



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 11

MISCELLANEOUS AND GENERAL

Supplementary

193 Recovery of costs between local authorities

- (1) Subsection (2) applies where—
 - (a) a local authority (“authority A”) provides or arranges care and support to a person who is ordinarily resident in the area of another local authority (“authority B”), and
 - (b) the care and support was provided either—
 - (i) to meet urgent needs in order to safeguard the person's well-being, or
 - (ii) with the consent of authority B.
- (2) Authority A may recover from authority B any reasonable expenses incurred by it in providing or arranging the care and support.
- (3) Where a local authority provides accommodation under section 76(1) for a child who was (immediately before it began to look after the child) ordinarily resident within the area of another local authority [^{F1}or local authority in England], it may recover from that other authority any reasonable expenses incurred by it in providing the accommodation and maintaining the child.
- (4) Subsection (5) applies where a local authority (“authority A”) provides accommodation under section 77(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority [^{F2}or local authority in England] (“authority B”) and it is not maintaining the child in—
 - (a) a community home provided by authority A,

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- (b) a controlled community home, or
 - (c) a hospital vested in the Welsh Ministers, an NHS Trust, an NHS Foundation Trust or the Secretary of State, or any other hospital made available pursuant to arrangements made by a Local Health Board, an NHS Trust, an NHS Foundation Trust, the Welsh Ministers, the Secretary of State, [^{F3}NHS England] or [^{F4}an integrated care board].
- (5) Authority A may recover from authority B any reasonable expenses incurred by it in providing the accommodation and maintaining the child.
- (6) Except where [^{F5}subsection (7) or (8)] applies, where a local authority complies with any request under section 164(1) or (2) [^{F6}, or under section 27(2) of the Children Act 1989 (co-operation between authorities),] in relation to a person who is not ordinarily resident within its area, it may recover from the local authority [^{F7}or local authority in England] in whose area the person is ordinarily resident any reasonable expenses incurred by it in respect of that person.
- (7) Where a local authority (“authority A”) complies with any request under section 164(1) or (2) from another local authority (“authority B”) in relation to a person for whom authority B is the responsible local authority within the meaning of section 104, authority A may recover from authority B any reasonable expenses incurred by it in exercising its functions under sections 105 to 115 in respect of that person.
- [^{F8}(8) Where a local authority (“authority A”) complies with any request under section 27(2) of the Children Act 1989 (co-operation between authorities) from a local authority in England (“authority B”) in relation to a person—
- (a) whose responsible authority (within the meaning of Part 3 of that Act) is authority B for the purposes of section 23B or 23C of that Act, or
 - (b) whom authority B are advising or befriending or to whom it is giving assistance by virtue of section 24(5)(a) of that Act,
- authority A may recover from authority B any reasonable expenses incurred by it in exercising its functions under sections 105 to 115 of this Act in respect of that person.]

Textual Amendments

- F1** Words in s. 193(3) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **315(a)**
- F2** Words in s. 193(4) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **315(b)**
- F3** Words in s. 193(4)(c) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 1 para. 30(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Words in s. 193(4)(c) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 4 para. 224(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F5** Words in s. 193(6) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **315(c)(i)**
- F6** Words in s. 193(6) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **315(c)(ii)**
- F7** Words in s. 193(6) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **315(c)(iii)**
- F8** S. 193(8) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **315(d)**

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Commencement Information

II S. 193 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

194 Ordinary residence

- (1) Where 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 regulations and the adult is living in accommodation in Wales of a type so specified, the adult is to be treated for the purposes of this Act as ordinarily resident—
 - (a) in the area in which the adult was ordinarily resident immediately before the adult began to live in accommodation of a type specified in the regulations, or
 - (b) if the adult was of no settled residence immediately before the adult began to live in accommodation of a type so specified, in the area in which the adult was present at that time.
- (2) Where, before beginning to live in his or her current accommodation, the adult was living in accommodation of a type so specified (whether or not of the same type as the current accommodation), the reference in subsection (1)(a) to when the adult began to live in accommodation of a type so specified is a reference to the beginning of the period during which the adult has been living in accommodation of one or more of the specified types for consecutive periods.
- (3) The regulations may make provision for determining for the purposes of subsection (1) whether 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 regulations.
- (4) A person who is being provided with accommodation under a health enactment is to be treated for the purposes of this Act as ordinarily resident—
 - (a) in the area in which the person was ordinarily resident immediately before the accommodation was provided, or
 - (b) if the person was of no settled residence immediately before the accommodation was provided, in the area in which the person was present at that time.
- [^{F9}(4A) A person who is being provided with accommodation under section 117 of the Mental Health Act 1983 (after-care) is to be treated for the purposes of this Act as ordinarily resident in the area of the local authority, or the local authority in England, on which the duty to provide that person with services under that section is imposed.]
- (5) In subsection (4) “health enactment” means—
 - (a) the National Health Service (Wales) Act 2006;
 - (b) the National Health Service Act 2006;
 - (c) the National Health Service (Scotland) Act 1978;
 - (d) the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14));
 - (e) the Health and Social Care (Reform) Act (Northern Ireland) 2009.
- (6) In determining the ordinary residence of a child for the purposes of this Act, the child's residence in the following places is to be disregarded—
 - (a) a school or other institution;
 - (b) a place in which the child is placed in accordance with the requirements of a supervision order under the Children Act 1989;

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- (c) a place in which the child is placed in accordance with the requirements of a youth rehabilitation order under ^[F10]Chapter 1 of Part 9 of the Sentencing Cod];
 - (d) accommodation provided by or on behalf of a local authority or a local authority in England;
 - (e) a place specified in regulations.
- (7) See also sections 185(1) to (3) and 186(2) for provision as to the ordinary residence of persons in prison, youth detention accommodation or bail accommodation etc.
- ^[F11](8) For provision about cross-border placements to and from England, Scotland or Northern Ireland, see Schedule 1 to the Care Act 2014.]

Textual Amendments

- F9** S. 194(4A) inserted (6.4.2016) by *The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016* (S.I. 2016/413), regs. 2(1), **316(a)**
- F10** Words in s. 194(6)(c) substituted (1.12.2020) by *Sentencing Act 2020* (c. 17), s. 416(1), **Sch. 24 para. 305(1)** (with *Sch. 27*); S.I. 2020/1236, reg. 2
- F11** S. 194(8) inserted (6.4.2016) by *Care Act 2014* (c. 23), s. 127(1), **Sch. 1 para. 13** (with *Sch. 1 paras. 8, 14*); S.I. 2016/464, art. 2(c)

Commencement Information

- I2** S. 194 in force at 6.4.2016 by S.I. 2016/412, **art. 2** (with art. 4, Schs. 1, 2)

195 Disputes about ordinary residence and portability of care and support

- (1) A dispute between local authorities about where a person is ordinarily resident in Wales for the purposes of this Act, or a dispute between a sending and receiving authority under section 56 about the application of that section in relation to a person, is to be determined by—
- (a) the Welsh Ministers, or
 - (b) a person appointed by the Welsh Ministers for that purpose (“an appointed person”).
- ^[F12](1A) Where the dispute is one to which section 30(2C) of the Children Act 1989 applies (questions of whether child ordinarily resident in England or Wales), then subsection (1) does not apply.]
- (2) Regulations may make further provision about the resolution of disputes of the type mentioned in subsection (1); the regulations may, for example, make—
- (a) provision for ensuring that care and support is provided to a person while a dispute is unresolved;
 - (b) provision requiring local authorities in dispute to take specified steps before referring a dispute to the Welsh Ministers or an appointed person;
 - (c) provision about the procedure for referring a dispute to the Welsh Ministers or an appointed person;
 - (d) provision about the review of a determination made under subsection (1).

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Textual Amendments

F12 S. 195(1A) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **317**

Commencement Information

I3 S. 195 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), Schs. 1, 2)

[^{F13}195A Offences committed by bodies or partnerships

- (1) Where a body corporate is guilty of an offence under this Act, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—
 - (a) any director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,that person is guilty of the offence as well as the body corporate, and is liable to be proceeded against and punished accordingly.
- (2) For the purposes of this section “director” (“*cyfarwyddwr*”) in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) Proceedings for an offence alleged to have been committed under this Act by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (4) Any fine imposed on an unincorporated body on its conviction of an offence under this Act is to be paid out of the funds of that body.
- (5) If an unincorporated body is charged with an offence under this Act, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates’ Courts Act 1980 (c. 43) have effect as if a corporation had been charged.
- (6) Where an offence under this Act committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of, any officer of the body or any member of its governing body, that person as well as the body is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) Where an offence under this Act committed by a partnership or a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.]

Textual Amendments

F13 S. 195A inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **318**

Changes to legislation:

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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. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))