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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This order brings into effect section 148 of the Health and Social Care Act 2008 (“the Act”). This section makes amendments to sections 24 and 32 of the National Assistance Act 1948 (“the 1948 Act”) and section 2 of the Chronically Sick and Disabled Persons Act 1970 (“the 1970 Act”).

Under Part 3 of the 1948 Act and section 2 of the 1970 Act, a local authority is liable for the provision of services for people who are ordinarily resident in its area. Where two or more local authorities are in dispute about a person’s ordinary residence, section 32 of the 1948 Act provides that they can refer the dispute to the Secretary of State or the Welsh Ministers for determination.

In relation to the provision of residential accommodation, section 24 of the 1948 Act sets out additional provisions about ordinary residence. Subsections (6) and (7) of section 24 are replaced by new subsections (6) and (6A). The new subsections provide that a person provided with NHS accommodation is deemed to retain his or her ordinary residence in the area in which the person was residing before the NHS accommodation was provided, regardless of whether this placement is in hospital or another sort of placement. Article 3(1) makes transitional provision to clarify that the amendment will not affect those who are already in non-hospital NHS placements immediately before the provision comes into force but will take effect for patients in hospitals vested in Local Health Boards at that time.

Section 148 (2) of the Act amends section 32 of the 1948 Act to clarify how disputes, including those which involve an authority in England and an authority in Wales, will be resolved. The amendment places a duty on the Secretary of State and the Welsh Ministers to make and publish arrangements in this regard.

Section 148(3) of the Act amends section 2 of the 1970 Act to make disputes between local authorities about ordinary residence subject to determination through the procedure under section 32 of the 1948 Act.

The transitional provision in article 3(2) provides that this amendment will not operate in relation to any case which is already the subject of court proceedings on the day the amendment comes into force.