STATUTORY INSTRUMENTS

2015 No. 995

SOCIAL CARE, ENGLAND

The Care Act 2014 (Transitional Provision) Order 2015

Made - - - - 26th March 2015

Coming into force in accordance with article 1(1)

The Secretary of State makes this Order in exercise of the powers conferred by sections 124 and 125(7) of the Care Act 2014(**1**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Care Act 2014 (Transitional Provision) Order 2015 and comes into force on the day on which section 1 of the Act comes into force.

(2) In this Order—

"the Act" means the Care Act 2014;

"the 1948 Act" means the National Assistance Act 1948(**2**);

"the 1983 Act" means the Health and Social Services and Social Security Adjudications Act 1983(**3**);

"the 2001 Act" means the Health and Social Care Act 2001(**4**);

"the 2015 Order" means the Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015(**5**);

"relevant date" means, in relation to a person, the date on which Part 1 of the Act (care and support) applies to that person by virtue of article 2.

Transitional provision in respect of persons in receipt of services

2.—(1) Except as provided by this Order, Part 1 of the Act does not apply in the case of a person to whom, or in relation to whom, immediately before this Order comes into force, support or services are being provided, or payments towards the cost of support or services are being made.

(**1**) 2014 c. 23.
(**2**) 1948 c. 29.
(**3**) 1983 c. 41.
(**4**) 2001 c. 15.
(**5**) S.I. 2015/ 914

(2) A local authority providing such support or services or making such payments must, before 1st April 2016, complete a review of that person's case and from the time the local authority has completed that review, Part 1 of the Act will apply in respect of that person's case.

(3) If a local authority fails to comply with paragraph (2), Part 1 of the Act applies in that person's case with effect from 1st April 2016.

(4) In respect of a person to whom paragraph (3) applies, that person is to be treated as—

(a) having needs for care and support or support which meet the eligibility criteria under section 13(7) of the Act (the eligibility criteria);

(b) being entitled to have those needs met under the Act; and

(c) having complied with any requirements in or under the Act to enable the person to have those needs met,

until the local authority has completed a review in that person's case.

(5) A local authority has completed a review in a person's case when—

(a) they conclude that the person does not have needs for care and support or for support (as the case may be) in accordance with the Act;

(b) having concluded that the person has such needs and that they are going to meet some or all of them, they begin to do so; or

(c) having concluded that the person has such needs, they conclude that they are not going to meet any of those needs (whether because those needs do not meet the eligibility criteria or for some other reason).

Transitional provision in relation to enforcement of debts

3.—(1) Subject to paragraphs (3) and (4), a sum or charge to which paragraph (2) applies is recoverable under section 69 of the Act (recovery of charges, interest etc.) as if it were a sum due to the local authority in question under Part 1 of the Act.

(2) This paragraph applies to any sum or charge due under Part 3 of the 1948 Act (local authority services) or section 17 of the 1983 Act (charges for local authorities in England and Wales) to a local authority in England in respect of support or services (including a sum or charge which becomes due on or after the date on which this Order comes into force).

(3) Paragraph (1) does not apply to a sum or charge in respect of which proceedings for recovery have begun prior to this Order coming into force.

(4) A sum or charge is recoverable under paragraph (1) within the period within which it would, but for this article, have been recoverable under section 56 of the 1948 Act (legal proceedings) or, as the case may be, section 17 of the 1983 Act.

(5) Notwithstanding article 3(3) of the 2015 Order, neither section 56(1) of the 1948 Act nor section 17(4) of the 1983 Act apply in relation to a sum or charge which is recoverable under paragraph (1).

Transitional modifications in respect of deferred payments

4.—(1) Sections 34 and 35 (deferred payment agreements etc.) of the Act apply in the case of a person to whom, by virtue of article 2, Part 1 of the Act does not otherwise apply.

(2) Where sections 34 and 35 of the Act apply in a person's case by virtue of paragraph (1), the Care and Support (Deferred Payment) Regulations 2014(**6**) ("the regulations") apply with the following modifications—

(**6**) S.I. 2014/2671.