



# Community Care (Delayed Discharges etc.) Act 2003

## 2003 CHAPTER 5

### PART 1

#### DELAYED DISCHARGE PAYMENTS

##### *Supplemental*

#### **10 Adjustments between social services authorities**

- (1) Regulations may make provision as to the application of this Part in cases where, in relation to a qualifying hospital patient, it appears to the responsible authority for the time being that the patient is ordinarily resident in the area of another social services authority.
- (2) The regulations may, among other things, authorise or require a social services authority—
  - (a) to accept a notice given to it under section 2 notwithstanding that it may wish to dispute that it was the right authority to be notified;
  - (b) to become the responsible authority for a patient's case in place of the social services authority previously responsible;
  - (c) to recover expenditure incurred—
    - (i) in the performance of functions under this Part in relation to a qualifying patient;
    - (ii) in the provision of community care services which are the subject of a decision under section 4(2)(b); or
    - (iii) in the provision of services to a carer which are the subject of a decision under section 4(3)(b),from another social services authority.

**Status:** Point in time view as at 01/10/2010. This version of this cross heading contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the Community Care (Delayed Discharges etc.) Act 2003, Cross Heading: Supplemental. (See end of Document for details)

- (3) The regulations may modify the effect of any provision of this Part as it applies in any cases falling within subsection (1).

#### Commencement Information

**II** S. 10 in force at 4.9.2003 for E. by S.I. 2003/2280, art. 2(1)(g)

## 11 Regulations and orders

- (1) Any power to make regulations or an order under this Part is exercisable by the appropriate Minister by statutory instrument.
- (2) Regulations under this Part may—
- (a) make different provision for different cases and circumstances and different provision for different areas;
  - (b) make supplementary, consequential, incidental, transitional or saving provision.
- (3) Regulations under section 1 which—
- (a) prescribe care for the purposes of the definition of “qualifying hospital patient”; and
  - (b) are made by the Secretary of State (or by the Secretary of State and the Assembly acting jointly),
- may not prescribe a description of care which is, or includes, mental health care unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument which—
- (a) contains regulations or an order under this Part, other than regulations which fall to be approved in draft by virtue of subsection (3); and
  - (b) is made by the Secretary of State (or by the Secretary of State and the Assembly acting jointly),
- is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I2** S. 11 in force at 4.9.2003 for E. by S.I. 2003/2280, art. 2(1)(g)

## 12 Interpretation

In this Part—

- “carer”, in relation to a qualifying hospital patient, means a person who—
- (a) provides or intends to provide a substantial amount of care on a regular basis for the patient; and
  - (b) is entitled to ask for an assessment under section 1 of the Carers and Disabled Children Act 2000 (c. 16);
- “community care service” has the meaning given by section 46(3) of the National Health Service and Community Care Act 1990;

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“health service hospital” [<sup>F1</sup>means a health service hospital within the meaning given by the National Health Service Act 2006 or the National Health Service (Wales) Act 2006];

[<sup>F2</sup>“independent hospital”—

(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;]

“mental health care” means any health services relating to mental health which are of a description prescribed by order;

“NHS body” has the meaning given by section 1;

“qualifying hospital patient” has the meaning given by section 1;

“the relevant day” has the meaning given in section 5(6);

“the responsible authority” has the meaning given by section 2(6);

“the responsible NHS body” has the meaning given by section 2(5);

“social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970.

#### Textual Amendments

**F1** Words in s. 12 substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 231](#) (with [Sch. 3 Pt. 1](#))

**F2** Words in s. 12 substituted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No. 2\) Order 2010 \(S.I. 2010/813\)](#), [art. 11](#)

#### Commencement Information

**I3** S. 12 in force at 4.9.2003 for E. by [S.I. 2003/2280](#), [art. 2\(1\)\(g\)](#)

### 13 Application of Local Authority Social Services Act 1970

In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions to which that Act applies) at the appropriate place there is inserted—

“Community Care (Delayed Discharges etc.) Act 2003

Part 1.....

Functions relating to hospital patients likely to need community care services to be made available in order to be discharged safely.”

#### Commencement Information

**I4** [S. 13](#) in force at 1.10.2003 for E. by [S.I. 2003/2280](#), [art. 2\(2\)\(b\)](#)

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PROSPECTIVE

**F3 14 Power to apply Part 1 to NHS patients in care homes**

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**Textual Amendments**

**F3** Act repealed (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 91\(2\)](#), 186(6); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))

**Status:**

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**Changes to legislation:**

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