



Health and Social Care Act 2001

2001 CHAPTER 15

PART 4

SOCIAL CARE

Measures to increase availability of Part 3 accommodation

53 Disregarding of resources when determining need for residential accommodation

In section 21 of the 1948 Act (duties of local authorities to provide accommodation), for subsections (2A) and (2B) there shall be substituted—

“(2A) In determining for the purposes of paragraph (a) or (aa) of subsection (1) of this section whether care and attention are otherwise available to a person, a local authority shall disregard so much of the person’s resources as may be specified in, or determined in accordance with, regulations made by the Secretary of State for the purposes of this subsection.

(2B) In subsection (2A) of this section the reference to a person’s resources is a reference to his resources within the meaning of regulations made for the purposes of that subsection.”

Commencement Information

- I1** S. 53 partly in force; s. 53 not in force at Royal Assent see s. 70(2); s. 53 in force for E. at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, [Sch.](#)
- I2** S. 53 in force at 1.4.2003 for W. by [S.I. 2003/939](#), art. 2, [Sch. 1](#)

^{F1}54 Funding by resident etc. of more expensive accommodation

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Status: Point in time view as at 06/04/2016.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2001, Cross Heading: Measures to increase availability of Part 3 accommodation. (See end of Document for details)

Textual Amendments

- F1** S. 54 omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014](#) (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **182**

55 Power for local authorities to take charges on land instead of contributions

- (1) Where a person (“the resident”)—
- (a) is availing himself of Part 3 accommodation provided by a local authority, or is proposing to do so, and
 - (b) is liable, or would be liable, to pay for the accommodation (whether at the full standard rate determined in accordance with section 22(2) or 26(2) of the 1948 Act or at any lower rate),

the local authority may enter into a deferred payment agreement with the resident.

- (2) The relevant authority may by directions require local authorities, where—
- (a) they provide or are to provide Part 3 accommodation for a person falling within subsection (1) (“the resident”), and
 - (b) any conditions specified in the directions are satisfied,
- to enter into a deferred payment agreement with the resident.

[^{F2}(2A) A local authority in England may not enter into, or be required by directions under subsection (2) to enter into, a deferred payment agreement on or after the day on which section 1 of the Care Act 2014 came into force.]

[^{F3}(2B) A local authority in Wales may not enter into, or be required by directions under subsection (2) to enter into, a deferred payment agreement on or after the day on which section 2 of the Social Services and Well-being (Wales) Act 2014 came into force.]

- (3) A “deferred payment agreement” is an agreement whereby—
- (a) during the exempt period the resident will not be required to make payment to the authority of any relevant contributions in respect of periods (or parts of periods) falling within the exempt period, but
 - (b) the total amount of the relevant contributions shall become payable to the authority on the day after the date on which the exempt period ends, and
 - (c) the resident will grant the authority a charge in their favour in respect of any land specified in the agreement in which he has a beneficial interest (whether legal or equitable) for the purpose of securing the payment to the authority of the total amount payable to them as mentioned in paragraph (b).
- (4) “The exempt period”, in relation to a deferred payment agreement, is the period beginning with the time when the agreement takes effect and ending—
- (a) 56 days after the date of the resident’s death, or
 - (b) with any earlier date which, in accordance with the agreement, the resident has specified in a notice given by him to the authority for the purposes of subsection (5)(b).
- (5) The provisions of any deferred payment agreement and any such charge as is mentioned in subsection (3)(c)—
- (a) shall be determined by the authority in accordance with any directions given by the relevant authority; but

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- (b) shall secure that the agreement and any such charge may be terminated by notice given to the authority by the resident on payment of the full amount which he is liable to pay as mentioned in subsection (3)(a) down to the date of the payment.
- (6) Where a deferred payment agreement is in force in respect of the resident—
- (a) no interest shall accrue at any time on or before the date on which the exempt period ends in respect of any sum which he is liable to pay as mentioned in subsection (3)(a); but
- (b) as from the day after that date, any such sum shall bear interest at such reasonable rate as the relevant authority may direct or, if no such directions are given, as the authority may determine;
- and accordingly any charge granted in pursuance of subsection (3)(c) shall secure payment to the authority of any interest falling due by virtue of paragraph (b) above.
- [^{F4}(7) Any reference in this section to relevant contributions is a reference to—
- (a) so much of the payments which the resident is liable to pay to an authority for Part 3 accommodation (including any payments which are additional payments for the purpose of section 54) as may be specified in, or determined in accordance with, regulations made for the purposes of this subsection; and
- (b) any sum due to an authority by the resident under Part 1 of the Care Act 2014 or Part 5 of the Social Services and Well-being (Wales) Act 2014 in respect of meeting needs for care and support by the provision of accommodation for the resident, including anything provided in connection with that accommodation.]
- (8) Any directions given by the relevant authority under this section shall be given to local authorities generally.

Textual Amendments

- F2** S. 55(2A) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 64(2)** (with arts. 1(3), 3)
- F3** S. 55(2B) 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), **183(a)**
- F4** S. 55(7) 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), **183(b)**

Commencement Information

- I3** S. 55 partly in force; s. 55 in force for certain purposes at 11.5.2001, see s. 70(2); s. 55(1)-(6)(8) in force for E. for certain purposes at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, **Sch.**
- I4** S. 55 in force at 1.4.2003 for W. by [S.I. 2003/939](#), art. 2, **Sch. 1**

^{F5}56 Cross-border placements

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Changes to legislation: *There are currently no known outstanding effects for the Health and Social Care Act 2001,
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Textual Amendments

- F5** S. 56 omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014](#) (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **184**

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Changes to legislation:

There are currently no known outstanding effects for the Health and Social Care Act 2001, Cross Heading: Measures to increase availability of Part 3 accommodation.