STATUTORY INSTRUMENTS

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(**1**).

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(**2**);

"the SSWWA 2014" means the Social Services and Well-being (Wales) Act 2014(**3**).

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);

(**1**) 2014 c.23.
(**2**) 1983 c.20.
(**3**) 2014 anaw 4.

(c) subject to the modification made by article 7(2) of the Care Act 2014 (Commencement No. 2) Order 2014(**4**), 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).

(**4**) 2014/2473.

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 provision of accommodation in a care home(**5**) 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(**6**).".

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**) *See* section 8(3) of the Care Act 2014 as to the meaning of "care home".

(**6**) 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).

(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.".

Signed by authority of the Secretary of State for Health.

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

26th March 2015