

**2015 No. 993 (C. 68)**

**MENTAL HEALTH, ENGLAND AND WALES**

**NATIONAL HEALTH SERVICE, ENGLAND**

**SOCIAL CARE**

**The Care Act 2014 (Commencement No. 4) Order 2015**

*Made* - - - -

*26th March 2015*

The Secretary of State makes this Order in exercise of the powers conferred by sections 124 and 127(1) and (5) of the Care Act 2014<sup>(a)</sup>.

In accordance with section 127(3) of the Care Act 2014, the Secretary of State has obtained the consent of the Welsh Ministers before making this Order.

In accordance with section 127(4) of the Care Act 2014, the Secretary of State has obtained the consent of the Department for Health, Social Services and Public Safety in Northern Ireland before making this Order.

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Care Act 2014 (Commencement No. 4) Order 2015.

(2) In this Order—

“the Act” means the Care Act 2014;

“the 1983 Act” means the Mental Health Act 1983<sup>(b)</sup>;

“the SSWWA 2014” means the Social Services and Well-being (Wales) Act 2014<sup>(c)</sup>.

**Provisions coming into force on 1st April 2015**

**2.** 1st April 2015 is the day appointed for the coming into force of the following provisions of the Act insofar as they are not already in force—

(a) sections 1 (promoting individual well-being) to 13 (the eligibility criteria);

(b) section 14(1) and (3) to (8) (power of local authority to charge);

(c) subject to the modification made by article 7(2) of the Care Act 2014 (Commencement

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(a) 2014 c.23.  
(b) 1983 c.20.  
(c) 2014 anaw 4.

- No. 2) Order 2014(a), section 17 (assessment of financial resources) apart from subsection (2);
- (d) sections 19 (power to meet needs for care and support) to 23 (exception for provision of housing etc.);
  - (e) section 24(1) and (2) (the steps for the local authority to take);
  - (f) section 25 (care and support plan, support plan);
  - (g) section 26(1), (3) and (4) (personal budget);
  - (h) section 27 (review of care and support plan or of support plan);
  - (i) sections 30 (cases where adult expresses preference for particular accommodation) to 35 (deferred payment agreements and loans: further provision);
  - (j) section 37(1), (3), (4), (5) (apart from subsection (5)(b), (c) and (d)) and (6) to (15) (notification, assessment, etc.);
  - (k) section 38 apart from subsection (1)(b) (case where assessments not complete on day of move);
  - (l) section 39(1) to (7) (where a person's ordinary residence is) and, insofar as it relates to the provisions referred to in paragraph (x), section 39(8);
  - (m) sections 40 (disputes about ordinary residence or continuity of care) to 42 (enquiry by local authority);
  - (n) section 43 and Schedule 2 (Safeguarding Adults Boards);
  - (o) sections 44 (safeguarding adults reviews) to 47 (protecting property of adults being cared for away from home);
  - (p) sections 48, 49 and 51 (provider failure) and, insofar as it relates to those sections, section 52 (sections 48 to 51: supplementary) apart from subsection (14);
  - (q) sections 58 (assessment of a child's need for care and support) to 70 (transfer of assets to avoid charges);
  - (r) section 73 (Human Rights Act 1998: provision of regulated care or support etc. a public function);
  - (s) section 74 and Schedule 3 (discharge of hospital patients with care and support needs);
  - (t) sections 76 (prisoners and persons in approved premises etc.) to 79 (delegation of local authority functions);
  - (u) insofar as it relates to provisions commenced by this Order, section 80 (Part 1: interpretation);
  - (v) sections 82 (warning notice) and 83 (imposition of licence conditions on NHS foundation trusts);
  - (w) sections 92 to 94 (false or misleading information);
  - (x) in Schedule 1 (cross-border placements)—
    - (i) paragraphs 1 (placements from England), 2(1), (9) and (10) (placements from Wales), 3 to 8 (placements from Scotland, Northern Ireland, etc.), 11 (regulations), 12 (interpretation) and 14(1), (2) and (5) to (7) (transitory modifications);
    - (ii) insofar as it relates to paragraph 2(1) of Schedule 1, paragraph 14(3).

### **Commencement of section 18 (duty to meet needs for care and support)**

3. 1st April 2015 is the day appointed for the coming into force of section 18(1)(a) and (c), (2), (3), (4), (6) and (7) of the Act (duty to meet needs for care and support) except insofar as it imposes any duty on a local authority to meet an adult's needs for care and support by the

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(a) S.I. 2014/2473.

provision of accommodation in a care home(a) in a case where Condition 2 in section 18(3) is met.

#### **Provisions coming into force on 6th April 2015**

4. 6th April 2015 is the day appointed for the coming into force of sections 53 to 57 of the Act (market oversight) insofar as they are not already in force.

#### **Transitory modifications pending the commencement of section 15 (cap on care costs)**

5. Until section 15(1) of the Act (cap on care costs) comes into force—

- (a) section 18(1) of the Act is to be read as if “and” were inserted after subsection (1)(a);
- (b) section 37(4)(b) and (14) of the Act is to be read as if “, (2)(c)” were omitted;
- (c) section 38(1) of the Act is to be read as if “, (2)(b)” were omitted.

#### **Transitory modification in respect of the commencement of section 39(4) (ordinary residence of an adult provided with after-care)**

6. Until section 143 of the SSWWA 2014 (social services functions of local authorities) comes into force, section 39(4)(b) of the Act (ordinary residence of an adult provided with after-care) is to be read as—

“(b) “local authority in Wales” means a council in Wales which is a local authority for the purposes of the Local Authority Social Services Act 1970(b).”.

#### **Commencement of section 75 (after-care under the Mental Health Act 1983) and transitory modifications**

7.—(1) 1st April 2015 is the day appointed for the coming into force of—

- (a) section 75(1) to (5), (12) and (13) of the Act (after-care under the Mental Health Act 1983);
- (b) insofar as they are not already in force, section 75(6) and (7) of, and Part 1 of Schedule 4 to, the Act (after-care under the Mental Health Act 1983: direct payments).

(2) Until section 195 of the SSWWA 2014 (disputes about ordinary residence and portability of care and support) comes into force, in section 75(4) of the Act, the inserted section 117(4)(b) of the 1983 Act is to be read as—

“(b) if the dispute is between local social services authorities in Wales, the dispute is to be determined by the Welsh Ministers;”.

(3) 1st April 2015 is the day appointed for the coming into force of section 75(11) of the Act except insofar as paragraph (a) of that subsection substitutes provisions of section 117(2C) of the 1983 Act relating to Wales.

(4) Until section 50 of the SSWWA 2014 (direct payments to meet an adult’s needs) comes into force, section 75(11)(a) of the Act is to be read as if the inserted sub-paragraph (ii) (but not the “or” after it) were omitted.

(5) Until section 143 of the SSWWA 2014 (social services functions of local authorities) comes into force, in section 75(13) of the Act, the inserted paragraph (b) of the definition of “local social services authority” is to be read as—

“(b) a council in Wales which is a local authority for the purposes of the Local Authority Social Services Act 1970.”.

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(a) See section 8(3) of the Care Act 2014 as to the meaning of “care home”.

(b) 1970 c.42. See section 1 of the Local Authority Social Services Act 1970 as to the local authorities for the purposes of that Act. Section 1 was amended by section 195(1) and (3) of the Local Government Act 1972 (c.70) and by paragraph 7 of Schedule 10 to the Local Government (Wales) Act 1994 (c.19).

Signed by authority of the Secretary of State for Health.

26th March 2015

*George Freeman*  
Parliamentary Under-Secretary of State,  
Department of Health

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force certain provisions of the Care Act 2014 (c.23) (“the Act”). It is the fourth such Order to be made under the Act. This Order also contains transitory provisions in connection with commencement of certain provisions of the Act.

Article 2 brings into force the following provisions of the Act on 1st April 2015 insofar as they are not already in force—

- (a) sections 1 to 7 which relate to general responsibilities of local authorities;
- (b) section 8 which relates to how to meet needs under sections 18 to 20;
- (c) sections 9 to 13 which relate to assessing needs;
- (d) section 14(1) and (3) to (8) which concerns a local authority’s power to charge for meeting needs;
- (e) section 17 (apart from subsection (2)) which relates to assessment of financial resources;
- (f) sections 19 to 23 which relate to local authorities’ duties and powers to meet needs;
- (g) sections 24(1) and (2), 25, 26(1), (3) and (4), 27 and 30 which relate to steps for local authorities to take after assessments of needs;
- (h) sections 31 to 33 which relate to direct payments;
- (i) sections 34 and 35 which relate to deferred payment agreements;
- (j) section 37(1), (3), (4), (5) (apart from subsection (5)(b), (c) and (d)) and (6) to (15) which relates to continuity of care and support when adults move;
- (k) section 38 (apart from subsection (1)(b)) which relates to cases where needs assessments have yet to be carried out or other steps have yet to be taken by a local authority on the day of an adult’s intended move to that authority’s area;
- (l) section 39(1) to (7) which relates to a person’s ordinary residence;
- (m) in Schedule 1—
  - (i) paragraphs 1, 2(1), (9) and (10), 3 to 8, 11, 12 and 14(1), (2) and (5) to (7) which relate to cross-border residential placements;
  - (ii) insofar as it relates to paragraph 2(1) of Schedule 1, paragraph 14(3) which makes transitory provision;
- (n) insofar as it relates to the provisions referred to in paragraph (m), section 39(8) which relates to Schedule 1;
- (o) sections 40 and 41 which relate to the establishing of where a person lives;
- (p) sections 42 to 47 and Schedule 2 which relate to safeguarding adults at risk of abuse or neglect by reason of their care and support needs;
- (q) sections 48, 49 and 51 and, insofar as it relates to those sections, section 52 (apart from subsection (14)), which relate to provider failure;
- (r) sections 58 to 66 which relate to transition for children to adult care and support etc.;
- (s) sections 67 and 68 which relate to independent advocacy support;
- (t) sections 69 and 70 which concern enforcement of debts;

- (u) section 73 which relates to the application of the Human Rights Act 1998 (c.42) to the provision of regulated care or support;
- (v) section 74 and Schedule 3 which relate to the discharge of hospital patients with care and support needs;
- (w) section 76 which relates to prisoners and persons in approved premises etc.;
- (x) section 77 which relates to registers of sight-impaired adults, disabled adults, etc.;
- (y) section 78 which relates to guidance;
- (z) section 79 which relates to delegation of local authority functions;
- (aa) insofar as it relates to provisions commenced by this Order, section 80 which makes provision about interpretation;
- (bb) sections 82 and 83 which relate to care standards and quality of services;
- (cc) sections 92 to 94 which create new offences relating to supplying, publishing or otherwise making available false or misleading information.

Article 3 brings into force on 1st April 2015 section 18(1)(a) and (c), (2), (3), (4), (6) and (7) of the Act which relates to a local authority's duty to meet needs for care and support except insofar as it imposes any duty on a local authority to meet an adult's needs for care and support by the provision of accommodation in a care home in a case where Condition 2 in section 18(3) is met i.e. the adult's financial resources are above the financial limit but the adult nonetheless asks the local authority to meet the adult's needs.

Article 4 brings into force on 6th April 2015 sections 53 to 57 of the Act which provide for there to be a market oversight regime, where the Care Quality Commission will have oversight over certain registered care providers, and make related provision.

Article 5 makes transitory modifications to certain sections of the Act until section 15(1) of the Act (cap on care costs) comes into force. Those sections are section 18(1) (duty to meet needs for care and support) and sections 37(4)(b) and (14) and 38(1) (continuity of care and support when an adult moves).

Article 6 makes a transitory modification, pending the commencement of certain provisions of the Social Services and Well-being (Wales) Act 2014 ("the SSWWA 2014"), to section 39(4) of the Act which relates to the ordinary residence of a person provided with after-care under the Mental Health Act 1983 ("the 1983 Act").

Article 7 commences section 75 of the Act which makes amendments to the 1983 Act relating to after-care. Article 7 also makes transitory modifications to section 75 pending the commencement of certain provisions of the SSWWA 2014.

A full impact assessment has not been produced for this instrument as this Order itself has no impact on the private sector or civil society organisations. Impact Assessments carried out in relation to the Act are available from the Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS and at <https://www.gov.uk/government/publications/the-government-published-a-series-of-impact-assessments-alongside-the-care-bill>.

**NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Care Act 2014 have been or will be brought into force by a commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 2(3) and (4) (partially)	1.10.2014	2014/2473
section 12(1) and (2) (partially)	1.10.2014	2014/2473

section 13(7) and (8) (partially)	1.10.2014	2014/2473
section 14(5) to (8) (partially)	1.10.2014	2014/2473
section 17(7) to (13) (partially)	1.10.2014	2014/2473
section 22(4)(a) and (6) (partially)	1.10.2014	2014/2473
section 23(1)(b) (partially)	1.10.2014	2014/2473
section 26(4) (partially)	1.10.2014	2014/2473
section 30 (partially)	1.10.2014	2014/2473
section 33(1) and (2) (partially)	1.10.2014	2014/2473
section 34(1), (2) and (4) to (8) (partially)	1.10.2014	2014/2473
section 35 (partially)	1.10.2014	2014/2473
section 38(8) (partially)	1.10.2014	2014/2473
section 39(1), (3) and (8) (partially)	1.10.2014	2014/2473
section 40(4) (partially)	1.10.2014	2014/2473
section 52(12) (partially)	1.10.2014	2014/2473
section 53(1), (2) and (7) (partially)	1.10.2014	2014/2473
section 55(5) (partially)	1.10.2014	2014/2473
section 62(2) (partially)	1.10.2014	2014/2473
section 65(1) (partially)	1.10.2014	2014/2473
section 67(7) (partially)	1.10.2014	2014/2473
section 74 (partially)	1.10.2014	2014/2473
section 75(6) and (7) (partially)	1.10.2014	2014/2473
section 77(2) (partially)	1.10.2014	2014/2473
section 80(1) (partially)	1.10.2014	2014/2473
section 81 (partially)	7.7.2014	2014/1714
section 81 (remainder)	15.7.2014	2014/1714
section 84	15.7.2014	2014/1714
section 85	15.7.2014	2014/1714
sections 86 to 90	1.10.2014	2014/2473
section 91(1) and (2) (partially)	7.7.2014	2014/1714
section 91 (remainder)	1.10.2014	2014/1714
section 92(1) and (3) to (6) (partially)	15.7.2014	2014/1714
section 95	1.10.2014	2014/2473
section 96(2) and (4) (partially)	1.10.2014	2014/2473
section 96 (remainder)	1.4.2015	2014/3186
section 97(7)	1.10.2014	2014/2473
section 97 (remainder)	1.4.2015	2014/3186
sections 98 to 103	1.4.2015	2014/3186
section 104(3)(b), (4), (13)(a) and (14) (partially)	1.10.2014	2014/2473
section 104 (remainder)	1.4.2015	2014/3186
section 105(1) and (4) (partially)	1.10.2014	2014/2473
section 105 (remainder)	1.4.2015	2014/3186

sections 106 to 108	1.4.2015	2014/3186
section 109(2) (partially)	15.7.2014	2014/1714
section 109(4) (partially)	1.10.2014	2014/2473
section 109 (remainder)	1.1.2015	2014/2473
sections 110 to 117	1.1.2015	2014/2473
section 118	1.10.2014	2014/2473
section 119 (partially)	1.10.2014	2014/2473
section 119 (partially)	1.1.2015	2014/2473
section 119 (remainder)	1.4.2015	2014/3186
section 120	15.7.2014	2014/1714
section 121	1.10.2014	2014/2473
section 122(1) (partially)	15.7.2014	2014/1714
section 122(1) (remainder)	1.1.2015	2014/2473
section 122(2) and (3)	15.7.2014	2014/1714
section 122(4)	1.1.2015	2014/2473
Schedule 1 (partially)	1.10.2014	2014/2473
Schedule 3 (partially)	1.10.2014	2014/2473
Schedule 4 (partially)	1.10.2014	2014/2473
Schedule 5 (partially)	1.10.2014	2014/2473
Schedule 5 (remainder)	1.4.2015	2014/3186
Schedule 6 (partially)	1.10.2014	2014/2473
Schedule 6 (remainder)	1.4.2015	2014/3186
Schedule 7 (partially)	15.7.2014	2014/1714
Schedule 7 (remainder)	1.1.2015	2014/2473
Schedule 8	1.1.2015	2014/2473

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