



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Provider failure*

VALID FROM 01/04/2015

#### **49 Section 48: cross-border cases**

- (1) This section applies where, in a case within section 48, immediately before the registered care provider became unable to carry on the regulated activity, some or all of the adult's needs for care and support or the carer's needs for support were being met by the carrying on of that activity by the provider under arrangements made—
- (a) by a local authority in Wales discharging its duty under section 35 or 40, or exercising its power under section 36 or 45, of the Social Services and Well-being (Wales) Act 2014,
  - (b) by a local authority in Scotland 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, or
  - (c) by a Health and Social Care trust under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 or section 2 of the Carers and Direct Payments Act (Northern Ireland) 2002.
- (2) This section also applies where, in a case within section 48—
- (a) immediately before the registered care provider became unable to carry on the regulated activity, some or all of the adult's needs for care and support or the carer's needs for support were being met by the carrying on of that activity by the provider, and

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*Status: Point in time view as at 06/10/2014. This version of this provision is not valid for this point in time.*

*Changes to legislation: Care Act 2014, Section 49 is up to date with all changes known to be in force on or before 26 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)*

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- (b) all or part of the cost of the accommodation or other services provided by the provider to meet those needs was paid for by means of direct payments made—
  - (i) under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014,
  - (ii) 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
  - (iii) by virtue of section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.
- (3) The local authority which is required to meet needs under section 48(2)—
  - (a) must, in meeting needs under section 48(2) which were being met by the authority which made the arrangements referred to in subsection (1), co-operate with that authority;
  - (b) must, in meeting needs under section 48(2) which were being met by the provision of accommodation or other services all or part of the cost of which was paid for by an authority by means of direct payments as referred to in subsection (2), co-operate with that authority;
  - (c) may recover from the authority referred to in paragraph (a) or (b) (as the case may be) the cost it incurs in meeting those of the adult's or carer's needs referred to in the paragraph in question;
  - (d) may recover from the adult or carer the cost it incurs in meeting those of the adult's or carer's needs other than those referred to in paragraph (a) or (b) (as the case may be).
- (4) Any dispute between a local authority and a local authority in Wales, a local authority in Scotland or a Health and Social Care trust about the application of section 48 or of this section is to be resolved in accordance with paragraph 5 of Schedule 1.
- (5) “Local authority in Wales” and “local authority in Scotland” each have the meaning given in paragraph 12 of Schedule 1.
- (6) The references in paragraphs (a) and (b) of subsection (3) to an authority are references to a local authority in Wales, a local authority in Scotland or a Health and Social Care trust (as the case may be).

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