Medical Exposure) Regulations (Northern Ireland) 2000 (S.R. 2000/194)

2 In regulation 2(1) of the Ionising Radiation (Medical Exposure) Regulations (Northern Ireland) 2000 (S.R. 2000/194), for the definition of "ethics committee" substitute—

""ethics committee" means a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Department;".

Commencement Information
I61 Sch. 8 para. 2 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Health Service (Control of Patient Information) Regulations 2002 (S.I. 2002/1438)

3 In regulation 1(2) of the Health Service (Control of Patient Information) Regulations 2002 (S.I. 2002/1438), for the definition of "research ethics committee" substitute—

""research ethics committee" means—

(a) a research ethics committee recognised or established by or on behalf of the Health Research Authority under the Care Act 2014, or

(b) any other group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Welsh Ministers."

Commencement Information
I62 Sch. 8 para. 3 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Nursing Homes Regulations (Northern Ireland) 2005 (S.R. 2005/160)

4 In regulation 2(1) of the Nursing Homes Regulations (Northern Ireland) 2005 (S.R. 2005/160), for the definition of "ethics committee" substitute—

""ethics committee" means a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Department of Health, Social Services and Public Safety;".

Commencement Information
I63 Sch. 8 para. 4 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

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Residential Care Homes Regulations (Northern Ireland) 2005 (S.R. 2005/161)

5 In regulation 2(1) of the Residential Care Homes Regulations (Northern Ireland) 2005 (S.R. 2005/161), for the definition of "ethics committee" substitute—

""ethics committee" means a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Department of Health, Social Services and Public Safety;".

Commencement Information
I64 Sch. 8 para. 5 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Independent Health Care Regulations (Northern Ireland) 2005 (S.R. 2005/174)

6 In regulation 2(1) of the Independent Health Care Regulations (Northern Ireland) 2005 (S.R. 2005/174), for the definition of "ethics committee" substitute—

""ethics committee" means a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Department of Health, Social Services and Public Safety;".

Commencement Information
I65 Sch. 8 para. 6 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Approval of Research on Organs No Longer Required for Procurator Fiscal Purposes (Specified Purposes) (Scotland) Order 2006 (S.S.I. 2006/310)

7 In article 1(2) of the Approval of Research on Organs No Longer Required for Procurator Fiscal Purposes (Specified Purposes) (Scotland) Order 2006 (S.S.I. 2006/310), for the definition of "appropriate Research Ethics Committee" substitute—

""appropriate Research Ethics Committee" means a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Scottish Ministers;".

Commencement Information
I66 Sch. 8 para. 7 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006 (S.I. 2006/1260)

8 In regulation 1(2) of the Human Tissue Act 2004 (Ethical Approval, Exceptions from Licensing and Supply of Information about Transplants) Regulations 2006 (S.I. 2006/1260), for the definition of "research ethics authority" substitute—

""research ethics authority" means—

(a) a research ethics committee recognised or established by or on behalf of the Health Research Authority under the Care Act 2014, or

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(b) any other group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Welsh Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland."

Commencement Information

I67 Sch. 8 para. 8 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Mental Capacity Act 2005 (Appropriate Body) (England) Regulations 2006 (S.I. 2006/2810)

9 In regulation 2 of the Mental Capacity Act 2005 (Appropriate Body) (England) Regulations 2006 (S.I. 2006/2810) (definition of "appropriate body"), for the words from "is a committee" to the end substitute " is a research ethics committee recognised or established by or on behalf of the Health Research Authority under the Care Act 2014. "

Commencement Information

I68 Sch. 8 para. 9 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Mental Capacity Act 2005 (Appropriate Body) (Wales) Regulations 2007 (S.I. 2007/833)

10 In regulation 2 of the Mental Capacity 2005 (Appropriate Body) (Wales) Regulations 2007 (S.I. 2007/833) (definition of "appropriate body"), for the words from "is a committee" to the end substitute " is a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Welsh Ministers. "

Commencement Information

I69 Sch. 8 para. 10 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Human Fertilisation and Embryology (Disclosure of Information for Research Purposes) Regulations 2010 (S.I. 2010/995)

11 In regulation 2(1) of the Human Fertilisation and Embryology (Disclosure of Information for Research Purposes) Regulations 2010 (S.I. 2010/995), for the definition of "research ethics committee" substitute—

""research ethics committee" means a research ethics committee recognised or established by or on behalf of the Health Research Authority under the Care Act 2014;".

Commencement Information

I70 Sch. 8 para. 11 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

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Independent Health Care (Wales) Regulations 2011 (S.I. 2011/734)

12 In regulation 25 of the Independent Health Care (Wales) Regulations 2011 (S.I. 2011/734) (research), in paragraph (2) for the words from "a research ethics committee" to the end substitute " a group of persons which assesses the ethics of research involving individuals and which is recognised for that purpose by or on behalf of the Welsh Ministers. "

Commencement Information

I71 Sch. 8 para. 12 in force at 1.1.2015 by S.I. 2014/2473, **art. 5(n)**

Changes to legislation:
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View outstanding changes

Changes and effects yet to be applied to :

- s. 21(2) substituted for s. 21(2)(3) by 2016 c. 19 Sch. 11 para. 44
- s. 24(3) substituted by 2022 c. 31 s. 166(3)
- s. 28(1) substituted by 2022 c. 31 s. 166(5)(a)
- s. 28(3) omitted by 2022 c. 31 s. 166(5)(b)
- s. 29(1) words substituted by 2022 c. 31 s. 166(6)
- s. 31(1)(a) substituted by 2022 c. 31 s. 166(7)
- s. 32(1)(a) substituted by 2022 c. 31 s. 166(8)
- s. 37(15)(a) omitted by 2022 c. 31 s. 166(9)
- s. 80(1) Table words inserted by 2022 c. 31 s. 166(10)

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)