

2015 No. 644

SOCIAL CARE

**The Care and Support (Miscellaneous Amendments)
Regulations 2015**

Made - - - - *10th March 2015*

Laid before Parliament *11th March 2015*

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 14(5) and (7), 17(11) and (12), 33(1) and (2), 34(1) and (7), 39(1) and (8), 75(7) and 125(7) and (8) of, and paragraphs 1(6) and (7), 2(9) and (10) and 4(5) and (6) of Schedule 1 to, the Care Act 2014(a).

In accordance with paragraph 11 of Schedule 1 to the Care Act 2014, the Secretary of State has obtained the consent of the Welsh Ministers, the Scottish Ministers and the Northern Ireland Department(b) to the making of these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Care and Support (Miscellaneous Amendments) Regulations 2015.

(2) Subject to paragraph (3), regulations 2 to 6 come into force on the same date as the date that the Regulations they amend come into force and this regulation comes into force on the earliest of those dates.

(3) Regulation 3(a) and (b) comes into force on whichever is the later of 6th April 2015 or the date that the Care and Support (Charging and Assessment of Resources) Regulations 2014(c) come into force.

Amendment to the Care and Support (Deferred Payment) Regulations 2014

2. After regulation 6(5) of the Care and Support (Deferred Payment) Regulations 2014(d) (adult’s contribution) insert—

“(6) But nothing in this regulation requires the local authority to—

(a) defer any amount which is due to it under section 14 or 30(2); or

(a) 2014 c.23 (“the Act”). The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1). Pending the commencement of Part 4 of the Social Services and Well-being (Wales) Act 2014 (2014 anaw 4), paragraphs 1, 2 and 4 of Schedule 1 to the Act have effect with the modifications set out in paragraph 14 of that Schedule.

(b) *See* paragraph 12(9) of Schedule 1 to the Act as to the meaning of “Northern Ireland Department”.

(c) S.I. 2014/2672.

(d) S.I. 2014/2671.

(b) advance any or all of an instalment or part of an instalment under the loan agreement to the adult,
if, under regulation 5(3) of these Regulations or in accordance with the terms of the agreement, the authority is required to, or is permitted to, cease to defer that amount or cease to advance any or all of the instalment or part of the instalment under the loan agreement.”.

Amendments to the Care and Support (Charging and Assessment of Resources) Regulations 2014

3. The Care and Support (Charging and Assessment of Resources) Regulations 2014(a) are amended as follows—

- (a) in regulation 6 (personal expenses allowance for residents or temporary residents provided with accommodation in a care home), for “£24.40” substitute “£24.90”;
- (b) in regulation 7 (minimum income guaranteed amount for other adults and carers whose needs are being met otherwise than by the provision of accommodation in a care home)—
 - (i) in paragraph (1)(b), for “£82.95” substitute “£83.65”;
 - (ii) in paragraph (2)(a), for “£71.70” substitute “£72.40”;
 - (iii) in paragraphs (2)(b) and (3), for “£90.50” substitute “£91.40”;
 - (iv) in paragraph (2)(c), for “£185.45” substitute “£189.00”;
 - (v) in paragraph (4)(a), for “£71.05” substitute “£71.80”;
 - (vi) in paragraph (4)(b), for “£141.55” substitute “£144.30”;
 - (vii) in paragraph (5)(a), for “£39.85” substitute “£40.35”;
 - (viii) in paragraph (5)(b), for “£19.45” substitute “£19.70”;
 - (ix) in paragraph (6)(a), for “£28.35” substitute “£28.75”;
 - (x) in paragraph (6)(b), for “£13.95” substitute “£14.15”;
 - (xi) in paragraph (7), for “£42.75” substitute “£43.25”;
- (c) in regulation 7, after paragraph (9) insert—

“(10) For the purposes of this regulation, the adult concerned is a single person if the adult neither has a partner nor is a lone parent.”;
- (d) in paragraph 15 of Part 1 of Schedule 1 (sums to be disregarded in the calculation of income)—
 - (i) in sub-paragraph (2), for “paragraph 46” substitute “paragraph 45”;
 - (ii) in sub-paragraph (3)(e), for “resident” substitute “adult”;
- (e) in paragraph 45 of Part 2 of Schedule 1—
 - (i) in sub-paragraph (a), for “the adult” substitute “a person” and for “the adult’s”, in each place where it occurs, substitute “the person’s”;
 - (ii) in sub-paragraph (b), for “the adult” substitute “the resident” and for “the adult’s” substitute “the resident’s”;
- (f) in paragraph 46 of Part 2 of Schedule 1, for “15(2)” substitute “15”.

Amendments to the Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014

4. The Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014(b) are amended as follows—

(a) S.I. 2014/2672.
(b) S.I. 2014/2828.

- (a) in regulation 2 (specified types of accommodation), for “The following” substitute “(1) Subject to paragraph (2), the following”;
- (b) after regulation 2(1) (as re-numbered) insert—
 - “(2) The types of accommodation referred to in paragraph (1) are specified in relation to an adult for the purposes of section 39(1) of the Act only if the care and support needs of the adult are being met under Part 1 of the Act while the adult lives in that type of accommodation.”.

Amendment to the Care and Support (Cross-border Placements) (Business Failure Duties of Scottish Local Authorities) Regulations 2014

5. In regulation 1(3) of the Care and Support (Cross-border Placements) (Business Failure Duties of Scottish Local Authorities) Regulations 2014(a) (interpretation), for the definition of “care provider” substitute—

““care provider” means a person providing a care service registered under section 59 of the 2010 Act;”.

Amendment to the Care and Support (Direct Payments) Regulations 2014

6. In Schedule 2 to the Care and Support (Direct Payments) Regulations 2014(b) (list of local authorities who are not prohibited from making a direct payment for the purpose of securing long term care in a care home) omit the following—

- (a) “Dorset County Council”;
- (b) “London Borough of Havering”;
- (c) “Manchester City Council”.

Signed by authority of the Secretary of State for Health.

Norman Lamb
Minister of State
Department of Health

10th March 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various Regulations made under Part 1 of the Care Act 2014 (“the Act”).

Regulation 2 amends regulation 6 of the Care and Support (Deferred Payment) Regulations 2014 (“the Regulations”) to expressly provide that it does not require a local authority to defer any amount if other provisions of the Regulations or the terms and conditions of the agreement prohibit the authority from doing so or allow the authority not to do so.

Regulation 3 amends regulation 6 of the Care and Support (Charging and Assessment of Resources) Regulations 2014 (“the Charging Regulations”) so that the amount below which a care home resident’s income would need to fall in order for the local authority not to be permitted to charge for meeting needs, is increased from £24.40 to £24.90 per week. Under regulation 7 of the Charging Regulations, the amount below which an adult’s (other than a care home resident’s) income would need to fall in order for the local authority not to be permitted to charge for meeting needs, is an aggregate of various amounts and certain premiums. Regulation 3 amends regulation

(a) S.I. 2014/2839.
(b) S.I. 2014/2871.

7 of the Charging Regulations to increase those amounts and also inserts a provision as to the meaning of a “single person” in regulation 7 of the Charging Regulations. Regulation 3 also corrects certain errors in cross-references and terminology in paragraphs 15, 45 and 46 of Schedule 1 to the Charging Regulations.

Regulation 4 amends the Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014. These Regulations set out the types of accommodation to which the ordinary residence rule in section 39(1) of the Act applies. The effect of the amendments is that the deeming of ordinary residence applies only from when the person living in one of the specified types of accommodation begins to receive care and support under the Act.

Regulation 5 amends the definition of “care provider” in the Care and Support (Cross-border Placements) (Business Failure Duties of Scottish Local Authorities) Regulations 2014.

Regulation 6 amends Schedule 2 to the Care and Support (Direct Payments) Regulations 2014 by omitting Dorset County Council, London Borough of Havering and Manchester City Council from the list of local authorities who, under regulation 6 of those Regulations, may make a direct payment for the provision of accommodation in a care home.

A separate impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment can be requested via careactconsultation@dh.gsi.gov.uk or Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS and is available online at <https://www.gov.uk/government/organisations/department-of-health>.

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