



Department
of Health

Secondary Legislation

Draft regulations for consultation

Part 1 of the Care Act 2014

Contents

**These Regulations are being published in draft for consultation purposes only.
The final Regulations will be made and laid before Parliament following consultation.**

The Care and Support (Assessment) Regulations 2014	1
The Care and Support (Eligibility Criteria) Regulations 2014	6
The Care and Support (Independent Advocacy) Regulations 2014	9
The Care and Support (Charging and Assessment of Resources) Regulations 2014	14
The Care and Support (Preventing Needs for Care and Support) Regulations 2014	34
The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014	36
The Care and Support (Deferred Payment) Regulations 2014	41
The Care and Support (Personal Budget Exclusion of Costs) Regulations 2014	47
The Care and Support (Direct Payments) Regulations 2014	49
Care and Support (Provision of Health Services) Regulations 2014	58
The Care and Support (Discharge of Hospital Patients) Regulations 2014	63
The Care and Support (Children’s Carers) Regulations 2014	70
The Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014	74
The Care and Support (Ordinary Residence Disputes, etc.) Regulations 2014	77
The Care and Support (Continuity of Care) Regulations 2014	82
The Care and Support (Cross-border Placements and Provider Failure: Temporary Duty) (Dispute Resolution) Regulations 2014	84
The Care and Support (Business Failure) (England and Wales and Northern Ireland) Regulations 2014	92
The Care and Support (Market Oversight Criteria) Regulations 2014	96
The Care and Support (Market Oversight Information) Regulations 2014	99
The Care and Support (Cross-border Placements) (Business Failure Duties) (Scotland) Regulations 2014	101
The Care and Support (Registers) Regulations 2014	105
The National Health Service (Licence Exemptions, etc.) Amendment Regulations [2014]	107

Note: This draft regulation is not made under the Care Act. Please refer to Annex B of the consultation document for information about the monitor licensing regime and social care organisations, and the proposals on the extension of licence exemption of nursing care

2014 No.

SOCIAL CARE, ENGLAND

The Care and Support (Assessment) Regulations 2014

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 12(1), (2), 65(1) and 125(7) and (8) of the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Assessment) Regulations 2014 and come into force on 1 April 2015.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“assessment” means—

- (a) a needs assessment(b);
- (b) a child’s needs assessment(c);
- (c) a carer’s assessment(d);
- (d) a child’s carer’s assessment(e);
- (e) a young carer’s assessment(f);

“supported self-assessment” has the meaning given by regulation 2(1).

Supported self-assessment

2.—(1) A supported self-assessment is an assessment carried out jointly by the local authority(g) and the individual to whom it relates.

(2) A local authority proposing to carry out an assessment must ascertain whether the individual to whom the assessment is to relate wishes the assessment to be a supported self-assessment.

(a) 2014 c. 23. The power to make regulations is exercisable by the Secretary of State, *see* section 125(1).
(b) *See* section 9 of the Act.
(c) *See* section 58 of the Act.
(d) *See* section 10 of the Act.
(e) *See* section 60 of the Act.
(f) *See* section 63 of the Act.
(g) *See* section 1(4) of the Act for the meaning of local authority.

- (3) A supported self-assessment must be carried out if the individual concerned—
- (a) wishes the assessment to be a supported self-assessment; and
 - (b) has the capacity^(a) to take part in a supported self assessment, and (where the individual concerned is a child) is also competent to do so.
- (4) A local authority must ensure that a supported self-assessment taken as a whole reflects the overall needs of the individual to whom it relates, having regard to the individual's contribution to it.
- (5) To facilitate the carrying out of the assessment a local authority must provide an individual taking part in a supported self-assessment with any information it may have—
- (a) about that individual; and
 - (b) in the case of—
 - (i) a carer's assessment, about the adult needing care^(b);
 - (ii) a child's carer's assessment, about the child concerned;
 - (iii) a young carer's assessment, about the adult being cared for.
- (6) The information must be provided in a format which is accessible to the individual to whom it is given.

Assessment – general requirements

- 3.**—(1) A local authority must carry out an assessment—
- (a) in a manner which is appropriate and proportionate to the needs and circumstances of the individual to whom it relates; and
 - (b) having regard to the importance of ensuring that the individual is able to participate in the process as effectively as possible.
- (2) In seeking to ensure that an assessment is carried out in an appropriate and proportionate manner, a local authority must have regard to—
- (a) the wishes and preferences of the individual to whom it relates;
 - (b) the outcome the individual seeks from the assessment; and
 - (c) the severity and overall extent of the individual's needs.
- (3) In a case where the effect of the individual's needs fluctuates, the local authority must into account the individual's circumstances over such period as it considers necessary to establish an accurate indication of the individual's level of needs.
- (4) A local authority must give information about the assessment process—
- (a) to the individual whose needs are being assessed; or
 - (b) in the case of a child's needs assessment or a young carer's assessment, if the child or young carer is not competent or lacks capacity to understand the assessment process, to the parents^(c) of that child or young carer.
- (5) The information must be provided prior to the assessment wherever practicable, and in a format which is accessible to the individual to whom it is given.

Impact on the individual's family etc

- 4.**—(1) A local authority carrying out an assessment must consider the impact of the needs of the individual to whom the assessment relates on—
- (a) any relative or other person who is involved in caring for the individual; and

(a) A reference to having or lacking capacity is to be interpreted in accordance with the Mental Capacity Act 2005 (c.9), *see* section 80(2) of the Act.

(b) *See* section 10(3) of the Act for the meaning of adult needing care.

(c) *See* section 58(6) of the Act for the meaning of "parent".

(b) any other relative or person the local authority considers to be relevant.

(2) Where a local authority considers that any relative or other person would benefit from the provision of information and advice relating to care and support for individuals or support for carers, it must advise that person how to obtain such information and advice.

(3) If it appears to a local authority carrying out a needs assessment or a child's needs assessment that the individual to whom the assessment relates has a carer, the local authority must consider whether it is required to carry out—

- (a) a carer's assessment under section 10 of the Act; or
- (b) a child's carer's assessment under section 60 of the Act.

(4) If it appears to a local authority carrying out an assessment that a child is involved in providing care to any individual, the local authority must—

- (a) consider the impact of the needs of the individual concerned on the child's well-being, welfare, education and development; and
- (b) identify whether any of the tasks which the child is performing for the individual are inappropriate for the child to perform having regard to all the circumstances.

(5) In the light of these matters, (and if it has not already done so) the local authority must consider whether it is required to carry out any of the following assessments in relation to the child—

- (a) a young carer's needs assessment in accordance with section 17ZA (young carers' needs assessments: England) of the Children Act 1989(a);
- (b) an assessment for the purposes of section 17 (provision of services for children in need, their families and others) of the Children Act 1989(b); or
- (c) a young carer's assessment under section 63 (assessment of a young carer's needs for support) of the Act.

Training, expertise and consultation

5.—(1) A local authority must ensure that any person (other than in the case of a supported self-assessment, the individual to whom it relates) carrying out an assessment—

- (a) has the skills, knowledge and competence to carry out the assessment in question; and
- (b) has received training in the carrying out of assessments.

(2) Training must be suitable, up-to-date and undertaken at regular intervals.

(3) A local authority carrying out an assessment must consult a person who has expertise in relation to the condition or other circumstances of the individual whose needs are being assessed in any case where it considers that the needs of the individual concerned require it to do so.

(4) Such consultation may take place before carrying out the assessment or when doing so.

Requirement for specialist expertise – deafblind individuals

6.—(1) An assessment which relates to an individual who is deafblind must be carried out by a person who has specific training and expertise relating to individuals who are deafblind.

(a) 1989 c.41. Section 17ZA is inserted by the Children and Families Act 2014 (c.6), section 96.
(b) Section 17 has been amended by the Social Security (Consequential Provisions) Act 1992 (c.6) Schedule 2, paragraph 108(a); the Children (Leaving Care) Act 2000 (c.35) section 7(1) and (2); the Tax Credits Act 2002 (c.21) section 47 and Schedule 3, paragraphs 15 and 16; the Adoption and Children Act 2002 (c.38) section 116(1); the Children Act 2004 (c.31) section 53(1); the Welfare Reform Act 2007 (c.5) section 28(1) and Schedule 3, paragraph 6(1) and (2); the Children and Young Persons Act 2008 (c.23) sections 8(2), 24, 42 and 39, Schedule 1, paragraph 1, Schedule 3, paragraphs 1 and 2 and Schedule 4; and the Welfare Reform Act 2012 (c.5) sections 31, 147, Schedule 2, paragraph 1(a) and Schedule 14 Part 1.

(2) A local authority may appoint a person to carry out an assessment under paragraph (1) on its behalf and, if it does so, the local authority must facilitate the carrying out of the assessment by providing that person with any information which it may have—

- (a) about the individual whose needs are being assessed; and
- (b) in the case of—
 - (i) a carer’s assessment, about the adult needing care;
 - (ii) a child’s carer’s assessment, about the child concerned;
 - (iii) a young carer’s assessment, about the adult being cared for.

(3) Where an individual who is deafblind is taking part in a supported self-assessment, the person appointed under paragraph (1) must ensure that the assessment taken as a whole reflects the overall needs of the individual concerned.

(4) An individual is deafblind if the individual has combined sight and hearing impairment which cause difficulties with any one or more of communication, access to information, or mobility.

NHS continuing healthcare

7.—(1) Where it appears to a local authority carrying out a needs assessment that the individual to whom the assessment relates may be eligible for NHS continuing healthcare^(a), the local authority must refer the individual to the relevant body accordingly.

(2) Where it appears to a local authority carrying out a child’s needs assessment that the child may after becoming 18 be eligible for NHS continuing healthcare, the local authority must refer the individual to the relevant body accordingly.

(3) In performing its duties under this regulation a local authority must have regard to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care issued by the Secretary of State and dated 28 November 2012^(b).

(4) The “relevant body” means the National Health Service Commissioning Board^(c) or a clinical commissioning group^(d) as the case may be, which appears to the local authority to have responsibility for the individual by reason of regulation 20(2) of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012^(e).

Signed by authority of the Secretary of State for Health

Address
Date

Name
Minister of State
Department of Health

(a) See section 12(10) of the Act for the meaning of NHS continuing healthcare.
(b) www.gov.uk/government/uploads/system/uploads/attachment_data/file/213137/National-Framework-for-NHS-CHC-NHS-FNC-Nov-2012.pdf
(c) The National Health Service Clinical Commissioning Board is established by section 1H of the National Health Service Act 2006 (c.41). Section 1H was inserted by section 9(1) of the Health and Social Care Act 2012(c.7).
(d) A clinical commissioning group is a body established under section 14D of the National Health Service Act 2006. Section 14D was inserted by section 25(1) of the Health and Social Care Act 2012.
(e) S.I.2012/2996.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 9 and 10 of the Care Act 2014 impose duties on a local authority to assess an adult's needs for care and support, and a carer's needs for support, by carrying out a needs assessment or a carer's assessment. These Regulations make further provision about such assessments.

The Regulations also apply to an assessment carried out under that Act in relation to the likely care and support needs of a child on becoming an adult (a child's needs assessment), the likely support needs of a young carer on becoming an adult (a young carer's assessment) and the support needs of an adult carer of a child (a child's carer's assessment).

Regulation 2 makes provision for supported self-assessment, where the individual to whom the assessment relates and the local authority carry out the assessment jointly. Regulation 3 makes provision about the manner in which assessments are carried out, and regulation 4 imposes requirements relating to the family of the individual whose needs are being assessed, including where it appears that any child is involved in providing care to any individual.

Regulation 5 makes provision about the training and expertise of persons carrying out assessments, and regulation 6 makes specific provision about training and expertise in connection with the assessment of individuals who are deafblind. Regulation 7 requires the local authority to make a referral to the health service where it appears that the individual whose needs are being assessed may have a need for NHS continuing healthcare.

A full Impact Assessment has not been produced for this instrument as no impact on the private sector or civil society organisations is foreseen. A full impact assessment has been produced in relation to the relevant provisions of the Act and a copy is available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No. XXX

SOCIAL CARE, ENGLAND

The Care and Support (Eligibility Criteria) Regulations 2014

<i>Made</i>	- - - -	***
<i>Coming into force</i>	- -	***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 13(7) and (8) and 125(7) and (8) of the Care Act 2014(a).

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament in accordance with section 125(4)(a) of that Act.

Citation and commencement

1. These Regulations may be cited as the Care and Support (Eligibility Criteria) Regulations 2014 and shall come into force on 1st April 2015.

Needs which meet the eligibility criteria: adults who need care and support

2.—(1) An adult’s needs meet the eligibility criteria if—

- (a) the adult’s needs are caused by a physical or mental impairment or illness;
- (b) as a result of the adult’s needs the adult is unable to achieve an outcome specified in paragraph (2); and
- (c) as a consequence there is, or is likely to be, a significant impact on the adult’s well-being.

(2) The specified outcomes are—

- (a) carrying out some or all basic care activities;
- (b) maintaining family or other significant personal relationships;
- (c) accessing and engaging in work, training, education or volunteering;
- (d) accessing necessary facilities or services in the local community including medical services, public transport, educational facilities, and recreational facilities or services;
- (e) carrying out any caring responsibilities the adult has for a child.

(3) In this regulation, “basic care activities” means essential care tasks that a person carries out as part of normal daily life including—

- (a) eating and drinking;

(a) 2014 c. 23; see section 125(1) for the power to make regulations.

- (b) maintaining personal hygiene;
- (c) toileting;
- (d) getting up and dressed;
- (e) getting around one's home;
- (f) preparing meals; and
- (g) the cleaning and maintenance of one's home.

(4) For the purposes of this regulation an adult is to be regarded as being unable to achieve an outcome if the adult—

- (a) is unable to achieve it without assistance;
- (b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
- (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or
- (d) is able to achieve it without assistance but takes significantly longer than would normally be expected.

(5) Where the effects of an adult's needs fluctuate, in determining whether the adult's needs meet the eligibility criteria, the local authority must take into account the adult's circumstances over such period as it considers necessary to establish an accurate indication of the adult's level of need.

Needs which meet the eligibility criteria: carers

3.—(1) A carer's needs meet the eligibility criteria if—

- (a) the needs arise as a consequence of providing care for an adult; and
- (b) paragraph (2) or (3) applies.

(2) This paragraph applies if the effect of the carer's needs is that the carer is unable to provide some of the necessary care to the adult needing care.

(3) This paragraph applies if—

- (i) the effect of the carer's needs is that any of the circumstances specified in paragraph (4) apply to the carer; and
- (ii) as a consequence of that fact there is, or is likely to be, a significant impact on the carer's well-being.

(4) The circumstances specified in this paragraph are as follows—

- (a) the carer's physical or mental health is, or is at risk of, deteriorating;
- (b) the carer is unable to achieve any of the following outcomes—
 - (i) carrying out some or all basic household activities in the carer's home (whether or not this is also the home of the adult needing care);
 - (ii) carrying out any caring responsibilities the carer has for a child;
 - (iii) providing care to other persons for whom the carer provides care;
 - (iv) maintaining family or other significant personal relationships;
 - (v) engaging in work, training, education or volunteering;
 - (vi) making use of necessary facilities or services in the local community including medical services and educational facilities;
 - (vii) engaging in recreational activities.

(5) In this regulation, "basic household activities" means essential household tasks that a person carries out as part of normal daily life including preparing meals and the cleaning and maintenance of one's home.

(6) For the purposes of paragraph (2) a carer is to be regarded as being unable to provide the necessary care if the carer—

- (a) requires assistance to complete any task in relation to the provision of care;
- (b) is able to provide the care without assistance but doing so—
 - (i) causes or is likely to cause either the carer or the adult needing care significant pain, distress or anxiety; or
 - (ii) endangers or is likely to endanger the health or safety of the carer or the adult needing care.

(7) Where the effects of a carer's needs fluctuate, in determining whether the carer's needs meet the eligibility criteria, the local authority shall take into account the carer's circumstances over such period as it considers necessary to establish an accurate indication of the carer's level of need.

Signed by authority of the Secretary of State for Health.

Name

Date

Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the eligibility criteria for the purposes of Part 1 of the Care Act 2014 (“the Act”).

When an adult is found to have care and support needs following a needs assessment under section 9 of the Act (or in the case of a carer, support needs following a carer's assessment under section 10), the local authority must determine whether those needs are at a level sufficient to meet the “eligibility criteria” under section 13 of the Act. Sections 18 and 20 of the Act set out the duty of local authorities to meet those of an adult's needs for care and support and those of a carer's needs for support which meet the eligibility criteria.

Regulation 2 sets out the eligibility criteria for adults who need care and support, and regulation 3 sets out the eligibility criteria for carers who need support.

2014 No. XX

SOCIAL CARE, ENGLAND

**The Care and Support (Independent Advocacy Support)
Regulations 2014**

<i>Made</i>	- - - -	xxxx
<i>Laid before Parliament</i>		xxxx
<i>Coming into force</i>	- -	X April 2015

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 67(7) and 125(7) and (8) of the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Independent Advocacy Support) Regulations 2014 and come into force on 1 April 2015.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“the assessment or planning function” means the function, the exercise of which a local authority(b) is required by a relevant provision to involve an individual;

“independent advocate” means a person who is an independent advocate within the meaning of section 67 of the Act;

“relevant provision” has the meaning given by section 67(3) of the Act.

Requirements for a person to be an independent advocate

2.—(1) A local authority must not make arrangements in respect of a person under section 67(2) of the Act unless the authority is satisfied that the person—

- (a) has appropriate experience;
- (b) has undertaken appropriate training;
- (c) is competent to represent and support the individual as specified in section 67;
- (d) is of integrity and good character; and
- (e) has arrangements in place to receive appropriate supervision.

(2) A local authority must not make arrangements under section 67(2) of the Act in respect of a person who is engaged in providing care or treatment in a professional capacity or for remuneration for the individual to whom representation and support are being made available.

(a) 2014 c.23. The power to make regulations is exercisable by the Secretary of State *see* section 125(1).

(b) *See* section 1(4) of the Act for the meaning of local authority.

(3) The requirements that must be met for a person to be independent for the purposes of section 67(2) of the Act are that—

- (a) the local authority is satisfied that the person demonstrates the ability to act independently of the local authority; and
- (b) the person is not employed by, or otherwise working for, the local authority.

(4) Before deciding whether a person is of integrity and good character as mentioned in paragraph (1)(d), the local authority must obtain, in respect of that person, an enhanced criminal record certificate issued under section 113B of the Police Act 1997(a) which includes—

- (a) where the individual to whom representation and support are being made available is under 18 years of age, suitability information relating to children (within the meaning of section 113BA(b) of that Act);
- (b) where the individual to whom representation and support are being made available is 18 years of age or older, suitability information relating to vulnerable adults (within the meaning of section 113BB(c) of that Act).

(5) Where a local authority has made arrangements with any other person for that person to carry out the assessment or planning function on the local authority's behalf, the references in paragraph (1)(e) and (2)(a) to a local authority include a reference to that other person.

Matters to which a local authority must have regard in deciding whether an individual would experience substantial difficulty of the kind mentioned in section 67(4) of the Act

3.—(1) In deciding whether an individual would experience substantial difficulty of the kind mentioned in section 67(4) of the Act (difficulty in understanding information etc.), a local authority must have particular regard to—

- (a) any health condition of the individual;
- (b) any learning difficulty the individual has;
- (c) any disability the individual has;
- (d) the degree of complexity of the individual's circumstances, whether in relation to the individual's needs for care and support or otherwise;
- (e) where the assessment or planning function is the carrying out of an assessment, whether the individual has previously refused an assessment(d); and
- (f) whether the individual is experiencing, or at risk of, abuse or neglect.

(2) In paragraph (1)(e), "the assessment or planning function" means the function in which the involvement of the individual mentioned in that paragraph is to be facilitated by the arrangement of an independent advocate under section 67(2) of the Act.

Circumstances in which the exception in section 67(5) of the Act does not apply

4.—(1) The exception in section 67(5) of the Act does not apply in any of the circumstances specified in paragraphs (3) to (5).

(2) In the following paragraphs of this regulation, the individual in relation to whom the duty under section 67(2) would apply but for the exception in section 67(5) is referred to as "the individual".

(3) The circumstance specified in this paragraph is that the exercise of the assessment or planning function in relation to the individual might result in a deprivation of liberty of that individual.

(4) The circumstances specified in this paragraph are that—

(a) c.50. Section 113B was inserted by the Serious Organised Crime and Police Act 2005 c. 15 Pt 5 s.163(2).
(b) Section 113BA was inserted by the Safeguarding Vulnerable Groups Act 2006 c. 47 Sch.9(2) para.14(4)
(c) Section 113BB was inserted by the Safeguarding Vulnerable Groups Act 2006 c. 47 Sch.9(2) para.14(4)
(d) See sections 11, 28(7), 58(4), 60(3) and 63(4) of the Act.

- (a) the exercise of the assessment or planning function in relation to the individual is likely to result in an NHS body making arrangements for the provision to that individual of accommodation in—
 - (i) a hospital for a period of 28 days or more; or
 - (ii) a care home^(a) for a period of 8 weeks or more; and
 - (b) the local authority is satisfied that it would be in the best interests of the individual to make arrangements in relation to that individual under section 67(2).
- (5) The circumstances specified in this paragraph are that—
- (a) there is disagreement on a material issue between the local authority and the person referred to in section 67(5) in the case of the individual; and
 - (b) the local authority and that person agree that making arrangements under section 67(2) of the Act in relation to the individual would be in the best interests of that individual.
- (6) In this regulation—
- “hospital” means—
- (a) any institution for the reception and treatment of persons suffering from illness,
 - (b) any maternity home, and
 - (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation;
- “NHS body” means the bodies referred to in section 6(8)(a) to (c) of the Act;

Manner in which independent advocates are to carry out their functions

5.—(1) An independent advocate is to perform his or her functions in the manner specified in this regulation.

(2) The advocate must determine in all the circumstances how best to represent and support the individual in question (“the individual”) but at all times must act with a view to promoting the individual’s well-being^(b).

(3) In particular, an independent advocate must, to the extent that it is practicable and appropriate to do so—

- (a) meet the individual in private;
- (b) provided that the condition in paragraph (6) is met, with a view to promoting the individual's well-being, consult with—
 - (i) persons who are, or have been, engaged in providing care or treatment for the individual in a professional capacity or for remuneration; and
 - (ii) other persons, for example family members, carers or friends of the individual, who may be in a position to comment on the individual’s wishes, beliefs or values.

(4) In particular, an independent advocate must—

- (a) assist the individual in—
 - (i) understanding the function in the exercise of which the individual is involved;
 - (ii) communicating the individual’s views, wishes or feelings;
 - (iii) understanding how the individual’s care and support, or support, needs could be met by the local authority or otherwise;
 - (iv) making decisions in the course of being involved in the care and support arrangements;

(a) For the meaning of “care home”, see section 8 of the Act.

(b) See section 1(2) of the Act for the meaning of “well-being”.

- (v) knowing and understanding the local authority’s duties under Part 1 of the Act and the individual’s rights and obligations under that Part and any other rights and obligations of the individual which may be relevant to those obligations; and
 - (vi) challenging the local authority’s decisions if the individual so wishes;
 - (b) make such representations, as are necessary for the purpose of securing the individual’s rights in relation to the exercise of the function;
 - (c) where the independent advocate has concerns about the manner in which the assessment or planning function has been exercised or the outcomes arising from it, prepare a report for the local authority outlining those concerns.
- (5) In particular, an independent advocate may examine and take copies of any relevant records^(a) relating to the individual in circumstances where—
- (i) the individual does not have capacity, or is not competent to consent, to the records being made available to the independent advocate; or
 - (ii) the individual has capacity, or is competent to consent, to the records being made available to the independent advocate and does so consent.
- (6) The condition referred to in paragraph (3)(b) is that—
- (a) the individual has capacity, or is competent to consent, to the independent advocate consulting with a person mentioned in that sub-paragraph, and does so consent; or
 - (b) the individual lacks capacity, or is not competent, so to consent but the independent advocate is satisfied that consulting with a person mentioned in that sub-paragraph would be in the individual’s best interests.
- (7) Where the individual does not have capacity, or is not competent, to communicate his or her views, wishes or feelings, the independent advocate must do so, to the extent the independent advocate can ascertain them.
- (8) Where the individual does not have capacity, or is not competent, to challenge a decision made in the exercise of the assessment or planning function, the independent advocate must challenge the decision if the independent advocate considers the decision to be inconsistent with the authority’s general duty under section 1 of the Act (duty to promote the individual’s well-being).

Local authority’s dealings with the independent advocate

6.—(1) Where a local authority has arranged for an independent advocate under section 67(2) of the Act, it must, in exercising the assessment or planning function—

- (a) take into account any representations the independent advocate makes on behalf of the individual in question in relation to its exercise of that function or the impact of such exercise on the individual;
- (b) take reasonable steps to assist the independent advocate to represent and support the individual;

(2) A local authority must provide the independent advocate with a written response to any report prepared for the authority by the advocate under regulation 5(4)c).

(3) A local authority may make reasonable requests for information in connection with the independent advocate’s performance of his or her functions and the independent advocate must comply with such requests.

Combined assessments

7.—(1) This regulation applies where—

(a) “Relevant record” is defined in section 67(9) of the Act.

- (a) a local authority combines an assessment of an individual under Part 1 of the Act with an assessment under that Part that relates to another individual; and
 - (b) that authority is required to make arrangements under section 67(2) of the Act in respect of each of those individuals.
- (2) The local authority must ensure that each of those individuals is represented and supported by different independent advocates if so requested by—
- (a) either of those individuals; or
 - (b) any independent advocate who has already begun to represent and support one of those individuals as mentioned in section 67(2) of the Act.
- (3) Those individuals may be represented and supported by the same independent advocate in circumstances where the authority is satisfied that there would be no conflict of interest on a material issue—
- (a) between the individuals; or
 - (b) between the independent advocate and either of the individuals.

Signed by authority of the Secretary of State for Health.

Name
Minister of State for Health
Department of Health

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 67 of the Care Act 2014 (“the Act”) imposes a duty on local authorities to arrange for an independent advocate to be available to represent and support certain persons for the purpose of facilitating those persons’ involvement in the exercise of functions by local authorities. The persons in question are those who the local authority considers would otherwise experience significant difficulty in doing certain things such as understanding information. These Regulations make provision in connection with the making of such arrangements.

Regulation 2 makes provision regarding the requirements that a person must meet in order to be an advocate. Regulation 3 makes provision about matters to which a local authority must have regard when deciding whether a person would experience substantial difficulty in doing certain things as mentioned in section 67(4) of the Act.

Section 67(5) of the Act sets out circumstances in which the duty to make arrangements for an independent advocate under section 67(1) of the Act does not apply. Regulation 4(1) sets out circumstances in which the exception in section 67(5) does not apply (and hence the duty to make arrangements for an independent advocate does apply).

Regulation 5 makes provision about the manner in which advocates must perform their functions.

Regulation 6 makes provision about how a local authority is to work with an advocate.

Regulation 7 makes provision about circumstances in which if an assessment under Part 1 of the Act is combined with an assessment under that Part that relates to another person, each person may or must be represented and supported by the same advocate or different advocates.

A full Impact Assessment has not been produced for this instrument as no impact on the private sector or civil society organisations is foreseen. A full impact assessment has been produced in relation to the relevant provisions of the Care Act and a copy is available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583

2014 No. XXX

SOCIAL CARE, ENGLAND

**The Care and Support (Charging and Assessment of Resources)
Regulations 2014**

<i>Made</i>	- - - -	<i>2014</i>
<i>Laid before Parliament</i>		<i>2014</i>
<i>Coming into force</i>	- -	<i>2015</i>

CONTENTS

PART 1

General

1. Citation and commencement
2. Interpretation

PART 2

Power of the local authority to charge

3. Services to be provided free of charge
4. Adults to whom services are to be provided free of charge
5. Costs of putting in place arrangements to meet needs
6. Personal expenses allowance for residents or temporary residents provided with accommodation in a care home
7. Minimum income guaranteed amount for other adults and carers
8. Financial assessment

PART 3

Assessment of financial resources

9. Circumstances in which an authority is to be treated as having carried out a financial assessment (including light touch assessments)
10. Rounding of fractions
11. Financial limits

PART 4

Treatment and calculation of income

12. Calculation of income
13. Earnings to be disregarded
14. Other sums to be disregarded
15. Capital treated as income
16. Notional income

PART 5

Treatment and calculation of capital

17. Calculation of capital
18. Income treated as capital
19. Calculation of capital in the United Kingdom
20. Calculation of capital outside the United Kingdom
21. Notional capital
22. Diminishing notional capital rule
23. Capital jointly held
24. Calculation of tariff income from capital

-
- SCHEDULE 1 — Sums to be disregarded in the calculation of income
- PART 1 — Sums to be disregarded
 - PART 2 — Special Provisions Relating to Charitable or Voluntary Payments and Certain Pensions
- SCHEDULE 2 — Capital to be disregarded

The Secretary of State makes these Regulations in exercise of the powers in sections 14(5) to (8), 17(7) to (13) and 125(7) and (8) of the Care Act 2014(a).

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Care and Support (Charging and Assessment of Resources) Regulations 2014 and come into force on 1st April 2015.

Interpretation

2. In these Regulations—

“the Act” means the Care Act 2014;

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(b);

“the adult” in relation to a financial assessment carried out by a local authority for the purposes of section 17(1), (3) or (4) of the Act means the adult or, as the case may be, the carer in respect of whom the authority are carrying out the financial assessment;

(a) Care Act 2014, c.23. The power to make regulations is exercisable by the Secretary of State, see section 125(1).

(b) 1992 c.4.

“armed forces independent payment” means armed forces independence payment under the Armed Forces and Reserved Forces (Compensation Scheme) Order 2011**(a)**;
 “attendance allowance” has the same meaning as in the Income Support Regulations;
 “care home” has the meaning given in section 3 of the Care Standards Act 2000**(b)**;
 “child benefit” means a child benefit under the 1992 Act;
 “child tax credit” means a child tax credit under the Tax Credits Act 2002**(c)**;
 “council tax” is to be construed in accordance with section 1(1) of the Local Government Finance Act 1992**(d)**;
 “council tax benefit” has the same meaning as in the Income Support Regulations;
 “couple” has the same meaning as in the Income Support Regulations;
 “disability living allowance” means a disability living allowance under the 1992 Act;
 “employed earner” is to be construed in accordance with section 2(1)(a) of the 1992 Act;
 “guardian’s allowance” means a guardian’s allowance under the 1992 Act;
 “income support” means income support under the 1992 Act;
 “Income Support Regulations” means the Income Support (General) Regulations 1987 as amended from time to time**(e)**;
 “partner” has the same meaning as in the Income Support Regulations;
 “Pension Credit Regulations” means the State Pension Credit Regulations 2002**(f)**;
 “permanent resident” means a resident who is not a temporary resident;
 “personal independence payment” means a personal independence payment under Part 4 of the Welfare Reform Act 2012**(g)**;
 “personal pension scheme” has the same meaning as in the Income Support Regulations;
 “prospective resident” means a person for whom accommodation in a care home is proposed to be provided under the Act;
 “qualifying age” has the same meaning as in section 1(6) of the State Pension Credit Act 2002**(h)**;
 “resident” means a person who is provided with accommodation under the Act;
 “retirement annuity contract” has the same meaning as in the Income Support Regulations;
 “savings credit” means a savings credit under the State Pension Credit Act 2002;
 “self-employed earner” is to be construed in accordance with section 2(1)(b) of the 1992 Act;
 “temporary resident” means a resident whose stay is—
 (a) unlikely to exceed 52 weeks, or
 (b) in exceptional circumstances, unlikely to substantially exceed that period;
 “working tax credit” means a working tax credit under the Tax Credits Act 2002.

(a) S.I.2011/517.
(b) 2000 c.14.
(c) 2002 c.21.
(d) 1992 c.14.
(e) S.I.1987/1967.
(f) S.I.2002/1792.
(g) 2012 c.5.
(h) 2002 c.16.

PART 2

Power of the local authority to charge

Services to be provided free of charge

3.—(1) A local authority may not make a charge for meeting needs under section 14(1) of the Act where the care and support which is provided to an adult, under section 18, 19 or 20 of the Act, is a service specified in paragraph (3)(a) or (b).

(2) A local authority may not make a charge for meeting needs under section 14(1) of the Act where the provision of support to a carer, under section 20 of the Act, is a service specified in paragraph (3)(a).

(3) The following services are specified—

- (a) community equipment (aids and minor adaptations);
- (b) intermediate care (including reablement support) services for 6 weeks.

(4) In this regulation—

- (a) “community equipment (aids and minor adaptations)” means a service which consists of the provision of an aid, or minor adaptation to property, for the purpose of assisting with nursing at home or aiding daily living and for the purposes of this paragraph, an adaptation is minor if the cost of making the adaptation is £1,000 or less;
- (b) “intermediate care (including reablement support) services” means care and support provided to an adult by the local authority under section 18, 19 or 20 of the Act which—
 - (i) consists of a programme of care and support;
 - (ii) is for a specified period of time; and
 - (iii) has as its purpose the provision of assistance to an adult to enable the adult to maintain or regain the skills needed to live independently in their own home.

Adults to whom services are to be provided free of charge

4. A local authority may not make a charge for meeting needs under section 14(1) of the Act where the care and support is provided to an adult, under section 18, 19 or 20 of the Act, suffering from variant Creutzfeldt-Jakob disease.

Costs of putting in place arrangements to meet needs

5. Where a local authority is meeting needs because Condition 2 in section 18, or Condition 2 or 4 in section 20, of the Act is met, the charge the authority makes for putting in place the arrangements for meeting those needs may only cover the cost that the authority incurs in putting in place those arrangements.

Personal expenses allowance for residents or temporary residents provided with accommodation in a care home

6. The amount specified for the purposes of section 14(7) of the Act^(a) in relation to a resident temporary resident provided with accommodation in a care home is £24.40 each week.

Minimum income guaranteed amount for other adults and carers

7.—(1) Subject to paragraph (2), the amount specified for the purposes of section 14(7) of the Act (“the minimum income guaranteed amount”) in relation to an adult who has needs for care

(a) Under section 14(7) of the Care Act 2014, the local authority may not make a charge under section 14(1) of the Act if the income of the adult concerned, would after deduction of the charge, fall below the amount specified in regulations.

and support other than the provision of accommodation in a care home, or a carer who has needs for support, (“the adult concerned”) is an amount each week equal to the sum of —

- (a) an amount in respect of the adult concerned, or if the adult concerned is a member of a couple, an amount in respect of them both, determined in accordance with paragraph 1(1), (2) or (3), as the case may be, of Schedule 2 to the Income Support Regulations (“the applicable amount”),
- (b) an amount equal to 25% of the applicable amount, and
- (c) any applicable premium.

(2) Where a local authority provide non-care related support for the adult concerned the minimum income guaranteed amount in relation to that adult is the amount calculated in accordance with paragraph (1) less an amount equal to the cost the local authority incurs in providing that non-care related support for the adult concerned.

(3) In this regulation—

“applicable premium” means—

- (a) where the adult concerned is in receipt of basic disability premium under the Income Support Regulations, that premium;
- (b) where the adult concerned is in receipt of enhanced disability premium under the Income Support Regulations, that premium; and
- (c) where the adult concerned is a carer and in receipt of carer’s premium under the Income Support Regulations, that premium;

“non-care related support” includes but is not limited to support which consists of services or activities such as the provision of meals on wheels, shopping or transport services or recreational activities.

PART 3

Assessment of financial resources

Financial assessment

8. A local authority must carry out a financial assessment of the adult concerned under section 17(1), (3) or (4) of the Act in accordance with the provisions of Parts 3 to 5 of these Regulations.

Circumstances in which an authority is to be treated as having carried out a financial assessment (including light touch assessments)

9.—(1) Where an adult has refused a financial assessment or a local authority has been unable to carry out a full financial assessment because of the adult’s refusal to cooperate with the assessment and the local authority nevertheless decides to meet some or all of the adult’s needs for care and support, or support, the local authority is to be treated as having carried out a financial assessment in an adult’s case and being satisfied on that basis that the adult’s financial resources exceed the financial limits.

(2) A local authority is to be treated as having carried out a financial assessment in an adult’s case and being satisfied on that basis that the adult’s financial resources do not exceed the financial limits, where—

- (a) with the consent of the adult, the authority has not carried out a financial assessment in accordance with these Regulations, and
- (b) is satisfied from the evidence available to it that the adult’s financial resources do not exceed the financial limits.

(3) A local authority is to be treated as having carried out a financial assessment in an adult’s case and being satisfied on that basis that the adult’s financial resources do exceed the financial limits, where—

- (a) with the consent of the adult, the authority has not carried out a financial assessment in accordance with these Regulations,
- (b) but is satisfied from the evidence available to it that the adult's financial resources do exceed the financial limits.

Rounding of fractions

10. Where any financial assessment of the adult concerned, under section 17(1), (3) or (4) of the Act, results in a fraction of a penny, that fraction shall, if it would be to that adult's advantage, be treated as a penny, otherwise it shall be disregarded.

Financial limits

11.—(1) If the financial resources of a permanent resident who is provided with accommodation in a care home (in terms of capital) exceed £23,250, the local authority is not permitted to pay towards the cost of the provision of that accommodation.

(2) If the financial resources of an adult who has needs for care and support other than as a permanent resident provided with accommodation in a care home (in terms of capital) exceed £23,250, the local authority may but need not pay towards the cost of that care and support.

(3) If the financial resources of a carer whose needs involve the provision of support (in terms of capital) exceed £23,250, the local authority may but need not pay towards the cost of the provision of that support for the carer.

PART 4

Treatment and calculation of income

Calculation of income

12.—(1) The income of the adult shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, the weekly amount of the adult's income,
- (b) by adding to that amount the adult's weekly tariff income from capital calculated in accordance with regulation 24 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) income includes capital treated as income and notional income under regulations 15 and 21.

Earnings to be disregarded

13.—(1) Earnings derived from employment as an employed earner or a self-employed earner are to be disregarded in the calculation of the adult's total income for the purposes of the financial assessment.

(2) For the purposes of this regulation—

- (a) earnings in relation to an employed earner has the same meaning—
 - (i) as in regulation 35 of the Housing Benefit Regulations 2006(a);
 - (ii) where the earner has attained the qualifying age for state pension credit, as in regulation 35 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (earnings of employed earners)(b); and
- (b) "earnings" in relation to a self-employed earner has the same meaning as in regulation 37 of the Income Support Regulations (earnings of self-employed earners).

(a) S.I.2006/213.
 (b) S.I.2006/214.

Other sums to be disregarded

14.—(1) There shall be disregarded in the calculation of the adult's total income for the purposes of the financial assessment any sum, where applicable, specified in Part 1 of Schedule 1, in accordance with Part 2 of that Schedule.

(2) In a case where the adult has needs for care and support other than the provision of accommodation in a care home, or the carer has needs for support, a local authority may in carrying out the calculation of the adult or carer's total income for the purposes of the financial assessment, disregard such other sums the adult or carer may receive as the authority considers appropriate.

Capital treated as income

15.—(1) Any capital payable to the adult by instalments which are outstanding on the date on which the adult first becomes liable to pay for their care and support, or support shall, if the aggregate of the instalments outstanding and the amount of the adult's capital calculated in accordance with Part 5 exceed the amount specified in regulation 41(1) of the Income Support Regulations (capital treated as income), be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) Any earnings to the extent that they are not a payment of income shall be treated as income.

(4) Any payment of capital made or due to be made to a local authority by a third party pursuant to an agreement between the authority and the third party in connection with the liability of the adult to pay the local authority for accommodation provided under the Act shall be treated as part of the income of the adult, unless it is a voluntary payment made for the purposes of discharging any arrears of payments required by the local authority from the adult for their accommodation.

(5) Where an agreement or court order provides that payments shall be made to the adult in consequence of any personal injury to them and that such payments are to be made wholly or partly by way of periodical payments, any such periodical payments received by the adult, to the extent they are not a payment of income, shall be treated as income.

Notional income

16.—(1) The adult shall be treated as possessing income of which they have deprived themselves for the purpose of decreasing the amount they may be liable to pay towards the cost of meeting their needs for care and support, or their needs for support.

(2) The adult shall be treated as possessing any income which would be treated as income possessed by a claimant of income support under regulation 42(2) to (4A) of the Income Support Regulations (notional income).

(3) Subject to paragraph (4), the adult shall be treated as possessing any income paid or due to be paid to a local authority by a third party pursuant to an agreement between the local authority and the third party made in connection with the liability of the adult to pay towards the cost of accommodation provided for the adult under the Act.

(4) The adult shall not be treated as possessing any voluntary payment of income made by a third party to a local authority for the purpose of discharging any arrears of the payments required by the authority from the adult for accommodation provided under the Act.

PART 5

Treatment and calculation of capital

Calculation of capital

17.—(1) The capital of the adult to be taken into account in a financial assessment shall, subject to paragraph (2) be the whole of the adult's capital calculated in accordance with this Part and any income treated as capital under regulation 18.

(2) There shall be disregarded in the calculation of the adult's capital under paragraph (1), any capital, where applicable, specified in Schedule 2.

Income treated as capital

18.—(1) Any bounty which would be treated as capital under regulation 48(1) of the Income Support Regulations (income treated as capital) shall be treated as capital.

(2) Any amount by way of refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings shall be treated as capital.

(4) Except income derived from capital disregarded under paragraphs 1, 2, 6, 14, 21 and 23 of Schedule 2, any income of the adult which is derived from capital shall be treated as capital but only on the date on which it is normally due to be paid to the adult.

(5) In the case of the adult's employment as an employed earner, any advance of earnings or any loan made by the adult's employer shall be treated as capital.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than one made under the Fund, the Eileen Trust, the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments)(No2) Trust or the Independent Living Fund, shall be treated as capital.

(7) Any voluntary payment of income made by a third party to the adult for the purpose of helping the adult to discharge any arrears of the payments required by the local authority from the adult for accommodation provided under the Act shall be treated as the capital of the adult.

(8) In this regulation "the Fund", "the Eileen Trust", "the Macfarlane Trust", "the Macfarlane (Special Payments) Trust", "the Macfarlane (Special Payments)(No2) Trust" and "the Independent Living Fund" have the same meaning as in the Income Support Regulations.

Calculation of capital in the United Kingdom

19. Capital which the adult possesses in the United Kingdom shall be calculated at its current market or surrender value (whichever is the higher), less—

- (a) where there would be expenses attributable to sale, 10%; and
- (b) the amount of any incumbrance secured on it.

Calculation of capital outside the United Kingdom

20. Capital which the adult possesses outside of the United Kingdom shall be calculated in accordance with the method set out in regulation 50 of the Income Support Regulations (calculation of capital outside the United Kingdom).

Notional capital

21.—(1) The adult may be treated as possessing actual capital of which they have deprived themselves for the purpose of decreasing the amount that they may be liable to pay towards the cost of meeting their needs for care and support, or their needs for support, except –

- (a) where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the adult; or
- (b) to the extent that the capital which the adult is treated as possessing is reduced in accordance with regulation 22; or
- (c) any sum to which paragraph 44(a) or 45(a) of Schedule 10 to the Income Support Regulations (disregard of compensation for personal injuries which is administered by the Court) refers.

(2) Subject to paragraph (3), the adult may be treated as possessing any payment of capital which would be treated as capital possessed by a claimant in income support under regulation 51(2) or (3) of the Income Support Regulations (notional capital).

(3) For the purposes of paragraph (2), regulation 51(2)(c) of the Income Support Regulations shall apply as if for the reference to Schedule 10 to the Income Support Regulations there were substituted a reference to Schedule 2 to these Regulations.

(4) Where the adult is treated as possessing capital under paragraph (1) or (2), the provisions of this Part shall apply for the purposes of calculating its amount as if it were actual capital the adult does possess.

Diminishing notional capital rule

22.—(1) Where the adult is treated as possessing capital under regulation 21 (“reducible notional capital”), for each week or part of a week that the local authority has determined that the adult shall be liable to pay towards the cost of their care and support, or support, at a higher rate than that at which the adult would have been assessed as liable to pay if they had had no reducible notional capital, the amount of the adult’s reducible notional capital shall be reduced by the method set out in paragraph (2).

(2) The local authority shall reduce the amount of adult’s reducible notional capital by the difference between –

- (a) the higher rate referred to in paragraph (1); and
- (b) the rate at which the adult would have been assessed as liable to pay towards the cost of that care and support, or support for that week or part of a week if the adult had been assessed as possessing no reducible capital.

Capital jointly held

23.—(1) Where the adult and one or more other persons are beneficially entitled in possession to any capital asset except an interest in land—

- (a) they shall be treated as if each of them were entitled in possession to an equal share of the whole beneficial interest in that asset; and
- (b) that asset shall be treated as if it were actual capital.

(2) Where the adult and one or more other persons are beneficially entitled in possession to any interest in land—

- (a) the adult’s share shall be valued at an amount equal to the price which the adult’s interest in possession would realise if it were sold to a willing buyer (taking into account the likely effect on that price of any incumbrance secured on the whole beneficial interest) less 10% and the amount of any incumbrance secured solely on the adult’s share of the whole beneficial estate; and
- (b) the value of the adult’s interest so calculated shall be treated as if it were actual capital.

Calculation of tariff income from capital

24.—(1) Where the adult’s capital calculated in accordance with this Part exceeds £14,250, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £14,250 but not exceeding £23,250.

(2) Notwithstanding paragraph (1) where any part of the excess is not a complete £250, that part shall also be treated as equivalent to a weekly income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 18 (income treated as capital).

SCHEDULE 1

Regulation 14

Sums to be disregarded in the calculation of income

PART 1

Sums to be disregarded

1. Any amount paid by way of tax on income which is taken into account under regulation 12 (calculation of income).

2.—(1) Where the adult has needs for care and support other than the provision of accommodation in a care home, any housing-related costs which the adult is liable to meet in respect of the adult's main or only home.

(2) In this paragraph "housing-related costs" means any mortgage repayments, payments by way of rent or ground rent, council tax, service charges, insurance and water and fuel charges.

3.—(1) Where a local authority takes into account in the calculation of income any disability benefits the adult receives, any disability-related expenditure incurred by the adult.

(2) In this paragraph —

"disability benefits" means any severe disability premium under the Income Support Regulations, attendance allowance, disability living allowance, personal independence payment, constant attendance allowance or exceptionally severe disablement allowance;

"disability-related expenditure" includes but is not limited to payment for any community alarm system, costs of any privately arranged care services required including respite care, and the costs of any specialist items needed to meet the adult's disability.

4. Any direct payment received by the adult or in the case of an adult without capacity, the authorised person, in accordance with sections 31 to 33 of the Act.

5. Any payment in respect of any expenses incurred by the adult who is—

(a) engaged by a charitable or voluntary body; or

(b) a volunteer,

if the adult derives no remuneration or profit from the employment.

6. Any payment which would be disregarded under paragraph 3, 4A or 5 of Schedule 9 to the Income Support Regulations (employed earner expenses, statutory sick pay in Northern Ireland and housing benefit).

7. The mobility component of any disability living allowance or the mobility component of personal independence payment.

8. Any armed forces independence payment.

9. Any payment which would be disregarded under paragraph 8 of Schedule 9 to the Income Support Regulations.

10. If the adult is a temporary resident—

(a) any attendance allowance;

(b) the care component of any disability living allowance; or

(c) the daily living component of any personal independence payment.

11. Any concessionary payment made to compensate for the non-payment of-

- (a) any payment specified in paragraph 4 or 7; or
- (b) any income support.

12. Any amount which would be disregarded under paragraph 10 or 11 of Schedule 9 to the Income Support Regulations (payments to medal recipients and educational awards).

13. Any amount which would be disregarded under paragraph 13 of Schedule 9 to the Income Support Regulations (participants in training schemes).

14.—(1) Except where sub-paragraph (2) applies, and subject to paragraph 48, any relevant payment made or due to be made at regular intervals other than any payment which is to be disregarded under paragraph 31.

(2) Subject to paragraph 48, any relevant payment made or due to be made at regular intervals which is intended and used for any item which was not specified in the personal budget.

(3) In this paragraph, “relevant payment” means—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the adult;
- (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the adult; or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the adult; or
- (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the resident in consequence of any personal injury to the adult.

15.—(1) Subject to sub-paragraphs (2) and (3), where the adult —

- (a) is not residing with their spouse or civil partner, and
- (b) at least 50 per cent of any occupational pension of the adult, or of any income from a personal pension scheme or a retirement annuity contract of the adult, is being paid to, or in respect of, their spouse for that spouse’s maintenance or their civil partner for that civil partner’s maintenance,

an amount equal to 50 per cent of the pension, pensions or income concerned.

(2) Where the adult is entitled to pensions or income referred to in sub-paragraph (1) from more than one source, all pensions and income to which the adult is entitled shall be aggregated for the purposes of that sub-paragraph.

(3) This paragraph shall not have effect in respect of that part of any pension or income referred to in sub-paragraph (1) to which the adult’s spouse or civil partner is legally entitled, whether or not under a court order.

16. Any amount which would be disregarded under paragraph 16 of Schedule 9 to the Income Support Regulations (specified pensions) save for paragraph 16(cc), but as if the reference in paragraph 16 of that Schedule to paragraphs 36 and 37 of Schedule 9 to the Income Support Regulations were a reference to paragraph 46 of this Schedule and as if the reference in paragraph 16(a) of Schedule 9 to the Income Support Regulations to paragraph 8 or 9 of Schedule 9 to the Income Support Regulations were a reference to paragraphs 5 or 6 of this Schedule.

17. Any guaranteed income payment referred to in article 15(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.

18. Subject to paragraph 48, £10 of any survivor's guaranteed income payment referred to in article 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 and, if the amount of that payment has been abated to less than £10 by a pension falling within article 39(1)(a) of that Order, so much of that pension as would not, in aggregate with the amount of any survivor's guaranteed income payment disregarded, exceed £10.

19. Any payment which would be disregarded under paragraphs 17 to 20 of Schedule 9 to the Income Support Regulations (annuities, payments by third parties towards living costs, contractual payments in respect of occupation of a dwelling and payments by lodgers).

20. Any income in kind.

21.—(1) Any income derived from capital to which the adult is or is treated under regulation 27 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 2, 5, 11 or 17 of Schedule 2.

(2) Any income derived from capital disregarded under paragraph 2, 15 or 19 of Schedule 2 but only to the extent of any mortgage repayments and payments of council tax or water charges which the adult is liable to make in respect of the dwelling or premises in the period during which that income accrued.

22. Any income which would be disregarded under paragraph 23 of Schedule 9 to the Income Support Regulations (income outside the United Kingdom).

23. Any amount which would be disregarded under paragraph 24 of Schedule 9 to the Income Support Regulations (charge or commission for converting income into sterling).

24.—(1) Any payment made to the adult in respect of a child or young person who is a member of the adult's family—

- (a) pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002(a);
- (b) in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007(b) (adoption allowances schemes);
- (c) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989(c) (local authority contribution to a child's maintenance where a child is living with a person as a result of a residence order).

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the adult pursuant to regulations made under section 2(6)(b) of the Adoption and Children Act 2002.

25. Any payment which would be disregarded under paragraph 26 or 28 of Schedule 9 to the Income Support Regulations (provision of accommodation and maintenance for children in care, and local authorities' duty to promote the welfare of children and powers to grant financial assistance to persons in or formerly in their care).

26. Any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan to acquire or retain an interest in a dwelling occupied by the adult as the main or only home, or for repairs and improvements to that home, and used to meet such repayments, to the extent that it does not exceed the aggregate of—

- (a) the amount payable, calculated on a weekly basis, of any interest on the loan;
- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) the amount, calculated on a weekly basis, of the premium due on that policy.

(a) 2002 c.38.
(b) 2007 asp 4.
(c) 1989 c.41.

27. Any payment which would be disregarded under paragraph 31 of Schedule 9 to the Income Support Regulations (social fund payments).

28. Any payment of income which under regulation 18 (income treated as capital) is to be treated as capital.

29. Any payment which would be disregarded under paragraph 33 of Schedule 9 to the Income Support Regulations (pensioner's Christmas bonus).

30. Any payment which would be disregarded under paragraph 38 of Schedule 9 to the Income Support Regulations (resettlement benefit).

31. Any payment which would be disregarded under paragraph 39 of Schedule 9 to the Income Support Regulations (the Fund, the Macfarlane Trusts and the Independent Living Fund).

32. Any amount which would be disregarded under paragraphs 40 to 51 of Schedule 9 to the Income Support Regulations (housing benefit compensation, supplementary benefit compensation, housing benefit supplement compensation, juror and witness payments, community charge rebate, community charge benefit, reduction of liability for personal community charge, special war widows payments, travelling expenses and health service supplies, welfare food payments, prison visiting scheme payments, and disabled persons' employment payments).

33. Any payment of income support made towards housing costs determined in accordance with Schedule 3 to the Income Support Regulations (housing costs).

34. Any housing costs of any temporary resident, including any fuel charges included in the rent of a dwelling, to the extent that the local authority consider it reasonable in the circumstances to do so.

35. Any council tax benefit.

36.—(1) Any child benefit, except in circumstances where the adult is accompanied by the child or qualifying young person in respect of whom the child benefit is payable, and accommodation is provided for that child or qualifying young person under the Act.

(2) In this paragraph, "child" and "qualifying young person" have the same meaning as in section 142 of the 1992 Act.

37. Any payment which would be disregarded under paragraph 53 of Schedule 9 to the Income Support Regulations.

38. Any payment which would be disregarded under paragraphs 54 to 56 of Schedule 9 to the Income Support Regulations.

39. Any payment made by a local authority to or on behalf of the adult relating to the provision of a service, where—

- (a) that service is provided to develop or sustain the capacity of the adult to live independently in the community; and
- (b) any charge for that service would be a service charge of the kind specified in Schedule 1B to the Housing Benefit (General) Regulations 1987(a) as in force immediately before the 1st April 2003.

40. The amount of any payment made by the adult to the local authority in payment of a charge imposed on the adult by the authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003(b).

41. Any guardian's allowance.

42. Any child tax credit.

(a) S.I.1987/1971.

(b) S.I. 2003/907.

43.—(1) Where the adult is in receipt of savings credit as a person who has no partner and has qualifying income not exceeding the standard minimum guarantee—

- (a) the amount of that savings credit where the amount received is £5.75 or less; or
- (b) £35.75 of that savings credit where the amount received is greater than £35.75.

(2) Where the adult —

- (a) has no partner;
- (b) has attained the age of 65; and
- (c) has qualifying income in excess of the standard minimum guarantee, a sum of £35.75.

(3) Where the adult is in receipt of savings credit as a person who has a partner and has qualifying income not exceeding the standard minimum guarantee—

- (a) the amount of that savings credit where the amount received is £8.60 or less; or
- (b) £38.60 of that savings credit where the amount received is greater than £38.60.

(4) Subject to sub-paragraph (5), where the adult—

- (a) has a partner;
- (b) has—
 - (i) attained the age of 65; or
 - (ii) has attained the qualifying age and the adult’s partner has attained the age of 65; and
- (c) has qualifying income in excess of the standard minimum guarantee, a sum of £38.60.

(5) Where—

- (a) the sum referred to in sub-paragraph (4) has been disregarded in the assessment of the adult’s partner’s income under these Regulations, or
- (b) the adult’s partner is in receipt of savings credit, sub-paragraph (4) does not apply to the adult.

(6) For the purposes of this paragraph—

- (a) the adult has a partner if the adult would be considered to have a partner for the purposes of the Pension Credit Regulations;
- (b) “qualifying income” shall be construed in accordance with regulation 9 of the Pension Credit Regulations and for the purposes of sub-paragraphs (3) and (4) the adult’s qualifying income shall include any qualifying income of the adult’s partner;
- (c) “standard minimum guarantee” means, for the purposes of—
 - (i) sub-paragraphs (1) and (2), the amount prescribed by regulation 6(1)(b) of the Pension Credit Regulations; and
 - (ii) sub-paragraphs (3) and (4), the amount prescribed by regulation 6(1)(a) of the Pension Credit Regulations.

44. Any payment made to a temporary resident in lieu of concessionary coal pursuant to section 19(1)(b) or (c) of the Coal Industry Act 1994(a).

45. Any payment made to the adult under section 63(6)(b) of the Health Services and Public Health Act 1968(b) (“the 1968 Act”) (travelling and other allowances to persons availing themselves of instruction) for the purpose of meeting childcare costs where the instruction is provided pursuant to—

- (a) section 63(1)(a) of the 1968 Act; or

(a) 1996 c.21.
(b) 1968 c.46.

- (b) section 63(1)(b) of the 1968 Act and where the adult is employed, or has it in contemplation to be employed, in an activity involved in or connected with a service which must or may be provided or secured as part of the health service.

46. In a case where the adult is a prospective special guardian or a special guardian any payment made to the adult in accordance with regulations made under section 14 of the Children Act 1989 (special guardian support services).

47.—(1) Where the adult is a student, any grant or other award, student loan or other payment received by that student for the purposes of their course of study at an educational establishment.

(2) In this paragraph “course of study”, student and “student loan” have the same meanings as in the Income Support Regulations.

PART 2

Special Provisions Relating to Charitable or Voluntary Payments and Certain Pensions

48. Paragraph 14 shall not apply to any payment which is made or due to be made—

- (a) by the adult for the maintenance of any member of the adult’s family or of the adult’s former partner or of the adult’s children; or
- (b) by a third party pursuant to an agreement between the local authority and that third party in connection with the liability of the adult to pay the local authority for the adult’s accommodation.

49. The total income to be disregarded pursuant to paragraphs 14(1) and 16 shall in no case exceed the amount per week specified in paragraph 36 of Schedule 9 to the Income Support Regulations (ceiling for aggregated disregards).

SCHEDULE 2

Regulation 16(2)

Capital to be disregarded

1.—(1) Where the adult is a temporary resident in a care home but not a prospective resident, the value of the adult’s main or only home in circumstances where—

- (a) the adult is taking reasonable steps to dispose of the dwelling in order that they may acquire another dwelling which they intend to occupy as their main or only home; or
- (b) the adult intends to return to occupy that dwelling as their main or only home and the dwelling is still available to them.

(2) Where the adult is a temporary resident in a care home and also a prospective resident, the value of the adult’s main or only home in circumstances where the adult intends, on being provided in fact with accommodation under the Act—

- (a) to take reasonable steps to dispose of the dwelling in order that they may acquire another dwelling which they intend to occupy as their main or only home; or
- (b) to return to occupy that dwelling as their main or only home; and the dwelling to which the adult intends to return is available to them.

2.—(1) Where the adult is a permanent resident in a care home the value of the adult’s main or only home which the adult would otherwise normally occupy (“the adult’s home”) for a period of 12 weeks beginning with the day on which the adult is first provided with accommodation in a care home (“the first period of residence”).

(2) Where the adult—

- (a) ceases to be a permanent resident, and

- (b) subsequently becomes a permanent resident again at any time within the period of 52 weeks from the end of the first period of permanent residence, the value of the adult's home for such period (if any) which when added to the period disregarded under sub-paragraph (1) in respect of their first period of permanent residence does not exceed 12 weeks in total.

(3) Where the adult—

- (a) ceases to be a permanent resident and is not a person to whom sub-paragraph (2) has applied, and
- (b) subsequently becomes a permanent resident again at any time after a period of more than 52 weeks from the end of the first period of residence, the value of the adult's home for a period of 12 weeks beginning with the day on which the second period of permanent residence begins.

(4) In this paragraph “the second period of permanent residence” means the period of permanent residence beginning at any time after the period of 52 weeks referred to in sub-paragraph (3)(b).

3. Where the adult is a permanent resident in a care home and there is an unexpected change in their financial circumstances the local authority may disregard value of the adult's main or only home which the adult would normally otherwise occupy for a period of 12 weeks.

4.—(1) The value of any premises—

- (a) which would be disregarded under paragraph 2 or 4(b) of Schedule 10 to the Income Support Regulations (premises acquired for occupation, and premises occupied by a former partner); or
- (b) which is occupied in whole or in part as their main or only home by a qualifying relative of the adult who has occupied the premises as their main or only home since before the date on which the adult was first provided with accommodation in a care home under the Act.

(2) A local authority may disregard the value of any premises which is occupied in whole or in part by a qualifying relative of the adult as their main or only home where the qualifying relative occupied the premises after the date on which the adult was first provided with accommodation in a care home under the Act.

(3) The value of any premises for a period of 12 weeks where the local authority have disregarded the value of the premises under sub-paragraph (1)(b) or (2) and that relative has died or is no longer occupying the premises because they have been provided with accommodation in a care home.

(4) The local authority may disregard the value of any premises for a period of 12 weeks where the premises were occupied in whole or in part by a qualifying relative of the adult as their main or only home and that relative is no longer occupying the premises because of an unexpected change in their circumstances.

(5) In this paragraph –

- (a) “child” shall be construed in accordance with section 1 of the Family Law Reform Act 1987(a); and
- (b) “qualifying relative” means the adult's –
 - (i) partner,
 - (ii) other family member or relative who is aged 60 or over or who is incapacitated, or
 - (iii) child.

5. In the case of an adult who is a resident who has ceased to occupy what was formerly the dwelling occupied by them as their main or only home following their estrangement or divorce

(a) 1987 c.42.

from their former partner, the value of the adult's interest in that dwelling where it is still occupied as the home by the former partner who is a lone parent.

6. In the case of an adult who is in receipt of care and support other than the provision of accommodation, the value of the adult's main or only home.

7. The value of the proceeds of sale of any premises which would be disregarded under paragraph 3 of Schedule 10 to the Income Support Regulations (proceeds of sale from premises formerly occupied).

8. Any future interest in property which would be disregarded under paragraph 5 of Schedule 10 to the Income Support Regulations (future interests in property other than in certain land or premises).

9. Any assets which would be disregarded under paragraph 6 of Schedule 10 to the Income Support Regulations (business assets), but as if in sub-paragraph (2) of that paragraph for the words from "the claim for income support" to the end of that sub-paragraph there were substituted—

- (a) in the case of the adult who is a resident other than a prospective resident the words "the accommodation was initially provided";
- (b) in the case of the adult who is a prospective resident, the words "the local authority began to assess the adult's ability to pay for their accommodation under these Regulations".

10. Any amount which would be disregarded under paragraph 7(1) of Schedule 10 to the Income Support Regulations (arrears of specified payments), but as if the words "Subject to sub-paragraph (2)" at the beginning of that sub-paragraph were omitted and as if the reference in paragraph (a) of that sub-paragraph to paragraphs 6, 8 or 9 of Schedule 9 to the Income Support Regulations (other income to be disregarded) were a reference to paragraphs 4 to 6 of Schedule 1 to these Regulations (other income to be disregarded).

11. Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) working families' tax credit under section 128 of the 1992 Act;
- (b) disabled person's tax credit under section 129 of the 1993 Act,
- (c) child tax credit, or
- (d) working tax credit,

but only for a period of 52 weeks from the date of the receipt of the arrears of the concessionary payment.

12. Any amount which would be disregarded under paragraph 8 or 9 of Schedule 10 to the Income Support Regulations (property repairs and amounts deposited with a housing association).

13. Any personal possessions except those which had or have been acquired by the adult with the intention of reducing their capital in order to satisfy a local authority that they were unable to pay towards the cost of their care and support or support.

14. Any amount which would be disregarded under paragraph 11 of Schedule 10 to the Income Support Regulations (income under an annuity).

15. Any amount which would be disregarded under paragraph 12 of Schedule 10 to the Income Support Regulations (personal injury trusts).

16. Any amount which would be disregarded under paragraph 12A of Schedule 10 to the Income Support Regulations (personal injury payments) with the exception of any payment or any part of any payment that has been specifically identified by a court to deal with the cost of providing care.

17. Any amount which would be disregarded under paragraph 13 of Schedule 10 to the Income Support Regulations (a life interest or a life rent).

18. The value of the right to receive any income which is disregarded under paragraph 21 of Schedule 1 (income to be disregarded).

19. Any amount which would be disregarded under paragraphs 15, 16, 18 or 19 of Schedule 10 to the Income Support Regulations (surrender value of life insurance policy, outstanding instalments, social fund payments and tax refunds on certain loan interest).

20. Any capital which under regulation 15 (capital treated as income) is to be treated as income.

21. Any amount which would be disregarded under paragraphs 21 to 24 of Schedule 10 to the Income Support Regulations (charge or commission for converting capital into sterling, the Macfarlane Trusts, the Fund and the Independent Living Fund, personal or occupational pensions, and rent).

22. The value of any premises which would be disregarded under paragraph 27 or 28 of Schedule 10 to the Income Support Regulations (premises a claimant intends to occupy).

23. Any amount which would be disregarded under paragraphs 29 to 43 of Schedule 10 to the Income Support Regulations (fund payments in kind, training bonuses, housing benefit compensation, supplementary benefit compensation, housing benefit supplement compensation, juror or witness payments, community charge rebate, reduction of liability for personal community charge, housing grants, travelling expenses and health service supplies, welfare food payments, prison visiting scheme payments, special war widows payments, disabled persons' employment payments, and blind homeworkers' payments).

24. The value of any premises occupied in whole or in part by a third party where the local authority consider it would be reasonable to disregard the value of those premises.

25. Any amount which—

- (a) falls within paragraph 44(2)(a), and would be disregarded under paragraph 44(1)(a) or (b), of Schedule 10 to the Income Support Regulations; or
- (b) would be disregarded under paragraph 45(a) of that Schedule.

26. Any amount which would be disregarded under paragraph 61 of Schedule 10 to the Income Support Regulations (ex-gratia payment made by the Secretary of State in consequence of a person's imprisonment or internment by the Japanese during the Second World War).

27. Any payment which would be disregarded under paragraph 64 of Schedule 10 to the Income Support Regulations (payments under a trust established out of funds provided by the Secretary of State in respect of persons who suffered or are suffering from variant Creutzfeldt-Jakob disease).

28. Any payment made by a local authority to or on behalf of relating to the provision of a service, where—

- (a) that service is provided to develop or sustain the capacity of the adult to live independently in the community; and
- (b) any charge for that service would be a service charge of the kind specified in Schedule 1B to the Housing Benefit (General) Regulations 1987 as in force immediately before 1st April 2003.

29. Any payment made by the adult to the local authority in payment of a charge imposed on the adult by the authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003.

30. Any payment made to the adult pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002.

31. Any payment made to the adult under section 2 or 3 of the Age-Related Payments Act 2004 (a)(entitlement: basic or special cases).

32. Any payment made to the adult under Part 2 (payments to persons over the age of 65) or Part 3 (payments to persons in receipt of guarantee credit) of the Age-Related Payments Regulations 2005(b).

33. Any payment made to the adult under section 63(6)(b) of the Health Services and Public Health Act 1968 (“the 1968 Act”) (travelling and other allowances to persons availing themselves of instruction) for the purpose of meeting childcare costs where the instruction is provided pursuant to—

(a) section 63(1)(a) of the 1968 Act; or

(b) section 63(1)(b) of the 1968 Act and where the adult is employed, or has it in contemplation to be employed, in an activity involved in or connected with a service which must or may be provided or secured as part of the health service.

34. Any payment made in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardian support services) to an adult who is a prospective special guardian or a special guardian.

35. Any payment made to the adult under regulations made under section 7 of the Age-Related Payments Act 2004 (power to provide future payments).

Signed by authority of the Secretary of State for Health

Name

Minister of State

Department of Health

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under the Care Act 2014 (“the Act”) for the limitations on the local authority powers to make a charge for meeting needs under section 14 of the Act (Part 2) and in relation to financial assessments for the purposes of section 17 of the Act (Parts 3 to 5 and Schedules 1 and 2). The duty to carry out a financial assessment under section 17 of the Act applies where the local authority thinks that if it were to meet an adult’s needs for care and support, or a carer’s needs for support, it would charge the adult or carer under section 14(1) of the Act.

Section 14 of the Act (power of local authority to charge) provides that a local authority may make a charge for meeting needs under sections 18 to 20 of the Act. Regulation 3 specifies the services which are to be provided free of charge. These are community equipment (aids and minor adaptations) and intermediate care (including reablement support) services for 6 weeks only. Regulation 4 provides that adults suffering from variant Creutzfeldt-Jakob disease are to be provided with any services free of charge. Regulation 5 provides that where a local authority is meeting needs because either Condition 2 in section 18 of the Act or Condition 2 or 4 in section 20 of the Act is met, a charge for putting in place the arrangements to meet needs must be no more than the cost incurred by a local authority.

Section 14(7) of the Act provides that a local authority may not make a charge for services under section 14(1) of the Act if the adult or carer’s income would, after deduction of the amount of the charge, fall below the amount specified in regulations. Regulations 6 and 7 specify the personal expenses allowance for residents or temporary residents provided with accommodation in a care

(a) 2004 c.10.

(b) S.I.2005/1983.

home and the minimum income guaranteed amount for other adults and carers provided with care and support, or support. The personal expenses allowance is £24.40 for each week. The minimum income guaranteed amount is calculated by reference to the personal allowances for income support set out in the Income Support (General) Regulations 1987.

Part 3 makes provision in relation to the assessment of financial resources. Financial assessments must be carried out in accordance with Parts 3 to 5 of these Regulations. In some circumstances an authority is to be treated as having carried out a financial assessment in an adult's case and being satisfied on that basis that their financial resources exceed, or as the case may be, do not exceed the financial limits (regulation 9). This includes where the authority, with the consent of the adult, has not carried out a financial assessment but is nevertheless satisfied from the evidence available to the authority that the adult's resources do not exceed the financial limits. For example where the adult is in receipt of income support.

Regulations 11 specifies the financial limits for the purposes of section 17 of the Act. If the financial resources of an adult who is provided with accommodation in a care home (a permanent resident) exceed (in terms of capital) £23,250, the local authority is not permitted to pay towards the cost of the provision of that accommodation. In any other case where the financial limits exceed (in terms of capital) £23,250, the authority may but need not pay towards the cost of care and support.

Part 4 and Schedule 1 make provision for the treatment and calculation of income. Schedule 1 sets out the income which must or may be disregarded by the local authority.

Part 5 and Schedule 2 make provision for the treatment and calculation of capital. Schedule 2 sets out the capital sums which must or may be disregarded by the local authority.

2014 No. XXX

SOCIAL CARE, ENGLAND

**The Care and Support (Preventing Needs for Care and Support)
Regulations 2014**

<i>Made</i>	- - - -	2014
<i>Laid before Parliament</i>		2014
<i>Coming into force</i>	- -	2015

The Secretary of State in exercise of the powers conferred by sections 2(3), (4) and 125(7) of the Care Act 2014(a), makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Care and Support (Preventing Needs for Care and Support) Regulations 2014 and come into force on 1st April 2015.

Interpretation

2. In these Regulations—

“the Act” means the Care Act 2014;

“community equipment (aids and minor adaptations)” means a service which consists of the provision of an aid, or minor adaptation to property, for the purpose of assisting with nursing at home or aiding daily living and for the purposes of these regulations, an adaptation is minor if the cost of making the adaptation is £1,000 or less;

“intermediate care (including reablement support) services” means services, facilities or resources provided to an adult by a local authority under section 2(1) of the Act which—

- (a) consist of a programme of services, facilities or resources;
- (b) are for a specified period of time;
- (c) have as their purpose the provision of assistance to the adult to enable the adult to maintain or regain the skills needed to live independently in their own home.

(a) 2014 c.23
(b) S.I. 2014/xxx

Making a charge

3.—(1) A local authority may make a charge for any provision made by it under section 2(1) of the Act, subject to regulations 4 and 5.

(2) A charge must not reduce the income of the adult concerned to below the amount specified in regulation 7 of the Care and Support (Charging and Assessment of Resources) Regulations 2014**(b)** (minimum income guaranteed amount).

(3) Notwithstanding paragraph (1) a carer may not be charged for any provision made under section 2(1) of the Act intended to prevent, delay or reduce the carer's need for support which consists of provision made directly to the adult needing care.

Services to be provided free of charge

4.—(1) A local authority may not make a charge under regulation 3(1) where the provision is a service specified in paragraph (2).

(2) The following services are specified—

- (a) community equipment (minor aids and adaptations);
- (b) intermediate care (including reablement support) services for six weeks.

Adults to whom services are to be provided free of charge

5. A local authority may not make a charge under regulation 3(1) where the provision made under section 2(1) of the Act is to an adult suffering from variant Creutzfeldt-Jakob disease.

Signatory text

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under the Care Act 2014 (“the Act”) for when a local authority can make a charge for the provision of services, facilities and resources under section 2 of the Act. Section 2(1) requires a local authority to provide or arrange for the provision of services, facilities or resources or take other steps which it considers will contribute towards preventing or delaying or reducing the needs for care and support of adults or support in relation to carers. Section 2(3) provides the power to make regulations permitting a local authority to charge and prohibiting a local authority from making a charge. Section 2(5) provides that a charge may only cover the cost that the local authority incurs in providing or arranging for the provision of the service, facility or resource.

Regulation 3 provides that a local authority can make a charge subject to regulations 4 and 5 and as far as that charge does not reduce the adult or carer's income to below the minimum income guarantee specified in the Care and Support (Charging and Assessment of Resources) Regulations 2014.

Regulations 4 and 5 specify the services which must always be provided free of any charge.

2014 No.

SOCIAL CARE, ENGLAND

**The Care and Support and Aftercare (Choice of
Accommodation) Regulations 2014**

Made - - - - ***
Laid before Parliament ***
Coming into force - - *1st April 2015*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 117A of the Mental Health Act 1983(a) and sections 30 and 125(7) and (8) of the Care Act 2014(b):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“personal care” means—

(a) physical assistance given to a person in connection with—

(i) eating or drinking (including the administration of parenteral nutrition),

(ii) toileting (including in relation to the process of menstruation),

(iii) washing or bathing,

(iv) dressing,

(v) oral care,

(vi) the care of skin, hair and nails (with the exception of nail care provided by a chiropodist or podiatrist); or

(b) the prompting, together with supervision, of a person in relation to the performance of any of the activities listed in paragraph (a), where that person is unable to make a decision for themselves in relation to performing the activity without such prompting or supervision;

“preferred accommodation” means the accommodation for which the person for whom it is to be provided expresses a preference in accordance with—

(a) in a case to which regulation 4 (after-care) applies, regulation 4(1)(b);

(a) 1983 c.20. Section 117A was inserted by section 75(6) of the Care Act 2014.

(b) 2014 c.23; see section 125(1) for the power to make regulations.

- (b) in any other case, regulation 2(1)(b).

Choice of accommodation

2.—(1) Where—

- (a) a local authority is going to meet needs under sections 18 to 20 of the Act by providing or arranging for the provision of accommodation of a specified type in England,
- (b) the adult for whom the accommodation is to be provided expresses a preference for particular accommodation (identifiable by reference to its address or provider) of a specified type; and
- (c) the conditions in regulation 3 are met,

the local authority must provide or arrange for the provision of the preferred accommodation in accordance with these regulations.

(2) The specified types of accommodation are—

- (a) care home accommodation within the meaning of regulation 6;
- (b) shared lives scheme accommodation within the meaning of regulation 7; or
- (c) supported living accommodation within the meaning of regulation 8.

Conditions for provision of preferred accommodation

3.—(1) The following conditions must be met for the provision of preferred accommodation—

- (a) the care and support plan^(a) for the adult specifies that the adult's needs are going to be met by the provision of accommodation of a specified type;
- (b) the preferred accommodation is of the same type as that specified in the adult's care and support plan;
- (c) the preferred accommodation is suitable to the adult's needs;
- (d) the preferred accommodation is available; and
- (e) where the preferred accommodation is not provided by the local authority, the provider of the accommodation agrees to provide the accommodation to the adult on the local authority's terms.

(2) If the cost to the local authority of providing or arranging for the provision of the preferred accommodation is greater than the amount specified in the adult's personal budget that relates to the provision of accommodation of that type, the additional cost condition in regulation 5 must also be met^(b).

Application to after-care

4.—(1) Where—

- (a) a local authority is, in discharging its duty under section 117(2) of the Mental Health Act 1983 ("the 1983 Act"), providing or arranging for accommodation in England for a person;
- (b) the person expresses a preference for particular accommodation (identifiable by reference to its address or provider) of a specified type; and
- (c) the conditions in paragraph (2) are met,

the local authority must provide or arrange for the provision of preferred accommodation in accordance with this regulation.

(a) See section 25 of the Act for the definition of "care and support plan".

(b) See section 30(3) of the Act for the definition of "additional cost".

(2) The following conditions must be met for the provision of preferred accommodation under paragraph (1)—

- (a) the person must be aged 18 or over;
- (b) the accommodation must be of a specified type;
- (c) the preferred accommodation must be of the same type that the local authority has decided to provide or arrange;
- (d) the preferred accommodation must be suitable to meet the person's needs;
- (e) the preferred accommodation must be available;
- (f) where the preferred accommodation is not provided by the local authority, the provider of the accommodation must agree to provide the accommodation to the person on the local authority's terms; and
- (g) where the cost to the local authority of providing or arranging for the provision of the preferred accommodation is greater than the amount that the local authority would expect to be the usual cost of providing or arranging the provision of accommodation of that kind, the additional cost conditions in paragraph (3) must also be met.

(3) The additional cost conditions referred to in paragraph (2)(g) are that—

- (a) the local authority is satisfied that a person ("the payer") is willing and able to pay the additional cost of the preferred accommodation for the period during which the local authority expects to meet needs by providing or arranging for the provision of that accommodation; and
- (b) the payer enters into a written agreement with the authority in which the payer agrees to pay the additional cost.

(4) In a case to which paragraph (3) applies, the local authority must comply with the requirements of regulation 5(2),(3)(a) and (c) to (f), and (4).

(5) For the purposes of this regulation the additional cost that is to be met by the payer may be less than the full amount of the additional cost referred to in section 117A(3) of the 1983 Act, if the local authority agrees that a lesser amount should be paid.

(6) The refusal provisions in regulation 9 apply.

(7) The specified types of accommodation are those referred to in regulation 2(2) but for the purposes of this regulation any reference to "an adult" in regulations 7 and 8 should be read as a reference to "a person".

The additional cost condition

5.—(1) The additional cost condition is met if—

- (a) the local authority is satisfied that—
 - (i) a person other than the adult, or
 - (ii) in a case to which paragraph (5) applies, the adult, ("the payer") is able and willing to pay the additional cost of the preferred accommodation for the period during which the local authority expects to meet the adult's needs by providing or arranging for the provision of that accommodation; and
- (b) the payer enters a written agreement with the local authority in which the payer agrees to pay the additional cost.

(2) The local authority must provide the payer with access to sufficient information and advice to enable the payer to understand the terms of the proposed written agreement before entering it.

(3) The written agreement must include—

- (a) the amount to be paid (the additional cost);
- (b) the amount specified in the adult's personal budget in relation to the provision of accommodation;

- (c) the frequency of payments;
 - (d) details of the person to whom the payments are to be made;
 - (e) provision for review of the agreement;
 - (f) provisions about the matters specified in paragraph (4).
- (4) The specified matters are—
- (a) the consequences of ceasing to make payments;
 - (b) the effect of increases in charges made by the provider of the preferred accommodation;
 - (c) the effect of changes in the payer’s financial circumstances.
- (5) The local authority may not agree with the adult for whom the accommodation is to be provided for that adult to pay the additional cost unless—
- (a) paragraph 2 of Schedule 2 to the Care and Support (Charging and Assessment of Resources) Regulations 2014^(a) (the 12 week property disregard) applies to that adult; or
 - (b) the adult and the local authority agree to enter to a deferred payment agreement in accordance with regulation 2 or 3 of the Care and Support (Deferred Payment) Regulations 2014^(b) in respect of the additional cost.
- (6) For the purposes of this regulation the additional cost that is to be met by the payer may be less than the full amount of the additional cost referred to in section 30(3) of the Act, if the local authority agrees that a lesser amount should be paid.

Care home accommodation

6. For the purposes of these regulations “care home accommodation” means accommodation in a care home within the meaning given by section 3 of the Care Standards Act 2000^(c).

Shared lives scheme accommodation

7. For the purposes of these regulations “shared lives scheme accommodation” means accommodation which is provided together with personal care for an adult by an individual in the individual’s own home under the terms of an agreement between that individual and another person.

Supported living etc

- 8.—(1) For the purposes of these regulations “supported living accommodation” means—
- (a) accommodation in premises which are specifically designed or adapted for occupation by adults with needs for care and support to enable them to live as independently as possible;
 - (b) accommodation which is provided—
 - (i) in premises which are intended for occupation by adults with needs for care and support (whether or not the premises are specifically designed or adapted for that purpose); and
 - (ii) in circumstances in which personal care is available if required.
- (2) The accommodation referred to in paragraph (1)(a) does not include adapted premises where the adult had occupied those premises as their home before the adaptations were made.
- (3) For the purposes of paragraph (1)(b)(ii) personal care may be provided by a person other than the person who provides the accommodation.

(a) S.I. 2014/xxxx
 (b) S.I. 2014/xxxx
 (c) 2000 c.14; section 3 was amended by the Health and Social Care Act 2008 (c.14), section 95 and paragraph 4 of Schedule 5.

Refusal to provide preferred accommodation

9. A local authority must give the adult its written reasons for a refusal to provide or arrange for the provision of preferred accommodation.

Signatory text

Address	Parliamentary Under Secretary of State
Date	Department of Health

Name

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Part 1 of the Care Act 2014 (“the Act”) a local authority may meet care and support needs by providing accommodation, for example in a care home. Regulations under section 30 of the Act may provide that where an adult’s needs are to be met by the provision of specified types of accommodation, and the adult has expressed a preference for particular accommodation of that type, the local authority must meet the adult’s preference, provided that specified conditions are met. These regulations make such provision.

Regulations 2, 6, 7 and 8 of these Regulations specify the types of accommodation to which the obligation to meet the adult’s preference applies.

Regulation 3 specifies the conditions which must apply in order for the local authority to be required to meet the adult’s preference for accommodation.

Regulation 4 requires a local authority, which is providing or arranging the provision of a specified type of accommodation to an adult in discharging its duty to provide or arrange the provision of mental health after-care under section 117 of the Mental Health Act 1983, to provide or arrange the provision of the adult’s preferred accommodation of that type, if specified conditions are met.

Regulation 5 sets out the “additional cost condition”. Where the cost of an adult’s preferred accommodation is more than the amount specified for the accommodation in the adult’s personal budget (under section 26 of the Act), the local authority is not required to provide that accommodation unless the additional cost condition is met.

Regulation 9 provides that a local authority must give written reasons for a refusal to provide preferred accommodation.

SOCIAL CARE, ENGLAND

The Care and Support (Deferred Payment) Regulations 2014

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections 34(1),(2) and (4) to (8), 35 and 125(7) and (8) of the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Deferred Payment) Regulations 2014 and shall come into force on 1 April 2015.

(2) In these Regulations—

- (a) “the Act” means the Care Act 2014; and
- (b) a reference to a section is a reference to a section of the Act.

Local authority required to enter into a deferred payment agreement

2.—(1) A local authority is required to enter into a deferred payment agreement with an adult if—

- (a) paragraph (2) applies to the adult; and
- (b) the conditions in regulations 4 and 11 are met.

(2) This paragraph applies to an adult if—

- (a) the local authority—
 - (i) is required to meet the adult’s needs under section 18;
 - (ii) is not required to meet the adult’s needs under section 18, and the only reason for this is that the adult has not asked the authority to do so in accordance with section 18(3)(b) (condition 2); or
 - (iii) has decided to meet the adult’s needs under section 19(1) or (2);
- (b) the adult’s needs —
 - (i) are to be met under section 18 or section 19(1) or (2) and the care and support plan (b) for the adult specifies that the adult’s needs are going to be met by the provision to the adult of accommodation in a care home (c) ;or
 - (ii) are not to be met by the local authority but the local authority considers that had it been required to meet the adult’s needs but for the reason referred to in sup-

(a) c.23. The power to make regulations is exercisable by the Secretary of State, see section 125(1).

(b) see section 25 for the definition of “care and support plan”

(c) see section 3 of the Care Standards Act 2000 for the definition of “care home”

paragraph (a)(ii), it would have done so by the provision to the adult of accommodation in a care home;

- (c) the local authority is satisfied—
 - (i) that the adult has a legal or beneficial interest in a property which is the adult’s main or only home; and
 - (ii) where a financial assessment^(a) has been carried out in respect of the adult, that—
 - (aa) the value of that interest has been taken into account for the purposes of calculating the amount of the adult’s capital^(b); and
 - (bb) the adult’s capital less the value of that interest does not exceed £23,250; or
 - (iii) where a financial assessment has not been carried out in respect of the adult that paragraphs (ii)(aa) and (bb) would be satisfied if such an assessment were carried out; and
- (d) the adult agrees to the making of the agreement.

Local Authority permitted to enter into a deferred payment agreement

- 3. A local authority is permitted to enter into a deferred payment agreement with an adult if—
 - (a) regulations 2(2)(a) and (b) apply in the adult’s case; and
 - (b) the conditions in regulations 4 and 11 are met.

Adequate security

- 4.—(1) The local authority must obtain —
 - (a) adequate security for the payment of the adult’s deferred amount^(c); and
 - (b) written consent if the authority considers it is necessary to do so.
- (2) For the purposes of regulation 2, “adequate security” is—
 - (a) a legal mortgage which is capable of being registered in favour of the authority as a Class C (i) land charge on the land charges register^(d); or
 - (b) a legal mortgage which is capable of being registered in favour of the local authority on the land register^(e).
- (3) For the purposes of regulation 3 “adequate security” is—
 - (a) a legal mortgage which is capable of being registered as described in paragraph (2)(a) or (b); or
 - (b) any other security which the local authority considers is sufficient to secure payment of the deferred amount.
- (4) For the purposes of this regulation “written consent” is consent which in the opinion of the local authority is genuine and informed consent given in writing to the matters referred to in paragraph (5) by any person—
 - (a) who the authority considers has an interest in the land or other asset in respect of which a charge will be obtained; and
 - (b) whose interest the authority considers may prevent it from exercising a power of sale of the land or asset or recovering the deferred amount.
- (5) The matters referred to in paragraph (4) are—
 - (a) the creation of any charge, and

(a) See section 17(5) for the meaning of “financial assessment”
(b) See section 17(11)(b), which provides that regulations under that section must make provision for calculating capital.
(c) See section 34(6) of the Act for the meaning of “deferred amount”
(d) Land Charges Act 1972 c.61. Section 2 was amended by section 17(1) (b) of the Local Land Charges Act 1975 (c.76).
(e) Land Registration Act 2002 (c.9), section 1.

- (b) the charge taking priority to and ranking before any interest the person has in the land or other asset which will be the subject of the charge.

Deferred Amount

5.—(1) Where a local authority is required to enter into a deferred payment agreement under regulation 2 the specified part of the amount which under the agreement the authority agrees not to require payment of until the time specified in regulation 7 is the sum of—

- (a) either—
 - (i) 100% of—
 - (aa) the amount due from the adult under section 14, less any amount which the adult is required to contribute under regulation 6; or
 - (bb) any part of the loan made for the purpose of assisting the adult to obtain care and support in a care home the provision of which the authority considers to be necessary to meet the adult's needs; or
 - (ii) such lesser amount as the adult requests,
- (b) any amount due from the adult in accordance with regulations under section 30(2) as may be agreed by the local authority and the adult; and
- (c) the amount of interest and administration costs referred to in paragraph (5).

(2) But where the specified part of the amount referred to in paragraph (1) would exceed the amount referred to in paragraph (3), the specified part of the amount which under the agreement the local authority agrees not to require payment of until the time specified in regulation 7 is the sum of-

- (a) the amount referred to in paragraph (3), and
- (b) interest charged on that amount. .

(3) The amount referred to in this paragraph is —

- (a) whichever is the highest of-
 - (i) [70% to 80%] of the value of the land which the local authority obtains as security for the deferred amount, or
 - (ii) the value of the land which the local authority obtains as security for the deferred amount less £14,250,
less
- (b) the value of any debts secured on the land which rank in priority to the local authority mortgage.

(4) Where the local authority is permitted to enter into a deferred payment agreement under regulation 3 the specified part of an amount which under the agreement the authority agrees not to require payment of until the time specified in regulation 7 is the sum of—

- (a) such amount, up to 100% of-
 - (i) the amount due from the adult under section 14 and regulations under section 30(2);
or
 - (ii) the loan,
as may be agreed between the local authority and the adult, and
- (b) the amount of interest and administration costs referred to in paragraph (5).

(5) The amount referred to in this paragraph is the sum of—

- (a) any interest charged in accordance with regulation 9 (unless the local authority and the adult have agreed that interest is to be paid separately); and
- (b) any administration costs charged in accordance with regulation 10 (unless the local authority and the adult have agreed that those costs are to be paid separately).

Adult's required contribution

6.—(1) If in any week during which the agreement is in force the adult's weekly income exceeds £144 the local authority may require the adult to contribute up to but no more than the amount by which their income exceeds £144 towards the amount due to the authority for that week under section 14.

(2) The amount of the adult's weekly income must be calculated in accordance with regulations under section 17.

Time for repayment of the deferred amount

7. For the purposes of section 34(2) the specified time for repayment of the deferred amount is the sooner of—

- (a) the date of sale or disposal of the land or other asset in respect of which the authority has a charge;
- (b) 90 days after the date of the death of the adult with whom the agreement is made or such longer time as the authority may permit.

Termination

8. The adult may terminate the deferred payment agreement at any time prior to the specified time by giving the authority notice in writing and paying to the local authority the deferred amount owing under the agreement together with any outstanding interest and administration costs.

Interest

9.—(1) A local authority may charge interest on an adult's deferred amount.

(2) The local authority may not charge interest under paragraph (1) at a rate that exceeds [3.5% to 5%].

(3) But the local authority must before entering into the agreement inform the adult that it proposes to charge interest and the rate at which it will be charged.

Administration costs

10.—(1) The local authority may charge the adult an amount relating to its administration costs calculated under paragraphs (2) or (3).

(2) Under this paragraph the administration costs are the total amount of—

- (a) the costs of postage, printing and photocopying incurred by the local authority in relation to the making of the agreement;
- (b) the costs attributable to the time spent by persons on making the agreement;
- (c) the fee payable to the land registry for registration of any charge or mortgage on the land or land charges register;
- (d) any other costs incurred in perfecting the security obtained in respect of the repayment of the deferred amount; and
- (e) any other costs incurred by the authority in making the agreement.

(3) Under this paragraph the administration costs are the total amount of—

- (a) the average cost to the local authority of arranging deferred payment agreements having regard to the matters in paragraph (2)(a),(b) and (e) and for these purposes the local authority may provide for different average costs for different situations; and
- (b) the fee charged by the land registry for registration of the charge or mortgage on the land or land charges register; and
- (c) the charges incurred in perfecting the security obtained in respect of the deferred amount.

- (4) But the local authority must—
- (a) before entering into the agreement inform the adult that it proposes to charge for administration costs and give the adult an estimate of the amount of the charge under paragraph (2) or the amount under paragraph (3), as the case may be; and
 - (b) before requesting payment of the charge (in a case where it is to be paid separately) or adding it to the deferred amount, provide the adult with a statement which sets out the amount of the charge—
 - (i) which is attributable to each of the items referred to in paragraph (2) in a case where the administration costs are calculated in accordance with paragraph (2); or
 - (ii) which is attributable to the items referred to in paragraphs (3)(b) or (c) in a case where the administration costs are calculated in accordance with paragraph (3).

Terms, Conditions and Information

- 11.—(1) The deferred payment agreement must include—
- (a) terms as to the rate of interest;
 - (b) a term requiring the adult to notify the local authority if it is intended to sell the land or asset on which the local authority has a charge;
 - (c) the amount of any administration costs to be included in the deferred amount;
 - (d) details as to what the deferred amount may be spent on;
 - (e) the maximum amount that may be deferred under the agreement or loan;
 - (f) details as to the adequate security accepted by the local authority;
 - (g) a clear explanation of the consequences of taking out a deferred payment agreement.
- (2) The deferred payment agreement may include such other terms and conditions as the local authority considers appropriate.
- (3) The adult must agree to the terms and conditions in the agreement.

Notice when total deferred amount likely to be reached

12. The local authority must give 30 days’ written notice to the adult of the date on which it anticipates that the total deferred amount (as calculated in accordance with regulation 5) is likely to be reached.

Signatory text

Address Date	<i>Name</i> Parliamentary Under Secretary of State Department
-----------------	---

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for local authorities to enter into a deferred payment agreement with an adult and specify the amount of the agreement and conditions which relate to the agreement.

Regulation 2 sets out the circumstances in which a local authority must enter into a deferred payment agreement.

Regulation 3 sets out the circumstances in which a local authority may (but is not obliged) to enter into a deferred payment agreement.

Regulation 4 provides that a local authority must not enter into a deferred payment agreement unless it obtains adequate security for the payment of the deferred amount. It sets out that for cases where a local authority is required to enter into a deferred payment agreement the adequate security must be a legal mortgage which can be registered in the authority's favour on the land charges or land register. In the case of a deferred payment agreement which the authority is permitted to enter into, paragraph (3) provides that adequate security is such a mortgage or such other security as the authority considers will secure payment of the deferred amount.

The regulation also provides that if the authority considers that it is necessary to do so it must also obtain written consent to the matters referred to in paragraph (5) from a person who has an interest in the land over which it has obtained a charge.

Regulation 5 makes provision as to the amount which is deferred under the agreement. Regulation 5(1) provides in effect that in the case of an agreement which the authority is required to enter into the amount is 100% of the amount due to the authority from the adult under section 14 (Power of local authority to charge) and such amount, due under regulations made under section 30(2) (which provide for the payment of additional costs where the adult expresses preference for particular accommodation) as the authority and the an adult may agree together with any interest and administration costs. But it also provides that if the adult is required to make a contribution to the amounts due to the authority by the adult under section 14, the deferred amount will be that amount less the amount of those contributions. And if either of those amounts are more than the amount the adult requests, it provides that the deferred amount will be the amount the adult requests.

Regulation 5(2) provides that in cases where the amount in paragraph (1) would exceed the highest of either [70 to 80%] of the value of the land or the value of the land less £14,250, and in either case less the value of any debts secured on the land which rank in priority to the local authority's charge, the deferred amount is the amount referred to in paragraph (3) and interest charged on that amount.

Regulation 5(4) provides that the deferred amount for an agreement which the authority is permitted to enter into is such amount due to the authority under sections 14 and 30(2) of the Act or such part of the loan as may be agreed by the adult and the authority together with any administration costs and interest.

Regulation 6 provides that the authority may require the adult to make a contribution towards the amounts due to the authority under section 14 of the Act or the care home costs which the adult is required to pay for the purpose of obtaining the provision of care and support which the authority considers is necessary.

Regulations 7 and 8 make provision as to the time for repayment of the deferred amount and the adult's right to terminate the deferred payment agreement.

Regulations 9 and 10 make provision as to the payment of interest and administration costs.

Regulation 11(1) details terms and conditions which must be in the agreement and paragraph (3) provides that the adult must agree to the terms and conditions of the agreement.

2014 No.

SOCIAL CARE, ENGLAND

**The Care and Support (Personal Budget Exclusion of Costs)
Regulations 2014**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State, in exercise of the powers conferred by sections 26(4) and 125(7) of the Care Act 2014 (a), makes the following Regulations:

Citation, interpretation and commencement

1.—(1) These Regulations may be cited as the Care and Support (Personal Budget Exclusion of Costs) Regulations 2014 and shall come into force on 1st April 2015.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“intermediate care (including reablement support) services” means care and support provided to an adult by a local authority under section 18 or 19(1) or (2) or 20(1) or 20(6) of the Act which—

- (a) consists of a programme of care and support;
- (b) is for a specified period of time;
- (c) has as its purpose the provision of assistance to an adult to enable the adult to maintain or regain the skills needed to live independently in their own home.

Costs excluded from a personal budget

2.—(1) The costs to which paragraph (2) apply are costs which must be excluded from a personal budget.

(2) This paragraph applies to the costs to a local authority of meeting needs where—

- (a) it meets those needs by the provision of intermediate care (including reablement support) services ; and
- (b) it is—
 - (i) prohibited by regulations under section 14 of the Act from making a charge for doing so; or
 - (ii) (aa) it is not so prohibited but nevertheless does not make a charge for doing so, and

(a) 2014 c. X. The power to make regulations is exercisable by the Secretary of State, see section 125(1) of the Act.

- (bb) the reason it does not make a charge is not because it is prohibited from doing so under section 14(7) of the Act.

Signed by authority of the Secretary of State for Health

Address

Date

Name
Parliamentary Under Secretary of State
Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide that a local authority must exclude costs of meeting needs from a person's personal budget if the costs are incurred in meeting needs by the provision to the person of intermediate care (including reablement support) services.

Regulation 1 defines the term "intermediate care (including reablement support) services" as care and support which the local authority provides to the adult under section 18 or 19(1) or (2) or 20(1) or 20(6) of the Care Act 2014, which is a programme of care and support, provided for a specified period of time to provide assistance to the adult so that he or she maintains or regains the skills they need to be able to live independently in their home.

Regulation 2 provides that in cases where intermediate care (including reablement support) services are provided, the costs of doing so must be excluded from the adult's personal budget if the local authority is prohibited from making a charge for providing the services by regulations made under section 14, or if not, it does not charge for such services, and the reason it does not charge is not because it is prohibited from doing so by section 14(7).

2014 No.

SOCIAL CARE, ENGLAND

The Care and Support (Direct Payments) Regulations 2014

Made - - - - ***

Laid before Parliament ***

Coming into force - - ***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 33(1) and (2), 125(7) and (8) of the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Direct Payments) Regulations 2014 and come into force on 1 April 2015.

(2) In these Regulations —

“the Act” means the Care Act 2014;

“care home” has the meaning in section 8 of the Act.

Cases where a local authority must not meet needs by making a direct payment

2. A local authority must not meet needs by making a direct payment if the adult whose needs are to be met is a person to whom Schedule 1 applies.

Cases where a local authority has discretion not to make a direct payment

3. A local authority has the discretion to decide not to meet needs by making direct payments in cases where —

(a) the direct payment is for a service which the adult is obliged to receive as a result of an obligation imposed under the provision of an enactment mentioned in Schedule 2; or

(b) the adult is a person for whom there is in force a condition imposed in accordance with section 42(2) or 73(4) (including such a condition as has been varied in accordance with section 73(5) or 75(3) of the Mental Health Act 1983(b)) or who is a patient who has been conditionally discharged under section 193(7) of the Mental Health (Care and Treatment) (Scotland) Act 2003

(a) 2014 c. 23 The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1). Section 75(7) of the Act provides that a local authority may discharge its duty under section 117 (after care) of the Mental Health Act 1983 (c.20) by making direct payments and that section, and paragraph 1(10) of Schedule 4 to the Act modify section 33(2) accordingly

(b) 1983 c. 20.

Conditions which must apply to the making of direct payments

4.—(1) Direct payments must be made subject to the condition that they must not be used to pay any person mentioned in paragraph (3) to meet the needs of the adult in respect of whose needs the direct payment is made.

- (2) But direct payments may be used to pay a person mentioned in paragraph (3) –
- (a) to meet the needs of the adult if the local authority considers that it is necessary for that person to do so; or
 - (b) to provide administrative and management support or services for the purpose of enabling a person to whom the direct payments are made to —
 - (i) comply with legal obligations arising from the making of and use of the direct payment; or
 - (ii) monitor the receipt and expenditure of, the direct payment if that person obtains the prior consent of the local authority.

(3) The persons referred to in paragraph (1) are –

- (a) the spouse or civil partner of the adult;
- (b) a person who lives with the adult as if their spouse or civil partner;
- (c) a person living in the same household as the adult who is the adult's –
 - (i) parent or parent in law,
 - (ii) son or daughter,
 - (iii) son-in-law or daughter-in-law,
 - (iv) stepson or stepdaughter,
 - (v) brother or sister,
 - (vi) aunt or uncle, or
 - (vii) grandparent;
- (d) the spouse or civil partner of any person specified in sub-paragraph (c) who lives in the same household as the adult; and
- (e) a person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner.

(4) If paragraph (5) applies a direct payment made under section 32 must be made subject to the condition that the authorised person must obtain—

- (a) an enhanced criminal record certificate issued under section 113B of the Police Act 1997; or
- (b) verification that a satisfactory certificate of that type under that Act has been obtained,

in respect of any person from whom a service in respect of which a direct payment is made is secured.

(5) This paragraph applies if the authorised person is—

- (a) a body corporate;
- (b) an unincorporated body of persons;
- (c) an individual who is not a person mentioned in paragraph (3); or
- (d) an individual who is not a friend of the adult who is involved in the provision of care for the adult.

Conditions which may apply to the making of direct payments

5.—(1) A local authority may make a direct payment subject to other conditions.

(2) The conditions referred to in paragraph (1) may, in particular, require that the –

- (a) needs may not be met by a particular person,

- (b) adult or authorised person (in the case of direct payments made under section 32 of the Act) must provide information to the authority.
- (3) The conditions referred to in paragraph (1) may not require-
- (a) the needs of the adult to be met by any particular person,
 - (b) information to be provided to the authority—
 - (i) more frequently and in more detail than is reasonably required by the authority for the purpose of enabling it to ascertain that –
 - (aa) making direct payments is an appropriate way to meet the needs in question; or
 - (bb) the conditions upon which it is made are complied with;
 - (ii) in a format which is not reasonably practicable for the adult or authorised person to provide.

Steps which a local authority must take before making a direct payment under section 32 of the Act

6.—(1) A local authority must take the steps in paragraph (2) before it may be satisfied that condition 5 in section 32 of the Act is met.

- (2) The steps referred to in paragraph (1) are that the authority must—
- (a) so far as is reasonably practicable and appropriate, consult and take into account the views of –
 - (i) anyone named by the adult as someone to be consulted on the matter of whether direct payments should be made to the authorised person,
 - (ii) anyone engaged in caring for the adult or interested in the adult’s welfare; and
 - (iii) any person who is authorised under the Mental Capacity Act 2005 to make decisions about the adult’s needs for care support; and
 - (b) so far as is reasonably ascertainable, consider–
 - (i) the adult’s past and present wishes and feelings and, in particular, any relevant written statement made by the adult when the adult had capacity to request the local authority to meet his or her needs by making direct payments,
 - (ii) the beliefs and values that would be likely to influence the adult’s decision if the adult had such capacity, and
 - (iii) other relevant factors that the adult would be likely to consider if he or she were able to do so; and
 - (c) obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997–
 - (i) in respect of the authorised person if he or she is an individual who is neither a person mentioned in regulation 4(4) nor a friend of the adult who is involved in the provision of care for the adult, and
 - (ii) (in a case where the authorised person is a body corporate or an unincorporated body of persons), in respect of the individual who will, on behalf of that body have overall responsibility for the day today management of the adult’s direct payments.

Maximum periods of residential accommodation which may be secured by means of a direct payment

7.—(1) A direct payment must not be made for the provision of accommodation in a care home for an adult for a period of more than 4 consecutive weeks in any 12 month period.

(2) In calculating the period of 4 weeks mentioned in paragraph (1) a period of accommodation in a care home of less than 4 weeks shall be added to any succeeding period in such

accommodation where the two periods are separated by a period of less than 4 weeks but not otherwise.

(3) But a local authority listed in Schedule 3 must make a direct payment for the provision to an adult of accommodation in a care home, if the adult or authorised person (as the case may be) would otherwise be entitled to a direct payment for such accommodation under section 31 or 32 of the Act.

Review of Direct Payments

8.—(1) A local authority must conduct a review for the purpose of ascertaining whether the making of direct payments is an appropriate way to meet the adult's needs –

- (a) at least once within the first six months of the direct payment being made,
- (b) at intervals not exceeding twelve months thereafter,
- (c) in the case of a direct payment made to meet the needs of an adult under section 31 of the Act whenever the authority considers on the basis of information given to it by another person that the adult no longer has the capacity to request a direct payment,
- (d) in the case of a direct payment made to meet the needs of an adult under section 32 of the Act—
 - (i) whenever the authority has reason to believe on the basis of information given to it by another person that the adult no longer lacks capacity to request the local authority to meet any of those needs by the making of direct payments to the adult, or
 - (ii) whenever the authority is notified by any person of concerns that –
 - (aa) the direct payment may not have been used to meet the needs for which the payment was made, or
 - (bb) conditions 3 or 4 of section 32 of the Act are no longer met..

(2) When complying with its duty in paragraph (1) the local authority must involve—

- (a) the adult,
- (b) any carer that the adult has,
- (c) the authorised person to whom the direct payment is being made (in the case of direct payments made under section 32 of the Act)
- (d) any person who is providing administrative or management support or services in accordance with regulation 3(2)(b),
- (e)
 - (i) any person whom the adult asks the local authority to involve, or
 - (ii) if the adult lacks the capacity to do that—
 - (aa) the person who is authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care and support (if different to the person in paragraph (c)) or,
 - (bb) if there is no such person any person who appears to the authority to be interested in the adult's welfare.

(3) The local authority must take all reasonable steps to reach agreement as to the outcome of the review with—

- (a) the adult concerned; or
- (b) if the adult lacks capacity to reach such agreement,
 - (i) the person who is authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care and support; or
 - (ii) where there is no such person, the person who appears to the authority to be interested in the adult's welfare.

(4) The local authority must arrange for a person who is independent of the authority to be available to represent and support the adult for the purpose of facilitating the adult's involvement in the review if the local authority considers that, were such a person not to be available, the adult would experience substantial difficulty in doing one or more of the following—

- (a) understanding relevant information,
- (b) retaining that information,
- (c) using or weighing that information,
- (d) communicating his or her views, wishes or feelings, (whether by talking, using sign language or any other means).

(5) The duty in paragraph (4) does not apply if the local authority is satisfied that there is a person who—

- (a) would be an appropriate person to represent and support the adult for the purpose of facilitating his or her involvement, and
- (b) is not engaged in providing care or treatment for the adult in a professional capacity or for remuneration, and
 - (i) the adult consents to that person providing representation and support to the adult, or
 - (ii) in the case of an adult who lacks the capacity to give such consent the local authority is satisfied that being represented and supported by that person would be in the adult's best interests.

Making of direct payments for an adult who no longer has capacity to request the making of direct payments

9.—(1) A local authority need not terminate making direct payments under section 31 for an adult who by reason of paragraph (2) must be regarded as not lacking the capacity to make a request to the local authority to meet the adult's needs by making a direct payment.

(2) For the purposes of paragraph (1) an adult who no longer has the capacity to make a request to the local authority to meet the adult's needs by making direct payments is deemed to have the capacity to make the request if –

- (a) the authority is satisfied that the adult's lack of capacity to make the request is temporary; or
- (b) another person who appears to the authority to be capable of managing a direct payment is prepared to accept and manage such payments on behalf of the adult during the period of their incapacity.

Making of direct payments for an adult who no longer lacks capacity to request the making of direct payments

10.—(1) A local authority need not terminate making direct payments under section 32 for an adult who by reason of paragraph (2) must be regarded as lacking the capacity to make a request to the local authority to meet the adult's needs by making a direct payment.

(2) For the purposes of paragraph (1) an adult who no longer lacks the capacity to make a request to the local authority is deemed to lack the capacity to make the request if –

- (a) the authority is satisfied that the adult's capacity to make a request for direct payments is temporary,
- (b) another person who appears to the authority to be capable of managing a direct payment is prepared to accept and manage such payments on behalf of the adult during the period of their capacity, and
- (c) the direct payments made during the period that the adult has the capacity to make the request are made subject to an additional condition that the adult must manage the direct payments themselves for any period in respect of which the authority is satisfied that the

adult has capacity to request the direct payment and is capable of managing the direct payments.

Harmonisation with payments made under other legislation

11. In cases where the direct payment is made for an adult for whom direct payments are also made under section 12A of the National Health Service Act 2006 the local authority must take reasonable steps to co-ordinate its systems, processes and requirements relating to the making of the direct payment with those in place in respect of the direct payment made for the adult under the 2006 Act with a view to minimising the administrative or other burdens it places on the adult or authorised person (as the case may be) in connection with the making of the direct payment by the local authority.

Direct payments in respect of after-care under the Mental Health Act 1983

12. In respect of a direct payment to discharge the duty of a local authority under section 117 of the Mental Health Act 1983, these Regulations apply with the following modifications—

- (a) references to section 31 or section 32 of the Act are to be read as references to those sections as modified by Part 1 of Schedule 4 to the Act,
- (b) in regulation 2 for “meet needs” substitute “discharge its duty under section 117 of the Mental Health Act 1983”,
- (c) in regulation 3 for “meet needs” substitute “discharge its duty under section 117 of the Mental Health Act 1983”,
- (d) in regulation 4—
 - (i) in paragraph (1), for “meet the needs of the adult in respect of whose needs the direct payments is made” substitute “provide after-care services to the adult to discharge the duty under section 117 of the Mental Health Act 1983”, and
 - (ii) in paragraph (2)(a), for “meet the needs of the adult” substitute “provide after-care services to the adult to discharge the duty under section 117 of the Mental Health Act 1983”,
- (e) in regulation 5—
 - (i) in paragraph (2)(a), for “needs may not be met” substitute “the after-care services may not be provided”,
 - (ii) in paragraph (3)(a), for “the needs of the adult to be met” substitute “the after-care services to be provided”, and
 - (iii) in paragraph (3)(b)(i)(aa), for “to meet the needs” substitute “discharge its duty under section 117 of the Mental Health Act 1983”,
- (f) in regulation 6—
 - (i) in paragraph (1), for “meet the needs in question” substitute “discharge its duty under section 117 of the Mental Health Act 1983”,
 - (ii) in paragraph (2)(b)(i), for “meet his or her needs by making direct payments” substitute “make payments to the adult or a person nominated by the adult that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under section 117 of the Mental Health Act 1983”,
- (g) in regulation 8—
 - (i) in paragraph (1)(c) and (1)(d), for “meet the needs of an adult” substitute “discharge its duty under section 117 of the Mental Health Act 1983”,
 - (ii) in paragraph (1)(d)(i), for “meet any of those needs” substitute “make payments to the adult or a person nominated by the adult that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under section 117 of the Mental Health Act 1983”,

- (iii) in paragraph (1)(d)(ii)(aa), for “to meet the needs” substitute “only to pay for arrangements under which after-care services for the adult are provided under section 117 of the Mental Health Act 1983”, and
- (iv) in paragraph (2)(e)(ii)(aa) and (3), for “the adult’s needs for care and support” substitute “the provision of after-care services under section 117 of the Mental Health Act 1983”,
- (h) in regulation 9, in paragraph (1) and (2), for “meet the adult’s needs” substitute “make payments to the adult or a person nominated by the adult that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under section 117 of the Mental Health Act 1983”, and
- (i) in regulation 10, in paragraph (1), for “meet the adult’s needs” substitute “make payments to the adult or a person nominated by the adult that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under section 117 of the Mental Health Act 1983”.

SCHEDULE 1

Regulation 2

Adults Whose Needs the Local Authority May Not Meet By Making Direct Payments.

This Schedule applies to a person if they are—

- (a) Subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence or imprisonment, within the meaning of section 189 of that Act;
- (b) Subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (c) Released on licence under Part 2 of the Criminal Justice Act 1991, Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of the Crime (Sentences) Act 1997, subject to a non standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour;
- (d) Required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act;
- (e) Subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000
- (f) Required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995 or subject to a drug treatment and testing order within the meaning of section 234B of that Act; or
- (g) Released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989 or under section 1 or 1AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and subject to a condition that they submit to treatment for their drug or alcohol dependency.

SCHEDULE 2

Enactments Under Which An Obligation To Meet Needs May Be Imposed And In Respect Of Which A Local Authority Has Discretion Not to Meet the Needs By Making a Direct Payment.

The enactments referred to in regulation 3(a) are —

- (a) Part 1 of Schedule 1A to the Criminal Procedure (Insanity) Act 1964
- (b) section 8, 17 or 17B of the 1983 Act or section 40(2) read with section 8 of that Act
- (c) section 57A of or Schedule 4 to the Criminal Procedure (Scotland) Act 1995
- (d) section 41, 53, 127, 179, 221 or 224 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 66 read with section 64 or 65 of that Act
- (e) section 177 or 189 of the Criminal Justice Act 2003 in so far as those sections relate to a person who is subject to a mental health treatment requirement as defined by section 207 of that Act
- (f) section 41 or 51 of the Powers of Criminal Courts (Sentencing) Act 2000 insofar as those sections relate to a person who is required to submit to treatment for their mental condition;
- (g) section 227A of the Criminal Procedure (Scotland) Act 1995 insofar as they relate to a person who is required to submit to treatment for their mental condition;
- (h) section 22 or 26 of the Prisons (Scotland) Act 1989 insofar as those sections relate to a person who is subject to a condition that they submit to treatment for their mental condition;
- (i) section 12 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 insofar it relates to a person who is subject to a condition that they submit to treatment for their mental condition; and
- (j) section 37(4) of the Criminal Justice Act 1991 insofar as it relates to a person who is subject to a condition that they submit to treatment for their mental condition.

SCHEDULE 3

List of Local Authorities Who May Make A Direct Payment For the Purpose of Securing Long Term Residential Accommodation

Bristol City Council
Cornwall Council
Dorset County Council
Gateshead Council
Hertfordshire County Council
Hull City Council
Lincolnshire County Council
London Borough of Enfield
London Borough of Havering
London Borough of Redbridge
Manchester City Council
Milton Keynes Council
Norfolk County Council
North Lincolnshire Council
Nottinghamshire County Council
Staffordshire County Council
Stockport Council

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for local authorities to meet a person's needs by the making of a direct payment in accordance with sections 32 and 33 of the Care Act 2014.

Regulation 2 prohibits a local authority from meeting needs by making a direct payment in the case of a person to whom Schedule 1 applies.

Regulation 3 confers discretion on local authorities to meet needs by making direct payments in the case of a person who is obliged to receive a service under an enactment mentioned in Schedule 2 or for whom there is in force a condition imposed in accordance with section 42(2) or 73(4) of the Mental Health Act 1983 or who is a patient who has been conditionally discharged under section 193(7) of the Mental Health (Care and Treatment) (Scotland) Act 2003.

Regulations 4 and 5 set out conditions which may or must be imposed in respect of direct payments.

Regulation 6 sets out steps which a local authority must take in order to be satisfied that making direct payments under section 32 of the Act to an authorised person is an appropriate way to meet the needs in question.

Regulation 7 sets out the maximum periods of accommodation in a care home which may be secured by means of a direct payment in cases where the needs are met by a local authority who is not a local authority in Schedule 3.

Regulation 8 provides for the authority to review the making of direct payments in certain circumstances.

Regulations 9 and 10 provide for the circumstances where a local authority is not required to terminate the making of direct payments in respect of people who no longer have capacity or no longer lack capacity to request a direct payment.

Regulation 11 applies in cases where a direct payment is made to a person who is in receipt of direct payments under section 12A of the National Health Service Act 2006 and requires local authorities to take reasonable steps to co-ordinate its systems and processes in respect of the direct payment with those in place for the direct payment made under the 2006 Act.

Regulation 12 applies these regulations with modifications to cases where a direct payment is made under section 117 of the Mental Health Act 1983.

2014 No. 0000

SOCIAL CARE, ENGLAND

**Care and Support (Provision of Health Services) Regulations
2014**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Health, in exercise of the powers conferred by sections 22(4)(a), 22(6) and 125(7) and (8) of the Care Act 2014(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Provision of Health Services) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“the Board” means the National Health Service Commissioning Board(b);

“healthcare profession” means a profession which is concerned (wholly or partly) with the physical or mental health of individuals (whether or not a person engaged in that profession is regulated by, or by virtue of, any enactment);

“health service” means the health service continued under section 1(1) of the National Health Service Act 2006(c);

“local authority member” means a person included in a list established by the Board pursuant to regulation 23(1)(b) of the Standing Rules Regulations;

“multi-disciplinary team” means a team consisting of at least-

- (a) two professionals who are from different healthcare professions, or
- (b) one professional who is from a healthcare profession and one person who is responsible for assessing persons who may have needs for care and support under Part 1 of the Care Act 2014;

“National Framework” means the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care issued by the Secretary of State and dated 28th November 2012(d);

(a) 2014 c. 23. The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1).
(b) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006 (c.41) (“the 2006 Act”). Section 1H was inserted by section 9(1) of the Health and Social Care Act 2012 (c.7) (“the 2012 Act”).
(c) Section 1 of the National Health Service Act 2006 was substituted by the Health and Social Care Act 2012, section 1.
(d) The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care can be found at <https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>

“NHS Continuing Healthcare” means a package of care arranged and funded solely by the health service in England for a person aged 18 or over to meet physical or mental health needs which have arisen as a result of disability, accident or illness;

“relevant body” means the Board or a clinical commissioning group(a);

“review panel” means the panel of members referred to in regulation 23(4) of the Standing Rules Regulations;

“Standing Rules Regulations” means the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012(b).

Arrangements for the provision of nursing care by a registered nurse: responsible Clinical Commissioning Group

2.—(1) For the purposes of section 22(4) of the Care Act 2014, the clinical commissioning group from which a local authority(c) must obtain consent for it to arrange for the provision of nursing care by a registered nurse in respect of any person is the responsible clinical commissioning group.

(2) The responsible clinical commissioning group in respect of any person is the clinical commissioning group which has responsibility for arranging for the provision of nursing care by a registered nurse in respect of that person., pursuant to the provisions of section 3(1), (1A) and (1E) of the National Health Service Act 2006 and any regulations made under section 3(1B)(d) or (1D)(e) or section 3B(1)(f) of that same Act,

Requirements on local authorities: joint working with relevant bodies

3.—(1) A local authority must, as far as is reasonably practicable, provide advice and assistance to a relevant body which consults it pursuant to regulation 22(1)(a) of the Standing Rules Regulations (duty of relevant bodies: joint working with social services authorities).

(2) A local authority must, when requested to do so by a relevant body, co-operate with that body in arranging for a person or persons to participate in a multi-disciplinary team for the purposes of that body fulfilling its duty under regulation 21(5) of the Standing Rules Regulations (duty of relevant bodies: assessment and provision of NHS Continuing Healthcare).

(3) Nothing in this regulation affects a local authority’s duty to carry out an assessment of a person’s needs for care and support pursuant to section 9 of the Care Act 2014, and if it has carried out such an assessment, it must use the information obtained as a result of that assessment to comply with its duty under paragraph (1).

(4) In complying with its obligations under this regulation, a local authority must have due regard to the need to promote and secure the continuity of appropriate services for persons—

- (a) whose care and support needs are being met under Part 1 of the Care Act 2014 or who are being provided with aftercare under section 117 of the Mental Health Act 1983(g) on the date on which they are found to be eligible to receive NHS Continuing Healthcare;
- (b) who have been in receipt of NHS Continuing Healthcare but are determined to be no longer eligible for NHS Continuing Healthcare; or

(a) A clinical commissioning group is a body established under section 14D of the 2006 Act. Section 14D was inserted by section 25(1) of the 2012 Act. See also section 11 of the 2006 Act, inserted by section 10 of the 2012 Act.

(b) S.I. 2012/2996. Regulation 21 and Schedule 5 (which relates to regulation 23) have been amended by the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013 (S.I. 2013/2891), regulation 2.

(c) See section 1(4) of the Act as to the meaning of “local authority”.

(d) The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 [SI 2012/2996] have been made under, inter alia, the provisions in section 3(1B) and 3B(1) of the National Health Service Act 2006.

(e) The National Health Service (Clinical Commissioning Groups – Disapplication of Responsibility) Regulations 2013 [SI 2013/350] have been made under the provisions of section 3(1D) of the National Health Service Act 2006

(f) See footnote (e).

(g) 1983 c.20.

(c) who are otherwise determined to be ineligible for NHS Continuing Healthcare.

(5) Where, pursuant to regulation 24(1) of the Standing Rules Regulations (appointment and term of appointment), the Board requests that a local authority nominates a person to be appointed as a local authority member of a review panel, the local authority—

- (a) must nominate such a person as soon as is reasonably practicable; and
- (b) must ensure that local authority members are, so far as is reasonably practicable, available to participate in review panels.

Requirements on local authorities: dispute resolution

4. Where there is a dispute between a relevant body and a local authority about—

- (a) a decision as to eligibility for NHS Continuing Healthcare; or
- (b) the contribution of a relevant body or local authority to a joint package of care for a person who is not eligible for NHS Continuing Healthcare,

the local authority must, having regard to the National Framework, agree a dispute resolution procedure with the relevant body, and resolve the disagreement in accordance with that procedure.

Transitional provisions

5.—(1) This paragraph applies in a case where immediately before 1st April 2015 a local authority—

- (a) was, in accordance with any directions issued in exercise of the powers conferred by section 7A of the Local Authority Social Services Act 1970(a)—
 - (i) providing advice and assistance to a relevant body which had consulted it pursuant to regulation 22(1)(a) of the Standing Rules Regulations (duty of relevant bodies: joint working with social services authorities); or
 - (ii) cooperating with a relevant body in arranging for a person to participate in a multi-disciplinary team for the purposes of that body fulfilling its duty under regulation 21(5) of the Standing Rules Regulations (duty of relevant bodies: assessment and provision of NHS Continuing Healthcare);
- (b) was in receipt of a request from the Board, pursuant to regulation 24(1) of the Standing Rules Regulations (appointment and term of appointment), that it nominate a person to be appointed as a local authority member of a review panel but had not yet nominated such a person; or
- (c) was in dispute with a relevant body about—
 - (i) a decision as to eligibility for NHS Continuing Healthcare; or
 - (ii) the contribution of a relevant body or local authority to a joint package of care for a person who is not eligible for NHS Continuing Healthcare,

and had either not yet agreed a dispute resolution procedure with the relevant body, in accordance with any directions issued in exercise of the powers conferred by section 7A of the Local Authority Social Services Act 1970, or had agreed such a dispute resolution procedure with the relevant body but had not yet resolved the dispute in accordance with that procedure.

(2) Where—

- (a) paragraph (1)(a) applies, the local authority is required to continue providing advice and assistance to the relevant body or cooperating with the relevant body as though such obligation had arisen under these Regulations;

(a) The NHS Continuing Healthcare (Responsibilities of Social Services Authorities) Directions were issued under the powers conferred by section 7A of the Local Authority Social Services Act 1970 on 27th March 2013.

- (b) paragraph (1)(b) applies, the local authority is required to nominate a person to be appointed as a local authority member of a review panel as though the obligation to nominate such a person had arisen under these Regulations;
- (c) paragraph (1)(c) applies, the local authority is required to—
 - (i) if necessary, agree a dispute resolution procedure, and
 - (ii) resolve the disagreement in accordance with any procedure agreed with the NHS body
 as though the obligation to agree such procedure and to resolve the disagreement had arisen under these Regulations.

Signatory text

	<i>Name</i>
Address	Parliamentary Under Secretary of State
Date	Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of three different issues all of which concern the relationship between local authorities and the National Health Service (“the NHS”) at the boundary between their respective areas of responsibilities: the issue of consent to arranging the provision of nursing care by a registered nurse; the issue of joint working between local authorities and the NHS and the issue of resolving disputes between local authorities and the NHS.

Local authorities are prohibited by section 22 of the Care Act 2014 from meeting needs under the Act by providing or arranging the provision of services or facilities that it is the responsibility of the National Health Service to provide. However, local authorities are permitted, despite this prohibition, to arrange for the provision of accommodation together with the provision of registered nursing care by a registered nurse (“nursing home accommodation”) if they have obtained consent to arrange for the provision of such nursing care from whichever clinical commissioning group (“CCG”) regulations require.

Regulation 2 imposes a requirement to obtain such consent from the CCG which has the responsibility for arranging for the provision of nursing care by a registered nurse in respect of the person concerned.

That responsibility is established by reference to certain provisions of the National Health Service Act 2006 (“the 2006 Act”) and regulations made under the 2006 Act.

Regulation 3 makes provision about how local authorities must work with the Board or CCGs (“NHS bodies”) in the processes for assessing a person’s needs for health care and for deciding how those needs must be met. It includes requirements regarding participation in review panels. These provisions mirror similar requirements regarding joint working that are imposed on such NHS bodies by the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (as amended) (“the Standing Rules Regulations”).

Regulation 4 imposes requirements on local authorities to make arrangements for determining any disputes between themselves and NHS bodies about whether or not something should be provided by the NHS as part of the health service. Again, these requirements mirror similar requirements imposed on the NHS bodies by the Standing Rules Regulations.

The requirements imposed on local authorities regarding joint working, participation in review panels and dispute resolution are similar to requirements previously imposed on them by directions made under the provisions of section 7A of the Local Authority Social Services Act 1970. Transitional provisions in regulation 5 provide for continuity in those cases where the local authority is already working jointly with NHS bodies in a particular case, where the local authority is already in receipt of a request to nominate a member to a review panel or where the local authority is already working with an NHS Body to settle a dispute.

2014 No. XXXX

NATIONAL HEALTH SERVICE, ENGLAND

SOCIAL CARE, ENGLAND

**The Care and Support (Discharge of Hospital Patients)
Regulations 2014**

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraphs 2(5)(b), 4(6), 6 and 8 of Schedule 3 to, and section 125(7) and (8) of, the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Discharge of Hospital Patients) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“delayed discharge period” means the period determined in accordance with regulation 9;

“NHS continuing health care” means a package of care arranged and funded solely by the health service in England for a person aged 18 or over to meet physical or mental health needs which have arisen as a result of disability, accident or illness;

“the Act” means the Care Act 2014.

(3) For the purposes of these Regulations, a reference to a section or a Schedule is a reference to that section of or Schedule to the Act, unless indicated otherwise.

Form of notices

2.—(1) This regulation applies to the following—

- (a) an assessment notice (see paragraph 1(1) of Schedule 3);
- (b) a discharge notice (see paragraph 2(1)(b) of Schedule 3); and
- (c) a withdrawal notice given by an NHS body to a local authority under—
 - (i) paragraph 1(5)(c) of Schedule 3; or
 - (ii) paragraph 2(4)(b) of Schedule 3.

(2) The notice must—

- (a) be in writing; and

(a) 2014 c. 23. The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1).

- (b) contain the date on which it is given.

Assessment notice: contents

3.—(1) An assessment notice must contain—

- (a) the name of the patient to whom the notice relates;
- (b) the patient's NHS number;
- (c) if given before the patient's admission, the expected date of admission and the name of the hospital to which the patient is expected to be admitted;
- (d) if given after the patient's admission, the name of the hospital in which the patient is being accommodated;
- (e) an indication of the likely date of the patient's discharge, if known;
- (f) a statement—
 - (i) that the NHS body responsible for the patient has complied with its duty under paragraph 1(4) of Schedule 3 (duty to consult patient and any carer that the patient has);
 - (ii) that the NHS body has considered whether or not to provide the patient with NHS continuing health care, and the result of that consideration, and
 - (iii) as to whether the patient or (where applicable) the patient's carer has objected to the giving of the assessment notice; and
- (g) the contact details of the person at the hospital who will be responsible for liaising with the relevant authority.

(2) Contact details mean—

- (a) full name; and
- (b) either or both of the following—
 - (i) telephone number;
 - (ii) electronic mail address.

Assessment notice: withdrawal

4. A notice withdrawing an assessment notice must be given where—

- (a) the NHS body responsible for the patient now considers that it is likely to be safe to discharge the patient without arrangements for meeting the patient's needs for care and support or (where applicable) the carer's needs for support being put in place;
- (b) the NHS body now considers that the patient needs NHS continuing health care;
- (c) the NHS body, having received the information specified in paragraph 3(1)(d) of Schedule 3 (how local authority plans to meet needs), still considers that it is unlikely to be safe to discharge the patient from hospital unless further arrangements are put in place for meeting the patient's needs for care and support needs or (where applicable) the patient's carer's needs for support;
- (d) the patient's proposed treatment is cancelled or postponed;
- (e) the NHS body has been informed by the relevant authority that it is not required to carry out an assessment because the patient has refused a needs assessment or (where applicable) the patient's carer has refused a carer's assessment (see section 11);
- (f) the NHS body becomes aware that –
 - (i) the patient's ordinary residence has changed since the assessment notice was given;
or
 - (ii) the notice was given to a local authority other than the one in whose area the patient is ordinarily resident.

Discharge notice: minimum period of service

5. A discharge notice may not be given less than one day in advance of the proposed discharge date.

Discharge notice: contents

6.—(1) A discharge notice must contain—

- (a) the name of the patient to whom the notice relates;
- (b) the patient's NHS number;
- (c) the name of the hospital in which the patient is being accommodated;
- (d) the contact details of the person at the hospital who will be responsible for liaising with the relevant authority.
- (e) the date on which it is proposed that the patient be discharged;
- (f) a statement confirming that the patient and, where applicable, the patient's carer has been informed of the date on which it is proposed that the patient be discharged;
- (g) a statement that the discharge notice is given under paragraph 2(1)(b) of Schedule 3.

(2) Contact details mean—

- (a) full name; and
- (b) either or both of the following—
 - (i) telephone number;
 - (ii) electronic mail address.

Discharge notice: withdrawal

7.—(1) Subject to paragraph (2), a notice withdrawing a discharge notice must be given where the NHS body responsible for the patient considers that it is no longer likely to be safe to discharge the patient on the proposed discharge date.

(2) Paragraph (1) does not apply where the only reason that the NHS body considers that it is no longer likely to be safe to discharge the patient on the proposed discharge date is that the relevant authority has—

- (a) not discharged its duty to carry out a needs assessment or (where applicable) a carer's assessment in relation to the patient; or
- (b) not put in place arrangements for meeting some or all of those needs that it proposes to meet under sections 18 to 20 in the case of the patient or (where applicable) the patient's carer.

Relevant day

8. The period specified for the purposes of paragraph 2(5)(b) of Schedule 3 (relevant day in relation to discharge notice)(a) is the period—

- (a) beginning with the day after that on which the assessment notice is given; and
- (b) ending two days after that date.

Delayed discharge period

9.—(1) The specified period ("the delayed discharge period") for the purposes of paragraph 4(6) of Schedule 3 is to be determined in accordance with this regulation.

(a) See also paragraph 2(6) of Schedule 3.

(2) The period begins with the day after the day which is the relevant day^(a) in relation to that discharge notice.

(3) The period ends with the day on which any of the following occurs—

- (a) the NHS body responsible for the patient withdraws the assessment notice or discharge notice relating to that patient;
- (b) the relevant authority gives notice to the NHS body responsible for the patient that it has—
 - (i) carried out a needs assessment or (where applicable) a carer’s assessment in relation to the patient to whom the notice relates; and
 - (ii) put in place arrangements for meeting some or all of those needs that it proposes to meet under sections 18 to 20 in the case of the patient or (where applicable) carer;
- (c) the relevant authority is no longer required to put in place arrangements to meet the needs of the patient or (where applicable) carer under sections 18 to 20 because—
 - (i) the patient informs the relevant authority that he or she has arranged his or her own care or other care is arranged for the patient; and
 - (ii) the carer informs the relevant authority that he or she has arranged his or her own support or other support is arranged for the carer;
- (d) the patient discharges himself or herself;
- (e) the NHS body responsible for the patient decides that the patient needs to remain in hospital for a further course of treatment; or
- (f) the patient dies.

(4) A day is not to be treated as a day of the delayed discharge period in the following circumstances—

- (a) the relevant authority has by 11am of that day put in place arrangements for meeting some or all the needs that it proposes to meet under sections 18 to 20 in the case of the patient or (where applicable) the carer;
- (b) the NHS body responsible for the patient considers that the patient is not able to be discharged due to a deterioration on that day.

Delayed discharge payment

10. For the purposes of paragraph 4(6) of Schedule 3 (amount to be paid for each day of delayed discharge period), the amount specified is –

- (a) £155 where the relevant authority is —
 - (i) a London borough council, or
 - (ii) the Common Council of the City of London; and
- (b) £130 in any other case.

Day on which assessment and discharge notice is to be regarded as given

11. An assessment notice or a discharge notice which is given after 2pm on any day is to be treated as having been given on the following day.

Ordinary residence

12.—(1) Subject to paragraph (2), a local authority to which an assessment notice has been given must accept that notice and carry out the duties of a relevant authority arising from it even though it may wish to dispute that it was a correct authority to which to give the notice.

(a) See paragraph 2(5) of Schedule 3 for the definition of “relevant day”.

(2) Where for a reason set out in paragraph (3), it becomes apparent that the patient to whom the notice relates is ordinarily resident in the area of another local authority then that local authority is to become the relevant authority(a) in the patient's case.

(3) The reasons referred to in paragraph (2) are that—

- (a) the other local authority agrees that it is the correct authority; or
- (b) a determination is made under section 40 to the effect that the patient is ordinarily resident in the area of the other local authority.

(4) Where paragraph (2) applies, the local authority to which the notice was given may recover from the local authority which is the correct authority in relation to that case any expenditure it has incurred in relation to that case in—

- (a) making a payment under paragraph 4 of Schedule 3 (delayed discharge payment); or
- (b) meeting needs under sections 18 to 20.

Transitional and saving provision

13.—(1) This paragraph applies in a case where immediately before 1st April 2015, a notice has been given under section 2 of the Community Care (Delayed Discharges etc.) Act 2003(b) (“the 2003 Act”).

(2) Where paragraph (1) applies, the provisions of, and under the 2003 Act are to continue to apply as modified by paragraph (3) in relation to that case for so long as that notice under section 2 of the 2003 Act remains in force.

(3) The provisions of, and under the 2003 Act apply in relation to a case mentioned in paragraph (2) as if—

- (a) for all references to “community care services” there were substituted “arrangements for meeting some or all of the care and support needs the local authority proposes to meet under either or both section 18 and 19 of the Care Act 2014”;
- (b) for the references to “section 2 of the Carers and Disabled Children Act 2000(c)” in section 4(3)(a)(i) of the 2003 Act there were substituted “section 20 of the Care Act 2014”;
- (c) for all references to “section 1 of the Carers and Disabled Children Act 2000” and the reference to “section 1 or 2 of the Carers and Disabled Children Act 2000” in section 4(10) of the 2003 Act there were substituted—
 - (i) “section 10 of the Care Act 2014” where the carer is aged 18 or over; or
 - (ii) “section 63 of the Care Act 2014” where the carer is under 18 years of age; and
- (d) for the references to “section 47(1) of the National Health Service and Community Care Act 1990(d)” in section 4(9) of the 2003 Act there were substituted “section 9 of the Care Act 2014”.

Revocations

14. Subject to regulation 13, the following are revoked—

- (a) the Community Care (Delayed Discharges etc.) Act (Qualifying Services) (England) Regulations 2003(e);
- (b) the Delayed Discharges (Mental Health Care) (England) Order 2003(f);
- (c) the Delayed Discharges (England) Regulations 2003(a); and

(a) See paragraph 1(2) of Schedule 3.

(b) 2003 c.5.

(c) 2000 c.16.

(d) 1990 c.19.

(e) S.I. 2003/1196.

(f) S.I. 2003/2276.

(d) the Community Care (Delayed Discharges etc.) Act 2003 (Commencement No.1) (England) Order 2003**(b)**.

Signed by authority of the Secretary of State for Health

Date _____
Name
Parliamentary Under Secretary of State
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations make provision for the details of the scheme for the discharge of hospital patients with care and support needs set out in section 74 of and Schedule 3 to the Care Act 2014 (“the Act”). Schedule 3 to the Act makes provision for co-operative working to secure the safe discharge of patients in England from NHS, or NHS arranged, hospital care to local authority care and support and enables local authorities to reimburse the relevant NHS body where a patient’s discharge has been delayed due to a failure of the local authority either to arrange for relevant assessments or meet a patient’s or (where applicable) that patient’s carer’s needs that it proposes to meet.

Regulation 2 requires that all notices which the NHS body gives the local authority under Schedule 3 to the Act must be in writing and contain the date upon which it is given.

Regulation 3 sets out the details which an assessment notice must contain and regulation 4 sets out the circumstances under which an NHS body must withdraw an assessment notice.

Regulation 5 specifies that a discharge notice may not be given less than one day in advance of the proposed discharge date. Regulation 6 sets out the details which a discharge notice must contain and regulation 7 sets out the circumstances under which an NHS body must withdraw a discharge notice.

Regulation 8 specifies that the minimum period in which a local authority must assess the patient’s needs for care and support or, where applicable, carer’s needs for support and decide what (if any) of those needs it proposes to meet, is two days after the date on which an assessment notice is given.

Regulation 9 sets out how the period for which the local authority may be liable to the NHS for reimbursement for the costs of the patient’s care is to be determined and Regulation 10 specifies the daily amount the local authority may be required to pay by the NHS body in the event that the local authority has not assessed the patient and put in place arrangements to meet some or all of those needs that it proposes to meet.

Regulation 11 provides for the day on which an assessment and discharge notice is to be regarded as given.

Regulation 12 requires a local authority to which an assessment notice is given to accept that notice and be required to undertake the duties in relation to that patient notwithstanding that it may dispute that patient’s ordinary residence. It also allows a local authority which has wrongly been

(a) S.I. 2003/2277.
(b) S.I. 2003/2280.

given an assessment notice to claim reimbursement from the local authority in whose area the patient is later agreed or determined to be ordinarily resident.

Regulation 13 provides transitional and saving provision so that any assessment notice given under the Community Care (Delayed Discharges etc) Act 2003 (“the 2003 Act”) immediately before the implementation of section 74 of the Act will continue to have effect for so long as the assessment notice given under the 2003 Act remains in force.

Regulation 14 revokes subordinate legislation made in relation to England under Part 1 of the 2003 Act consequential on the disapplication of the 2003 Act in relation to England.

Power of local authority to charge

4. Section 14 of the Act applies as if, in subsection (1)(a) of that section, “sections 18 to 20” were replaced with “section 62(1)”.

Assessment of financial resources

5. Section 17 of the Act applies as if—

- (a) in subsection (3) of that section, “, having made a determination under section 13(1),” were omitted; and
- (b) “carer”, wherever it appears in that subsection were read to be a reference to a child’s carer.

Exception for provision of health services

6. Section 22 of the Act applies as if, in subsections (1) and (3) of that section, “sections 18 to 20” were replaced with “section 62(1)”.

Exception for provision of housing etc.

7. Section 23 of the Act applies as if, in subsection (1) of that section, “sections 18 to 20” were replaced with “section 62(1)”.

The steps for the local authority to take

8. Section 24 of the Act applies as if, in subsection (1) of that section—

- (a) “is required to meet needs under section 18 or 20(1), or” were omitted; and
“do so under section 19(1) or (2) or 20(6),” were replaced with “meet needs under section 62(1)”.

Support plan

9. Section 25 of the Act applies as if—

- (a) “carer”, wherever it appears in that section, were read to be a reference to a child’s carer;
- (b) in subsection (1)(a) of that section, “carer’s assessment” were replaced with “child’s carer’s assessment”;
- (c) subsection (1)(b) of that section were omitted;
- (d) in subsections (1)(d) and (6)(b) of that section, “10(5) and (6)” were replaced with “61(1) and (2)”; and
- (e) in subsections (4)(b), (8)(b) and (10)(b) of that section, “adult needing care” were replaced with “child the child’s carer cares for”.

Review of support plan

10. Section 27 of the Act applies as if—

- (a) “carer”, where it appears in subsections (1) and (3), were read to be a reference to a child’s carer.
- (b) in subsection (3)(a) of that section “10(5) and (6)” were replaced with “61(1) and (2)”; and
- (c) in subsection (3)(b)(ii) of that section “adult needing care” were replaced with “child”; and
- (d) in subsection (4)(a) of that section—
 - (i) “needs” was replaced with “child’s carer’s assessment if the person being cared for is still under 18”;

- (ii) “if the person being cared for is over 18” were inserted after “carer’s assessment”; and
- (iii) “, if the person being cared for is over 18,” were inserted after “financial assessment and”.

Independent advocacy

11. Section 67 of the Act applies as if the requirements under sections 25 and 27 of the Act, as modified by these regulations, to prepare a support plan and review that plan respectively, were relevant provisions under subsection (3) of that section.

Transfer of assets to avoid charges

12. Section 70 of the Act applies as if in subsection (1) of that section, “18 to 20” were replaced with “62(1)”.

Signed by authority of the Secretary of State for Health

Address Date	<i>Name</i> Parliamentary Under Secretary of State Department of Health
-----------------	---

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 62(1) of the Care Act 2014 (“the Act”) provides a power to a local authority that has carried out an assessment under section 60 assessment of a child’s carer ahead of the child becoming 18 to provide support to meet any of a child’s carer’s needs. These Regulations make provision in connection with the exercise of that power.

Regulation 2(1) provides that, when a local authority exercises its power to provide support to a child’s carer under section 62(1) of the Act, the provisions in Part 1 of the Act apply (with certain modifications) to the exercise of that power in the same way as if the local authority were exercising the power under section 20(6) to provide support to a carer following an assessment under section 10 of the Act. Some provisions in Part 1 are not relevant to the exercise of the power under section 20(6) and so do not apply to the exercise of that power and, by virtue of Regulation 2(1), do not apply to the exercise of the power under section 62(1). For example, certain sections in Part 1, such as 28, 29, 34, 35, 39, 40 and 41, do not apply because they relate to an adult with needs for care and support and certain other sections in Part 1, such as 13, 42-46 and 53-57 do not apply because they do not relate to the provision of services to an individual. Certain sections in Part 1, such as 1 and 7, however, apply automatically because they apply to all functions under Part 1 of the Act.

Regulation 2(2) provides that, in exercising the power under section 62(1) of the Act, a local authority cannot provide support to a child’s carer by providing care and support to the child.

Regulations 3 to 12 make modifications to certain provisions which are relevant to the provision of support to a child’s carer to ensure it is clarity of application.

In several cases these modifications are simply substituting section references that are relevant to, and terminology that is more appropriate for, the situation where support is being provided to a child’s carer. There are in addition certain other modifications as set out below.

Regulation 5 modifies section 17 of the Act to remove the requirement that an eligibility determination under section 13 of the Act has been completed in order for subsection (3) of

section 17 to apply. This is because no such eligibility determination would be made in the case of a child's carer.

Regulation 9(a) modifies section 25 of the Act to provide that there is no requirement for a support plan to specify whether, or the extent to which, the child's carer's needs meet the eligibility criteria.

Regulation 10(c) modifies section 27 of the Act to provide that where a support plan for a child's carer is being reviewed and the circumstances have changed, a child's carer's assessment and financial assessment should be carried out if the person being cared for is under 18 and a carer's assessment, financial assessment and eligibility determination should be carried out if the person being cared for is over 18.

Regulation 11 modifies section 67 of the Act to provide that its provisions, relating to advocacy, apply to the preparation and revision of a child's carer's support plan.

2014 No.

SOCIAL CARE, ENGLAND

**The Care and Support (Ordinary Residence) (Specified
Accommodation) Regulations 2014**

Made - - - - ***
Laid before Parliament ***
Coming into force - - *1st April 2015*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 39(1) and 125(7) of the Care Act 2014(a):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“personal care” means—

(a) physical assistance given to a person in connection with—

(i) eating or drinking (including the administration of parenteral nutrition),

(ii) toileting (including in relation to the process of menstruation),

(iii) washing or bathing,

(iv) dressing,

(v) oral care,

(vi) the care of skin, hair and nails (with the exception of nail care provided by a chiropodist or podiatrist); or

(b) the prompting, together with supervision, of a person in relation to the performance of any of the activities listed in paragraph (a), where that person is unable to make a decision for themselves in relation to performing the activity without such prompting or supervision.

Specified types of accommodation

2. The following types of accommodation are specified for the purposes of section 39(1) of the Act (where a person is treated as ordinarily resident)—

(a) 2014 c.23; see section 125(1) for the power to make regulations.

- (a) care home accommodation (see regulation 3);
- (b) shared lives scheme accommodation (see regulation 4);
- (c) supported living accommodation (see regulation 5).

Care home accommodation

3. For the purposes of these regulations “care home accommodation” means accommodation in a care home within the meaning given by section 3 of the Care Standards Act 2000(a).

Shared lives scheme accommodation

4. For the purposes of these regulations “shared lives scheme accommodation” means accommodation which is provided together with personal care for an adult by an individual in the individual’s own home under the terms of an agreement between that individual and another person.

Supported living etc

5.—(1) For the purposes of these regulations “supported living accommodation” means—

- (a) accommodation in premises which are specifically designed or adapted for occupation by adults with needs for care and support to enable them to live as independently as possible;
- (b) accommodation which is provided—
 - (i) in premises which are intended for occupation by adults with needs for care and support (whether or not the premises are specifically designed or adapted for that purpose); and
 - (ii) in circumstances in which personal care is available if required.

(2) The accommodation referred to in paragraph (1)(a) does not include adapted premises where the adult had occupied those premises as their home before the adaptations were made.

(3) For the purposes of paragraph (1)(b) personal care may be provided by a person other than the person who provides the accommodation.

Signed by authority of the Secretary of State for Health

<p>Address Date</p>	<p><i>Name</i> Parliamentary Under Secretary of State Department of Health</p>
-------------------------	--

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 39 of the Care Act 2014 (“the Act”) makes provision for establishing an adult’s ordinary residence. Section 39(1) makes provision about an adult’s ordinary residence in a case where an adult is living in accommodation of a specified type.

These Regulations specify and define three types of accommodation for these purposes: care home accommodation, shared lives scheme accommodation and supported living accommodation.

Where an adult has needs for care and support which can be met only by living in accommodation of a specified type and is living in accommodation of a specified type in England, the adult is to be treated (by virtue of section 39(1) of the Act) as ordinarily resident in the area in which the adult was ordinarily resident immediately before the adult began to live in the specified type of

(a) 2000 c.14; section 3 was amended by the Health and Social Care Act 2008 (c.14), section 95 and paragraph 4 of Schedule 5.

accommodation. If the adult was of no settled residence immediately before beginning to live in a specified type of accommodation, the adult is treated as ordinarily resident in the area in which the adult was present at that time.

2014 No. XXXX

SOCIAL CARE, ENGLAND

**The Care and Support (Disputes about Ordinary Residence, etc.)
Regulations 2014**

Made - - - - - XXX

Laid before Parliament XXX

Coming into force

The Secretary of State makes these Regulations in exercise of the powers conferred by section 40(4) and 125(7) and (8) of, the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Disputes about Ordinary Residence, etc) Regulations 2014.

(2) These Regulations come into force on 1st April 2015.

(3) In these Regulations—

“the Act” means the Care Act 2014;

“the appropriate authority” means the person by whom a dispute is to be determined pursuant to section 40(1) of the Act;

“authority” means local authority(b);

“dispute” means a dispute—

(a) about where an adult is ordinarily resident for the purposes of Part 1 of the Act;

(b) between local authorities under section 37 of the Act (continuity of care) about the application of that section; or

(c) between local authorities about the application of section 48 of the Act (provider failure: temporary duty on local authority);

“the lead authority” means, in relation to a dispute, the authority which (as a result of regulation 2 or otherwise)—

(a) is meeting the needs of the adult or carer to whom the dispute relates as at the date on which the dispute arises; or

(b) is required to do so by regulation 2(3).

“referred” means referred for determination by the appropriate authority, and “refer” and “referral” are to be construed accordingly.

(a) 2014 c.23(“the Act”); see section 125(1) for the power to make regulations..

(b) See section 1(4) of the Act for the meaning of “local authority”.

(4) References in these Regulations to the date on which a dispute arises are references to the first date on which a written communication is sent by one of the authorities who are parties to the dispute (“the first authority”) to another of those authorities (“the second authority”) which (as the case may be)—

- (a) asserts that, in the first authority’s view, the adult to whom the dispute relates is not ordinarily resident in its area for the purposes of Part 1 of the Act, or that that adult is ordinarily resident in the second authority’s area for those purposes;
- (b) raises an issue about the application of section 37 of the Act; or
- (c) raises an issue about the application of section 48 of the Act.

(5) In these regulations, a reference to the authorities who are parties to a dispute includes (where different) a reference to the lead authority in relation to that dispute.

Responsibility for meeting needs whilst dispute is unresolved

2.—(1) The authorities who are parties to a dispute (“the authorities”) must not allow the existence of the dispute to prevent, delay, interrupt or otherwise adversely affect the meeting of the needs of the adult or carer to whom the dispute relates.

(2) The authority which is meeting the needs of the adult or carer on the date on which the dispute arises must continue to meet those needs until the dispute is resolved.

(3) If no authority is meeting the needs on the date on which the dispute arises—

- (a) the authority in whose area the adult needing care is living, or
- (b) if the adult needing care is not living in the area of any authority, the authority in whose area that adult is present

must, until the dispute is resolved, perform the duties under Part 1 of the Act in respect of the adult and carer as if the adult needing care was ordinarily resident in its area.

(4) If the duty under paragraph (3) falls to be discharged by an authority (“A”) which is not one of the authorities already party to the dispute—

- (a) those authorities must, without delay, bring to A’s attention—
 - (i) A’s duty under that paragraph; and
 - (ii) A’s status as the lead authority for the purposes of these Regulations.

(5) A is not under the duties in these Regulations until the date on which it is aware of, or could reasonably be expected to have been aware of its status as the lead authority.

(6) Where the dispute is about the application of section 37 (continuity of care), the authorities must perform the duties under sections 37 and 38 notwithstanding the existence of the dispute.

Steps to be taken prior to referral of a dispute

3.—(1) The authorities who are parties to a dispute (“the authorities”) must, prior to the referral of the dispute, take the steps specified in this regulation.

(2) As soon as reasonably practicable after the date on which the dispute arises—

- (a) the authority which is the lead authority in relation to the dispute must seek to identify all the authorities concerned in the dispute and co-ordinate discussions between those authorities in an attempt to resolve the dispute; and
- (b) each of the authorities must nominate an individual who will act as the point of contact within that authority in relation to the dispute, and provide the other authorities with the contact details of that individual.

(3) The lead authority must—

- (a) co-ordinate the discharge, by the authorities, of their duties under this regulation;
- (b) take steps to obtain from the other authorities information which may be relevant to the determination of the dispute;

- (c) disclose that information to any other authority; and
 - (d) disclose to the other authorities any information the lead authority itself holds that may help to resolve the dispute.
- (4) The authorities must—
- (a) take all reasonable steps to resolve the dispute between themselves; and
 - (b) co-operate with each other in the discharge of their duties under this regulation.
- (5) Each of the authorities must—
- (a) engage in a constructive dialogue with the other authorities, with a view to bringing about the speedy resolution of the dispute;
 - (b) comply, without delay, with any reasonable request for relevant information made by the lead authority; and
 - (c) keep the other authorities informed of any developments which appear to it to be relevant to the determination of the dispute.
- (6) The lead authority must provide to the adult or carer to whom the dispute relates (“the relevant person”), or to the relevant person’s representatives, such information as appears to it to be appropriate about progress in resolving the dispute.
- (7) If the authorities cannot resolve the dispute between themselves within four months of the date on which it arose, the lead authority must refer it to the appropriate authority.

Referral: disputes about ordinary residence or continuity of care

- 4.—(1) The referral must include the following documents—
- (a) a letter signed by lead authority in relation to the dispute, stating that the dispute is being referred;
 - (b) a statement of facts signed on behalf of each of the authorities which includes the information specified in paragraph (2); and
 - (c) copies of all correspondence between the authorities which relates to the dispute.
- (2) The specified information is—
- (a) an explanation of the nature of the dispute;
 - (b) a chronology of the events leading up to the referral of the dispute, including the date on which the dispute arose;
 - (c) details of the needs of the adult (“the relevant adult”) or carer to whom the dispute relates from the beginning of the period to which the dispute relates;
 - (d) a statement as to which authority has met those needs since then, how those needs have been met and the statutory provisions under which they have been met;
 - (e) details of the relevant adult’s place of residence, and of any former places of residence which are relevant to the dispute;
 - (f) in a case where the relevant adult’s capacity to decide where to live is relevant to the dispute, either—
 - (i) a statement that the authorities agree that the adult has, or lacks, such capacity; or
 - (ii) information which appears to any of the authorities to be relevant to the question of whether the adult has, or lacks, such capacity;
 - (g) a statement as to any other steps taken by the authorities in relation to the relevant adult or carer, and which may be relevant to the dispute;
 - (h) details of the steps that the authorities have taken to resolve the dispute between themselves; and
 - (i) any other information which appears to any of the authorities to be relevant to the determination of the dispute.

(3) The authorities must submit any legal arguments they rely on in relation to the dispute within 14 days of the date on which the dispute is referred.

(4) If an authority submits legal arguments, it must—

- (a) send a copy of those arguments to the other authorities; and
- (b) provide evidence to the appropriate authority that it has done so.

(5) If the appropriate authority asks any of the authorities to provide further information, the authority to which the request is made must comply without delay.

(6) This regulation does not apply in a case to which regulation 5 or 6 applies.

Referral: disputes about co-operation under section 48 (temporary duty)

5.—(1) This regulation applies to a dispute which is solely about the application of section 48(7)(a) or (b) of the Act (duty to co-operate).

(2) The referral must include the following documents—

- (a) a letter signed by lead authority in relation to the dispute, stating that the dispute is being referred;
- (b) a statement of facts signed on behalf of each of the authorities which includes the information specified in paragraph (3); and
- (c) copies of all correspondence between the authorities which relates to the dispute.

(3) The specified information is—

- (a) an explanation of the nature of the dispute;
- (b) a chronology of the events leading up to the referral of the dispute, including the date on which the dispute arose;
- (c) details of the steps that the authorities have taken to resolve the dispute between themselves;
- (d) any other information which appears to any of the authorities to be relevant to the determination of the dispute.

(4) The authorities must submit any legal arguments they rely on in relation to the dispute within 14 days of the date on which the dispute is referred.

(5) If an authority submits legal arguments, it must—

- (a) send a copy of those arguments to the other authorities; and
- (b) provide evidence to the appropriate authority that it has done so.

(6) If the appropriate authority asks any of the authorities to provide further information, the authority to which the request is made must comply without delay.

Referral: disputes about costs incurred under section 48 (temporary duty)

6.—(1) This regulation applies to a dispute which is solely about the application of section 48(7)(c) of the Act (recovery of costs).

(2) The referral must include the following documents—

- (a) a letter signed by the lead authority in relation to the dispute, stating that the dispute is being referred;
- (b) a statement of facts signed on behalf of each of the authorities which includes the information specified in paragraph (3); and
- (c) copies of all correspondence between the authorities which relates to the dispute.

(3) The specified information is—

- (a) an explanation of the nature of the dispute;
- (b) a chronology of the events leading up to the referral of the dispute, including the date on which the dispute arose;

- (c) details of the needs of the adult or carer to whom the dispute relates from the beginning of the period to which the dispute relates;
 - (d) a statement as to which authority has met those needs since then, how those needs have been met and the statutory provisions under which they have been met;
 - (e) information about the costs being sought to be recovered, including a breakdown of those costs;
 - (f) details of the steps that the authorities have taken to resolve the dispute between themselves, and
 - (g) any other information which appears to any of the authorities to be relevant to the determination of the dispute.
- (4) The authorities must submit any legal arguments they rely on in relation to the dispute within 14 days of the date on which the dispute is referred.
- (5) If an authority submits legal arguments, it must—
- (a) send a copy of those arguments to the other authorities; and
 - (b) provide evidence to the appropriate authority that it has done so.
- (6) If the appropriate authority asks any of the authorities to provide further information, the authority to which the request is made must comply without delay.

Substituted determinations

7. Where—

- (a) a review of a determination has been carried out under section 40(2) of the Act and a different determination substituted,
- (b) in consequence of the first determination an authority (“A”) has paid an amount to another authority (“B”), and
- (c) the effect of the second determination is that some or all of the amount paid by A to B was not required to have been paid,

B must repay that sum to A.

Signed by authority of the Secretary of State for Health

Name
Minister of State for Health
Department of Health

Date

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations set out the procedures to be followed when disputes arise between local authorities regarding a person’s ordinary residence under Part 1 of the Care Act 2014, or about the application of sections 37 (continuity of care and support – notification and assessment) or 48 (provider failure – temporary duty on local authority) of that Act.

Regulation 2 sets out which authority is responsible for meeting an individual’s needs until the dispute is resolved. Regulation 3 provides for the steps to be taken by local authorities to try to resolve the dispute prior to referring it for determination by the Secretary of State under section 40 of the Act. Regulation 4 sets out the documentation that is to be supplied by local authorities when making a referral. Regulations 5 and 6 set out slightly modified versions of these provisions for specific cases arising under section 48 of the Act. Regulation 7 provides for reimbursement between authorities when the effect of a revised determination is that sums paid under a previous determination were not owed.

2014 No. XXXX

SOCIAL CARE, ENGLAND

The Care and Support (Continuity of Care) Regulations 2014

Laid before Parliament *XXX*

Made - - - - *XXX*

Coming into force

The Secretary of State makes these Regulations in exercise of the powers conferred by section 38(8) of the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Continuity of Care) Regulations 2014.

(2) These Regulations come into force on 1st April 2015.

(3) In these Regulations—

“relevant carer” means, in relation to an adult, a person who is continuing as that adult’s carer as of the day of that adult’s intended move;

“the Act” means the Care Act 2014;

a reference to the day of an adult’s intended move (howsoever expressed) is a reference to the day of that adult’s intended move as mentioned in section 37(1)(b) or (3)(b) of the Act.

Matters to have regard to in deciding how to perform duty under section 38(1)

2.—(1) For the purposes of section 38(8) of the Act (cases where assessments are not complete on day of move), a local authority which is subject to the duty under section 38(1) of the Act (“the authority”) must have regard to the following matters in deciding how to perform that duty in the case of an adult (“the relevant adult”)—

- (a) the contents of any care and support plan supplied to the authority under section 37(5)(a) of the Act (documents to be supplied by first authority where second authority is satisfied as to genuineness of intention to move) in relation to the relevant adult;
- (b) the contents of any support plan supplied to the authority under section 37(5)(e) of the Act in relation to any relevant carer of the relevant adult;
- (c) the outcomes that the relevant adult wishes to achieve in day-to-day life;
- (d) the outcomes that any relevant carer of that adult wishes to achieve in day-to-day life;
- (e) the views and preferences of the relevant adult as to how the authority should meet that adult’s needs for care and support under section 38(1) of the Act;

(a) 2014 c.23; see section 125(1) for the power to make regulations

- (f) the views and preferences of any relevant carer of that adult as to how the authority should meet that carer’s needs for support under section 38(1) of the Act;
- (g) any relevant difference between the adult’s circumstances before and after the day of the adult’s intended move, including—
 - (i) access to a carer;
 - (ii) suitability of living accommodation;
 - (iii) location of living accommodation in terms of its proximity and accessibility to necessary facilities or services in the local community including—
 - (aa) medical services,
 - (bb) public transport,
 - (cc) educational facilities, and
 - (dd) recreational facilities or services;
 - (iv) the availability of support from family members, friends, neighbours and the wider community.

(2) For the purposes of paragraph (1)(g), a difference is relevant if it is likely to have a significant effect on the well-being of the relevant adult during the period when that adult’s needs for care and support are being met under section 38(1) of the Act.

Signed by authority of the Secretary of State for Health

Name
Minister of State for Health
Department of Health

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out matters to which a local authority must have regard when carrying out its duty under section 38(1) of the Care Act 2014. Sections 37 and 38 of the Act set out procedures to be followed when an individual who is receiving care and support from a local authority wishes to move to the area of another local authority.

Under section 38(1) of the Act, where a person has moved into the second authority’s area but that authority has not yet carried out a full assessment of the person’s needs, the authority must meet the person’s care and support needs from the date of the move; it must do this on the same basis as the first authority until it has carried out its own assessment. When carrying out this duty, the authority must have regard to the matters set out in regulation 2 of these Regulations.

2014 No. XXXX

SOCIAL CARE

The Care and Support (Cross-border Placements and Business Failure: Temporary Duty) (Dispute Resolution) Regulations 2014

Made - - - - XXX

Laid before Parliament XXX

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraph 5(9) to (11) of Schedule 1 to, and section 125(7) and (8) of, 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) prior to the making of these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Cross-border Placements and Business Failure: Temporary Duty) (Dispute Resolution) Regulations 2014.

(2) These Regulations come into force on—

- (a) [] 2016 insofar as they make provision for the resolution of a dispute about the application of section 50 of the Act (temporary duty on local authority in Wales); and
- (b) 1st April 2015 for all other purposes.

(3) In these Regulations—

“accommodation” means accommodation in England, accommodation in Wales, accommodation in Scotland or accommodation in Northern Ireland(c);

“the Act” means the Care Act 2014;

“HSC trust” means Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(d) and “an HSC trust” is to be construed accordingly;

(a) 2014 c.23 (“the Act”). The power to make regulations is exercisable by the Secretary of State, *see* section 125(1). *See* also sections 49(4), 50(5) and 51(5) of the Act.

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

(c) *See* paragraph 12 of Schedule 1 to the Act as to the meaning of “Accommodation in England”, “Accommodation in Wales”, “Accommodation in Scotland” and “Accommodation in Northern Ireland”. The meaning of “Accommodation in Wales” has been modified by paragraph 14(5) of that Schedule pending the commencement of Part 4 of the Social Services and Well-being (Wales) Act 2014 (2014 anaw 4) (“the 2014 Act”).

(d) S.I. 1991/194 (N.I. 1).

“authority”, unless the context otherwise requires, means local authority in England, local authority in Wales, local authority in Scotland or HSC trust(a);

“dispute” means dispute about the application of—

- (a) section 48 or 49 of the Act (temporary duty on local authority in England – cross-border cases) to the case of an adult or a carer(b), in so far as the dispute is between a local authority in England and a local authority in Wales, a local authority in Scotland or an HSC trust;
- (b) section 50 or 51 (temporary duty on local authority in Northern Ireland) of the Act to the case of an adult or a carer; or
- (c) any of paragraphs 1 to 4 of Schedule 1 to the case of an adult(c) (cross-border placements);

“lead authority” has the meaning given in regulation 3;

“needs”, unless the context otherwise requires, means—

- (a) in respect of duties falling on local authorities in England, in relation to an adult, needs for care and support and, in relation to a carer, needs for support;
- (b) in respect of duties falling on local authorities in Scotland, needs which must be met under section 12 or 13A of the Social Work (Scotland) Act 1968 (social welfare services and residential accommodation with nursing)(d);
- (c) in respect of duties falling on local authorities in Wales, needs which must be met or are to be met under section 35, 36, 40 or 45 of the Social Services and Well-being (Wales) Act 2014(e);
- (d) in respect of duties falling on HSC trusts, needs which must be met under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (general social welfare)(f) or which may be met under section 2 of the Carers Direct Payments (Northern Ireland) Act 2002 (services to carers);

“the Northern Ireland Department” means the Department of Health, Social Services and Public Safety in Northern Ireland;

“referred”, unless the context otherwise requires, means referred for determination under paragraph 5 of Schedule 1, and “referral” is to be construed accordingly;

“Responsible Person” means the Secretary of State, the Welsh Ministers, the Scottish Ministers or the Northern Ireland Department;

“Schedule 1” means Schedule 1 to the Act.

(4) For the purposes of these Regulations, the following are Responsible Persons in relation to authorities—

- (a) in relation to a local authority in England, the Secretary of State;
- (b) in relation to a local authority in Wales, the Welsh Ministers;
- (c) in relation to a local authority in Scotland, the Scottish Ministers;

(a) See paragraph 12 of Schedule 1 to the Act as to the meaning of “Local authority in England”, “Local authority in Wales” and “Local authority in Scotland”. The meaning of “Local authority in Wales” has been modified by paragraph 14(6) of that Schedule pending the commencement of Part 4 of the 2014 Act.

(b) See section 10(3) of the Act as to the meaning of “carer”. See also section 79.

(c) See section 2(8) of the Act as to the meaning of “adult”. See also section 79.

(d) 1968 c.49 (“the 1968 Act”). Section 12 has been amended by paragraph 10(5) of Schedule 9 to the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), paragraph 15(11) of Schedule 4 to the Children (Scotland) Act 1995 (c.36), section 120(1) of the Immigration and Asylum Act 1999 (c.33) (“the 1999 Act”) and section 3 of the Community Care and Health (Scotland) Act 2002 (asp 5) (“the CCHSA 2002”), and is prospectively amended by section 46(1) of the Nationality, Immigration and Asylum Act 2002 (c.41) (“the 2002 Act”). Section 13A was inserted by section 56 of the 1990 Act and amended by section 120(2) of the 1999 Act, section 72(a) of, and paragraph 4(3) of Schedule 3 to, the Regulation of Care (Scotland) Act 2001 (asp 8) and paragraph 1(4) of Schedule 2 to the CCHSA 2002, and by S.S.I. 2011/211, and is prospectively amended by section 46(2) of the 2002 Act.

(e) 2014 anaw 4.

(f) S.I. 1972/1265 (N.I. 14).

(d) in relation to an HSC trust, the Northern Ireland Department.

(5) References in these Regulations to the date on which a dispute arises (however expressed) are references to the first date on which a written communication is sent by one of the authorities which are parties to the dispute to another of those authorities raising an issue about—

- (a) the application of any of sections 48 to 51 of the Act to the case of an adult or a carer; or
- (b) the application of any of paragraphs 1 to 4 of Schedule 1 to the case of an adult.

(6) In regulations 6 and 7 and for the purposes of the duty in regulation 8, a reference to the authorities which are parties to a dispute includes (where different) a reference to the lead authority in relation to that dispute, but this does not apply in relation to regulation 6(4)(a) or (5)(b) or to regulation 7(3)(h).

(7) In a case where a person is homeless, references in these Regulations (however expressed) to a person living in an area or a place are to be read as references to that person being physically present in that area or place.

Responsibility for determination of disputes

2.—(1) This regulation applies for the purposes of determining which Responsible Person is to determine a dispute between authorities.

(2) Where the authorities which are parties to the dispute (“the authorities in dispute”) include a local authority in England, and the adult or carer to whom the dispute relates (“the relevant person”) is living in England at the time the dispute is referred (“the relevant time”), the dispute is to be determined by the Secretary of State.

(3) Where the authorities in dispute include a local authority in Wales, and the relevant person is living in Wales at the relevant time, the dispute is to be determined by the Welsh Ministers.

(4) Where the authorities in dispute include a local authority in Scotland, and the relevant person is living in Scotland at the relevant time, the dispute is to be determined by the Scottish Ministers.

(5) Where the authorities in dispute include an HSC trust, and the relevant person is living in Northern Ireland at the relevant time, the dispute is to be determined by the Northern Ireland Department.

(6) In any other case, the dispute is to be determined by whichever of the persons who are Responsible Persons in relation to the authorities in dispute, those persons agree is to do so.

Lead authority in relation to disputes

3.—(1) For the purposes of these Regulations, the lead authority in relation to a dispute is the authority in whose area the adult or carer to whom the dispute relates is living as at the date on which the dispute arises.

(2) If that authority (“A”) is not one of the authorities which are parties to the dispute—

- (a) those authorities must, without delay, bring to A’s attention A’s duties under these Regulations; and
- (b) A is not under those duties until the date on which A is aware of, or could reasonably be expected to have been aware of, those duties.

Notification etc

4.—(1) This regulation applies where a referral is—

- (a) made to a Responsible Person by authorities in accordance with regulation 8; or
- (b) sent to a Responsible Person by another Responsible Person pursuant to paragraph (4).

(3) In the following provisions of this regulation, the Responsible Person to whom the referral is made or sent is referred to as the “Relevant Responsible Person”.

(4) If the dispute falls to be determined by the Relevant Responsible Person, that person must—

- (a) in determining the dispute, consult all persons who are Responsible Persons in relation to the authorities which are parties to the dispute (“the authorities in dispute”); and
 - (b) prior to notifying those authorities of the outcome of the determination, notify those Responsible Persons of that outcome.
- (5) If the dispute does not fall to be determined by the Relevant Responsible Person, that person must—
- (a) as soon as reasonably practicable after receiving the referral, send the referral to the Responsible Person by whom the dispute appears to the Relevant Responsible Person to fall to be determined; and
 - (b) notify the authorities in dispute of the action taken pursuant to sub-paragraph (a).
- (6) For the purposes of this regulation, a reference to a dispute falling, or appearing to fall, to be determined by a Responsible Person (however expressed) is a reference to that dispute so falling, or appearing to fall, to be determined pursuant to regulation 2.

Responsibility for meeting needs pending determination of dispute etc

5.—(1) The authorities which are parties to a dispute must not allow the existence of the dispute to prevent, delay, interrupt or otherwise adversely affect the meeting of the needs of the adult or carer to whom the dispute relates.

(2) The authority which is meeting the needs for accommodation of the adult on the date on which the dispute arises must continue to meet those needs.

(3) This paragraph applies to a case where—

- (a) a dispute concerns the application of any of paragraphs 1 to 4 of Schedule 1 to the case of an adult (“the relevant adult”); and
- (b) no authority is meeting that adult’s needs for accommodation as at the date on which the dispute arises (“the relevant date”).

(4) In a case to which paragraph (3) applies, the authority in whose area the relevant adult is living as at the relevant date must meet that adult’s needs for accommodation from that date.

(5) Provision by an authority of accommodation to an adult pursuant to paragraph (2) or (4) does not affect the liability of any authority for the provision of accommodation to that adult in respect of the period during which that accommodation is provided.

(6) For the purposes of paragraphs (2) and (4), a requirement to meet needs is a requirement to meet those needs until the dispute in question is resolved.

Steps to be taken prior to referral of a dispute including steps to try to resolve a dispute

6.—(1) The authorities which are parties to a dispute (“authorities in dispute”) must, prior to the referral of the dispute, take the steps specified in this regulation.

(2) As soon as reasonably practicable after the date on which the dispute arises—

- (a) the authority which is the lead authority in relation to the dispute must identify all the authorities which are parties to the dispute and co-ordinate discussions between those authorities in an attempt to resolve the dispute; and
- (b) each of the authorities in dispute must—
 - (i) nominate an individual who will act as the point of contact within that authority in relation to the dispute; and
 - (ii) provide the other authorities in dispute with the contact details of that individual.

(3) The lead authority must—

- (a) co-ordinate the discharge, by the authorities in dispute, of their duties under this regulation;
- (b) take steps to obtain, from the other authorities in dispute, information which may be relevant to the determination of the dispute;

- (c) disclose that information to the other authorities in dispute (if any); and
 - (d) disclose to the other authorities in dispute any information the lead authority itself holds that may help to resolve the dispute.
- (4) The authorities in dispute must—
- (a) take all reasonable steps to resolve the dispute between themselves; and
 - (b) co-operate with each other in the discharge of their duties under this regulation.
- (5) Each of the authorities in dispute must—
- (a) engage in a constructive dialogue with the other authorities in dispute, with a view to bringing about the speedy resolution of the dispute;
 - (b) comply, without delay, with any reasonable request for relevant information made by the lead authority; and
 - (c) keep the other authorities in dispute informed of information which appears to it to be relevant to the determination of the dispute.
- (6) The lead authority in relation to the dispute must provide to the adult or carer to whom the dispute relates (“the relevant person”), or to the relevant person’s representatives, such information as appears to it to be appropriate about progress in resolving the dispute.

Contents of referral etc

7.—(1) Where a referral is made in accordance with regulation 8, the authority which is the lead authority in relation to the dispute which is the subject of the referral (“the lead authority”), must send a copy of the referral to all persons who are Responsible Persons in relation to the authorities which are parties to the dispute.

- (2) Subject to paragraphs (8) and (9), the referral must include the following documents—
- (a) a letter signed by the authority which is the lead authority in relation to the dispute stating that the dispute is being referred and identifying the provision of the Act, the application of which the dispute is about;
 - (b) a statement of facts signed by each of the authorities which are parties to the dispute (“the authorities in dispute”) which includes the information specified in paragraph (3); and
 - (c) copies of all correspondence between the authorities in dispute which relates to the dispute.
- (3) The information referred to in paragraph (2)(b) is—
- (a) an explanation of the nature of the dispute;
 - (b) a chronology of the events leading up to the referral of the dispute, including the date on which the dispute arose;
 - (c) details of the needs of the adult or carer (“the relevant adult or carer”) to whom the dispute relates since the beginning of the period to which the dispute relates;
 - (d) a statement as to which authority has met those needs since then, how those needs have been met and the statutory provisions under which they have been met;
 - (e) details of the relevant adult’s place of residence, and of any former places of residence which are relevant to the dispute;
 - (f) in a case where the relevant adult’s capacity to decide where to live is relevant to the dispute, either—
 - (i) a statement that the authorities in dispute agree that the adult has, or lacks, such capacity; or
 - (ii) information which appears to any of the authorities in dispute to be relevant to the question of whether the adult has, or lacks such capacity;
 - (g) a statement as to any other steps taken by the authorities in dispute in relation to the relevant adult or carer, and which may be relevant to the dispute;

- (h) details of the steps that the authorities in dispute have taken to resolve the dispute between themselves;
- (i) any other information which appears to any of the authorities in dispute to be relevant to the determination of the dispute.

(4) The authorities in dispute may submit legal arguments they are relying on in relation to the dispute provided that this is done within 14 days of the date on which the documents referred to in paragraph (2) are sent.

(5) If an authority submits legal arguments, it must—

- (a) send a copy of those arguments to the other authorities in dispute; and
- (b) provide evidence to the Responsible Person determining the dispute that it has done so.

(6) If the Responsible Person determining the dispute asks any of the authorities in dispute to provide further information, that authority must comply without delay.

(7) For the purposes of this regulation—

- (a) a reference to lacking capacity (however expressed) is a reference to—
 - (i) lacking capacity within the meaning of section 2 of the Mental Capacity Act 2005(a);
 - (ii) being incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000(b); or
 - (iii) being incapable by reason of mental disorder within the meaning of Article 3(1) of the Mental Health (Northern Ireland) Order 1986(c);
- (b) a reference to having capacity (however expressed) is a reference to not lacking capacity.

(8) Where the dispute is solely about the application of section 49(3)(c), 50(4)(c) or 51(4)(c) of the Act (recovery of costs), paragraph (3) is to read as if sub-paragraphs (e), (f) and (g) were omitted and as if after sub-paragraph (i) there was inserted—

“(j) information as to the costs being sought to be recovered, and a breakdown of those costs.”

(9) Where the dispute is solely about the application of section 49(3)(a) or (b), 50(4)(a) or (b) or 51(4)(a) or (b) of the Act (duty to co-operate), paragraph (3) is to read as if sub-paragraphs (c) to (g) were omitted.

Stage at which dispute must be referred

8. If the authorities which are parties to a dispute cannot resolve the dispute between themselves within four months of the date on which it arose, they must refer it to the appropriate Responsible Person for determination.

Transitory provision

9. Pending the commencement of Part 4 of the Social Services and Well-being (Wales) Act 2014—

- (a) in regulation 1(3), the reference in paragraph (c) of the definition of “needs”, to section 35 or 36 of that Act, is to be read as a reference to—
 - (i) Part 3 of the National Assistance Act 1948(d),
 - (ii) section 45 of the Health Services and Public Health Act 1968(e),

(a) 2005 c.9.

(b) 2000 asp 4.

(c) S.I.1986/595 (N.I. 4).

(d) 1948 c.29.

(e) 1968 c.46. Section 45 was amended by Schedule 3 to the Local Authority Social Services Act 1970 (c.42), paragraph 15 of Schedule 23 to the Local Government Act 1972 (c.70), Part 12 of Schedule 1 to the Statute Law (Repeals) Act 1978 (c.45),

(iii) section 117 of the Mental Health Act 1983(a), or

(iv) Schedule 15 to the National Health Service (Wales) Act 2006(b);

(b) in that paragraph, the reference to section 40 or 45 of that Act is to be read as a reference to section 2 of the Carers and Disabled Children Act 2000(c).

Signed by authority of the Secretary of State for Health

Date

Name
Minister of State for Health
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 1 to the Care Act 2014 (“the Act”) makes provision to ensure that where a local authority in England, Wales or Scotland, or a Health and Social Care trust in Northern Ireland (“an HSC trust”) places an adult in residential accommodation in another of those territories, in general, this does not result in the transfer of that authority’s responsibility for that adult. The relevant provisions are to be found in paragraphs 1 to 4 of Schedule 1.

Sections 48 to 52 of the Act impose duties on local authorities in England and Wales, and on HSC trusts, to meet needs of individuals in circumstances where registered providers of care are unable to carry on because of business failure.

These Regulations make further provision in relation to the resolution of disputes between authorities about the application of paragraphs 1 to 4 of Schedule 1, or of sections 48 to 51 of the Act (save for disputes between English local authorities about the application of section 48 which are not dealt with in these Regulations).

Regulation 2 sets out who is to determine disputes. The effect of this is that where the adult or carer in question (“the relevant person”) is living (or, in a case where the adult is homeless, is physically present) in the same territory as that in which an authority which is party to a dispute is situated, the dispute is to be determined by the Responsible Person in relation to that authority. In other cases the dispute is to be determined by agreement between the persons who are Responsible Persons in relation to the authorities in dispute. The Responsible Person in relation to an authority is: in relation to a local authority in England, the Secretary of State, in relation to a local authority in Wales, the Welsh Ministers, in relation to a local authority in Scotland, the

Schedule 2 to the Residential Homes Act 1980 (c.7), Part 1 of Schedule 10 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 42(7) of, and Schedule 10 to, the 1990 Act, paragraph 5(1) of Schedule 10 to the Local Government (Wales) Act 1994 (c.19), section 117(1) of the 1999 Act and paragraphs 33 and 34 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43), and by S.I. 1968/1699, and is prospectively amended by section 45(6) of the 2002 Act. Section 45 has been repealed in relation to Scotland by section 14(4) of, and Part 1 of Schedule 9 to, the 1968 Act. The functions of the Secretary of State under section 45 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the TOFO”). Functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32) (“the GOWA”).

(a) 1983 c.20. Section 117 was amended by paragraph 107 of the Health Authorities Act 1995 (c.17), paragraph 12(17) of Schedule 4 to the Crime (Sentences) Act 1997 (c.43), paragraphs 42 and 47 of Schedule 2 to the National Health Service Reform and Health Care Professions Act 2002 (c.17), paragraphs 1 and 24 of Schedule 3 and Part 5 of Schedule 11 to the Mental Health Act 2007 (c.12), paragraph 3 of Schedule 1 to the Health Act 2009 (c.21), paragraph 15 of Schedule 1 to the Mental Health (Patients in the Community) Act 1995 (c.52), section 4 of the Health and Social Care Act 2012 (c.7), and by S.I. 2007/961. The functions of the Secretary of State under section 117 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by Schedule 1 to the TOFO. Functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the GOWA.

(b) 2006 c.42.

(c) 2000 c.16.

Scottish Ministers and in relation to an HSC trust, the Department of Health, Social Services and Public Safety in Northern Ireland.

Regulation 3 sets out who the “lead authority” is for the purposes of duties imposed on such an authority under the Regulations. The lead authority is the authority in whose area the relevant person is living (or physically present) as at the date on which the dispute arises.

Regulation 4 imposes duties to be discharged by Responsible Persons upon receipt of a referral of a dispute. This includes a duty to consult other persons who are Responsible Persons in relation to the authorities in dispute when determining the dispute, and to send on a referral to the appropriate Responsible Person where this has not been sent to the correct Responsible Person.

Regulation 5 sets out duties on authorities in dispute in relation to the meeting of needs until a dispute is determined. This includes a requirement for the authority in whose area the person is living (or physically present) to meet an adult’s needs for accommodation in circumstances where no authority is meeting such needs as at the date on which the dispute arises. This does not affect the liability of that authority or any other authority for meeting those needs.

Regulation 6 sets out steps which authorities in dispute have to take before referring a dispute for determination.

Regulation 7 requires the lead authority to send a copy of the referral of a dispute to relevant Responsible Persons, and sets out what must or may be included with a referral. The documents to be included are a letter from the lead authority, a statement of facts and copies of relevant correspondence. The authorities may also submit supporting legal arguments. Where a dispute solely concerns the recovery of costs or a duty to co-operate, regulation 7 omits the requirement to submit certain information, and, in the case of a dispute solely concerning the recovery of costs, includes a requirement to submit information concerning the costs being sought to be recovered.

Regulation 8 sets out a duty to refer disputes if they cannot be resolved within a specified time.

Regulation 9 makes transitory provision in respect of the period before Part 4 of the Social Services and Well-being (Wales) Act 2014 is commenced.

“declaration of solvency” means a directors' statutory declaration made in accordance with section 89 of the 1986 Act or Article 75 of the Insolvency (Northern Ireland) Order 1989 (members' voluntary winding up)(a);

“a provider” means—

- (a) a registered care provider(b);
- (b) a person registered under Part 2 of the Care Standards Act 2000(c) in respect of an establishment or agency; and
- (c) a person registered under Part 3 of the Health and Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(d) in respect of an establishment or agency;

“the relevant amount” means the amount specified in section 123(1)(a) of the 1986 Act (definition of inability to pay debts).

Business failure – England, Wales and Northern Ireland

2.—(1) For the purposes of sections 48 and 50 to 52 of the Act—

- (a) business failure has the meaning given in paragraphs (2) to (5); and
- (b) a provider is to be treated as being unable to carry on a regulated activity(e) or to carry on or manage an establishment or agency because of business failure if the provider's inability follows business failure.

(2) Where a provider is not an individual, business failure means that, in respect of that provider,—

- (a) an administrator is appointed;
- (b) a receiver or an administrative receiver is appointed;
- (c) a resolution for a voluntary winding up without a declaration of solvency is passed;
- (d) a liquidator is appointed;
- (e) a winding up order is made by a court;
- (f) a members' voluntary winding up becomes a creditors' voluntary winding up under section 96 of the 1986 Act or Article 82 of the Insolvency (Northern Ireland) Order 1989 (f);
- (g) an order by virtue of Article 11 of the Insolvent Partnerships Order 1994 (joint bankruptcy petition by individual members of insolvent partnership)(g) is made;
- (h) an order by virtue of Article 11 of the Insolvent Partnerships Order (Northern Ireland) 1995 (joint bankruptcy petition by individual members of insolvent partnership)(h) is made;
- (i) administration moves to winding up pursuant to an order of a court; or
- (j) the charity trustees of the provider become unable to pay their debts as they fall due.

-
- (a) S.I. 1989/2405 (N.I. 19). *See* S.I. 2001/1090 and 2012/3013 as to the application of section 89 to Limited Liability Partnerships (“LLPs”) and Charitable Incorporated Organisations (“CIOs”) respectively and section 55 of the Industrial and Provident Societies Act 1965 (c.12) (“the 1965 Act”) as to its application to industrial and provident societies (“IPSS”) in England, Wales and Scotland. *See* section 64 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c.24) (“the 1969 Act”) as to the application of Article 75 to IPSS in Northern Ireland.
 - (b) *See* section 48(1) of the Act for the meaning of “registered care provider”.
 - (c) 2000 c.14.
 - (d) S.I. 2003/431 (N.I. 9).
 - (e) *See* section 8 of the 2008 Act for the meaning of “regulated activity”. *See* also section 48(1) of the Act.
 - (f) *See* S.I. 2001/1090 and 2012/3013 as to the application of section 96 to LLPs and CIOs respectively and section 55 of the 1965 Act as to its application to IPSS in England, Wales and Scotland. *See* section 64 of the 1969 Act as to the application of Article 82 to IPSS in Northern Ireland.
 - (g) S.I. 1994/2421.
 - (h) S.I. 1995/225.

(3) In relation to a provider who is an individual, business failure consists of the individual being adjudged bankrupt.

(4) For the purposes of paragraph (2)(j), a person is a charity trustee of a provider if—

- (a) the provider is a charity that is unincorporated; and
- (b) the person is a trustee of that charity.

(5) For the purposes of that paragraph, the charity trustees of a provider are to be treated as becoming unable to pay their debts as they fall due if—

- (a) a creditor to whom the trustees are indebted in a sum exceeding the relevant amount then due has served on the trustees a written demand requiring the trustees to pay the sum so due and the trustees have for 3 weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor;
- (b) in England and Wales, execution or other process issued on a judgment, decree or order of a court in favour of a creditor of the trustees is returned unsatisfied in whole or in part;
- (c) in Scotland, the induciae of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made; or
- (d) in Northern Ireland, a certificate of unenforceability has been granted in respect of a judgment against the trustees.

Signed by authority of the Secretary of State for Health

Date

Name
Minister of State for Health
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 48 to 52 of the Care Act 2014 (“the Act”) impose duties (“temporary duties”) on local authorities in England and Wales, and on Health and Social Care trusts in Northern Ireland (“HSC trusts”), to meet care and support needs of adults, or support needs of carers, in circumstances where registered providers of care are unable to carry on because of business failure. These Regulations make provision as to the interpretation, for those purposes, of “business failure” and as to circumstances in which a person is to be treated as being unable to do something because of business failure.

As regards Scotland, certain duties are imposed on local authorities under Part 2 of the Social Work (Scotland) Act 1968.

Regulation 2 sets out the events which constitute business failure for the purposes of the temporary duties on local authorities in England and Wales, and on HSC trusts.

In relation to a provider, other than an individual, registered in England, Wales or Northern Ireland, business failure consists of—

- the appointment of an administrator;
- the appointment of a receiver or an administrative receiver;
- the passing of a resolution for a voluntary winding up in a creditors’ voluntary winding up;
- the appointment of a liquidator;
- the making of a winding up order by a court;
- a members’ voluntary winding up becoming a creditors’ voluntary winding up;

- the making of bankruptcy orders where individual members of a partnership present a joint bankruptcy petition;
- a move from administration to winding up pursuant to a court order; or
- in relation to an unincorporated charity, the charity trustees becoming unable to pay their debts as they fall due.

In relation to a provider who is an individual registered in England, Wales or Northern Ireland, business failure consists of the individual being adjudged bankrupt.

The temporary duties are triggered where a registered provider becomes unable to carry on a regulated activity or to carry on an establishment or agency because of business failure. Regulation 2(1)(b) provides that a provider is to be treated as being unable to carry on a regulated activity or to carry on or manage an establishment or agency because of business failure if the provider's inability follows business failure.

Draft Regulations laid before Parliament under section 125(4)(g) of the Care Act 2014, for approval by resolution of each House of Parliament.

STATUTORY INSTRUMENTS

2014 No. XX

SOCIAL CARE, ENGLAND

**The Care and Support (Market Oversight Criteria) Regulations
2014**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 53(1), 125(7) and 125(8) of the Care Act 2014(a).

In accordance with section 125(4)(g) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Market Oversight Criteria) Regulations 2014 and come into force on XX 2015.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“the 2014 Regulations” means the [Health and Social Care Act 2008 (Regulated Activities) Regulations 2014](b);

“group undertaking” has the meaning given by section 1161(5) of the Companies Act 2006(c).

Providers of personal care (non-residential)

2.—(1) Paragraphs (a) to (c) set out the criteria for determining whether section 55 of the Act applies to a registered care provider(d) who is not a local authority(e) and who is registered in respect of the carrying on of the regulated activity set out in [paragraph (1) of Schedule 1] to the 2014 Regulations—

(a) the number of hours of regulated care provided by the registered care provider in a week is 30,000 or more; or

(a) 2014 c. 23. The powers to make regulations are exercisable by the Secretary of State. *See* section 125(1) of the Act.

(b) S.I. X.

(c) 2006 c.46. *See* S.I. 2008/1911 as to the application of section 1161(5) with modifications to limited liability partnerships.

(d) This is defined in section 48(1) of the Act.

(e) This is defined in section 1(4) of the Act.

- (b) the number of people to whom regulated care is provided by the registered care provider in a week is 2,000 or more; or
- (c) (i) the number of people to whom regulated care is provided by the registered care provider in a week is 800 or more; and
 - (ii) the number of hours of regulated care provided by that provider in the same week divided by that number of people exceeds 30.

(2) In this regulation—

“regulated care” means care provided in connection with the carrying on of the regulated activity set out in [paragraph (1) of Schedule 1] to the 2014 Regulations;

a “week” means a period of seven consecutive days.

(3) For the purpose of this regulation, where a registered care provider is an undertaking within the meaning of section 1161(1) of the Companies Act 2006—

- (a) the hours of regulated care provided by the provider include hours of regulated care provided by any group undertaking of the provider;
- (b) the number of people to whom regulated care is provided by the provider includes people to whom regulated care is provided by any group undertaking of the provider.

Providers of residential care

3.—(1) Paragraphs (a) to (c) set out the criteria for determining whether section 55 of the Act applies to a registered care provider who is not a local authority and who is registered in respect of the carrying on of the regulated activity set out in [paragraph (2) of Schedule 1] to the 2014 Regulations—

- (a) the bed capacity of the registered care provider is 2,000 or more; or
- (b) the bed capacity of the registered care provider is 1,000 or more but less than 2,000; and
 - (i) the bed capacity of that provider in 16 or more local authority areas is at least 1 in each of those local authority areas; or
 - (ii) the bed capacity of that provider in each of three or more local authority areas exceeds 10 per cent. of the total bed capacity in each of those local authority areas.

(2) In this regulation—

“bed capacity” means the number of beds made available in an area by a registered care provider in connection with the carrying on of the regulated activity set out in [paragraph (2) of Schedule 1] to the 2014 Regulations;

“total bed capacity” in relation to an area means the combined bed capacity in that area of all registered care providers.

(3) For the purpose of this regulation, where the registered care provider is an undertaking within the meaning of section 1161(1) of the Companies Act 2006, the bed capacity of the provider includes the bed capacity of any group undertaking of the provider.

Signed by authority of the Secretary of State for Health.

[Date]

[Name]
Minister of State for Health
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 54(1) of the Care Act 2014 (“the Act”) imposes a duty on the Care Quality Commission to determine whether a registered care provider satisfies the criteria for entry into the market oversight regime (see section 53 of the Act). These Regulations set out the entry criteria to the market oversight regime.

Regulation 2 sets out the criteria for entry applicable to providers of personal (non-residential) care, that is, providers who are registered in respect of the carrying on of the regulated activity set out in [paragraph (1) of Schedule 1] to the [Health and Social Care Act 2008 (Regulated Activities) Regulations 2014] (“the 2014 Regulations”). The criteria may be satisfied by a provider who is not a local authority and:

- provides at least 30,000 hours of care in a week anywhere in England; or
- provides at least 2,000 people with care in a week anywhere in England; or
- provides at least 800 people with care in a week anywhere in England and the number of hours of care provided in the same week divided by that number of people exceeds 30.

Regulation 2 also provides that the criteria may be met by counting the hours of care provided by any group undertaking of the relevant provider or counting the people to whom care is provided by any such group undertaking.

Regulation 3 sets out the criteria for entry applicable to providers of residential care, that is, providers who are registered in respect of the carrying on of the regulated activity set out in [paragraph (2) of Schedule 1] to the 2014 Regulations. The criteria may be satisfied by a provider who is not a local authority and:

- has a bed capacity of at least 2,000 anywhere in England; or
- has a bed capacity between 1,000 to 1,999 in at least 16 local authorities in England; or
- has a bed capacity between 1,000 to 1,999 anywhere in England and has a bed capacity in each of three or more local authorities in England which exceeds 10 per cent. of the total bed capacity in each of those local authorities.

Regulation 3 also provides that the bed capacity of a provider includes the bed capacity of any group undertaking.

A full Impact Assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been made. A copy of this Impact Assessment is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. Copies may also be obtained from the Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS.

2014 No. XX

SOCIAL CARE, ENGLAND

**The Care and Support (Market Oversight Information)
Regulations 2014**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 55(5), 125(7) and 125(8) of the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Market Oversight Information) Regulations 2014 and come into force on [date].

(2) In these Regulations—

“the Act” means the Care Act 2014;

“group undertaking” has the meaning given by section 1161(5) of the Companies Act 2006(b);

“information” means any information, documents, records or other items;

“information undertaking” has the meaning given in regulation 2.

Undertaking to provide information

2.—(1) This regulation applies where a registered care provider(c) who is subject to section 55 of the Act is an undertaking within the meaning of section 1161(1) of the Companies Act 2006.

(2) The Care Quality Commission may require the registered care provider to obtain an undertaking to provide information (an “information undertaking”) from a group undertaking of the provider.

(3) An information undertaking must require the group undertaking to provide to the Commission such information as the Commission requests from time to time.

(4) An information undertaking must be in a form which is legally enforceable by the provider.

Form of the information undertaking

3. The Care Quality Commission may specify the form of an information undertaking which may provide in particular that—

(a) 2014 c. 23. The powers to make regulations are exercisable by the Secretary of State. *See* section 125(1) of the Act.

(b) 2006 c.46. *See* S.I. 2008/1911 as to the application of section 1161(5) with modifications to limited liability partnerships.

(c) This is defined in section 48(1) of the Act.

- (a) information must be provided at such times and such places as may be specified by the Commission;
- (b) an explanation of any information must be provided at such times and such places as may be specified by the Commission;
- (c) information and explanations must be provided in such manner or format as may be specified by the Commission;
- (d) the group undertaking must co-operate with the Commission in connection with providing information and explanations; and
- (e) information and explanations must be complete and accurate.

Time for provision of information undertaking, etc.

4.—(1) The registered care provider must obtain the information undertaking within such period as the Care Quality Commission specifies.

(2) The registered care provider must send to the Commission a copy of the information undertaking within such period as the Commission specifies.

(3) The information undertaking must remain in force for as long as—

- (a) the person required to provide information remains a group undertaking of the registered care provider; and
- (b) the registered care provider remains subject to section 55 of the Act.

Breach, etc.

5.—(1) The registered care provider must inform the Care Quality Commission immediately in writing if it becomes aware that—

- (a) the information undertaking has ceased to be in force;
- (b) the information undertaking has ceased to be legally enforceable; or
- (c) any terms of the information undertaking have been breached.

(2) The registered care provider must comply with any request which may be made by the Commission to enforce the information undertaking.

Signed by authority of the Secretary of State for Health.

[Name]
Minister of State for Health
Department of Health

[Date]

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 55(1) of the Care Act 2014 imposes a duty on the Care Quality Commission to assess the financial sustainability of a registered care provider subject to the market oversight regime. These Regulations make provision for the Commission to obtain information from persons other than the registered care provider to assist it in making this assessment.

Regulation 2 provides that the Commission may require a registered care provider to obtain from a group undertaking, a legally enforceable undertaking to provide information. Regulations 3 – 5 make further provision in relation to the information undertaking.

A full Impact Assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been made. A copy of this Impact Assessment is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. Copies may also be obtained from the Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS.

2014 No. XXXX

SOCIAL CARE, SCOTLAND

The Care and Support (Cross-border Placements) (Business Failure Duties) (Scotland) Regulations 2014

Made - - - - XXX

Laid before Parliament XXX

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraphs 1(6) and (7), 2(9) and (10) and 4(5) and (6) of Schedule 1 to, and section 125(7) and (8) of 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 Scottish Ministers to the making of these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Cross-border Placements) (Business Failure Duties) (Scotland) Regulations 2014.

(2) These Regulations come into force on—

(a) [] 2016 in so far as they relate to a case within paragraph 2(3) or (4) of the Schedule (cross-border placements from Wales to Scotland); and

(b) 1st April 2015 for all other purposes.

(3) In these Regulations—

“the 1986 Act” means the Insolvency Act 1986(b);

“the 2010 Act” means the Public Services Reform (Scotland) Act 2010(c);

“a care provider” means a person registered under section 59 of the 2010 Act in respect of a care service and “the care provider” is to be construed accordingly;

“care service” has the meaning given in section 47 of the 2010 Act;

“the Schedule” means Schedule 1 to the Care Act 2014.

Regulations 3 to 5 – application and interpretation

2.—(1) Regulations 3 to 5 apply to a case within paragraph 1(3) (cross-border placements from England to Scotland), 2(3) or (4) (cross-border placements from Wales to Scotland) or 4(3) (cross-border placements from Northern Ireland to Scotland) of the Schedule.

(a) 2014 c.23 (“the Act”). The power to make regulations is exercisable by the Secretary of State – *see* section 125(1).

(b) 1986 c.45.

(c) 2010 asp 8.

(2) In those regulations—

“the relevant adult” means the adult in respect of whom the arrangements mentioned in the relevant paragraph have been made;

“the relevant arrangements” means the arrangements mentioned in the relevant paragraph;

“the relevant care provider” means the care provider with whom those arrangements have been made;

“the relevant paragraph” means paragraph 1(3), 2(3) or (4) or 4(3) of the Schedule, as the case may be.

Temporary duty on local authority in Scotland

3.—(1) In the circumstances specified in paragraph (2)—

- (a) the duties specified in regulation 5 are to apply in the case of the relevant adult; and
- (b) the discharge of any such duties is to continue for so long as the local authority(a) discharging the duty considers necessary.

(2) The circumstances referred to in paragraph (1) are that—

- (a) the relevant care provider is unable to continue to provide the care service in respect of which the relevant arrangements have been made; and
- (b) such inability arises by virtue of any of the circumstances set out in regulation 4.

Circumstances in which a local authority is required to carry out specified duties

4.—(1) In relation to a care provider which is a company, the circumstances referred to in regulation 3(2)(b) are—

- (a) the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the 1986 Act submits a report to the court under section 2 (procedure where nominee is not the liquidator or administrator) of that Act which states that in the nominee's opinion meetings of the company and its creditors should be summoned to consider the proposal;
- (b) the directors of the company lodge with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 (moratorium where directors propose voluntary arrangement) to the 1986 Act;
- (c) an administrative receiver within the meaning of section 251 of the 1986 Act is appointed in relation to the company;
- (d) the company enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to the 1986 Act;
- (e) a resolution is passed for a voluntary winding up of the company without a declaration of solvency under section 89 of the 1986 Act;
- (f) a meeting of creditors is held in relation to the company under section 95 (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up) of the 1986 Act;
- (g) an order for the winding up of the company is made by the court under Part 4 or 5 of the 1986 Act;
- (h) an administration order is made by the court in respect of the company by virtue of any enactment which applies Part 2 (administration orders) of the 1986 Act (with or without modification);
- (i) a notice from an administrator under paragraph 83(3) of Schedule B1 (moving from administration to creditors' voluntary liquidation) to the 1986 Act in relation to the company is registered by the registrar of companies;

(a) See section 1(2) of the Social Work (Scotland) Act 1968 (c. 49) as to the meaning of “local authority”.

- (j) the company moves from administration to winding up pursuant to an order of the court under rule 2.132 (conversion of administration to winding up - power of court) of the Insolvency Rules 1986(a);
 - (k) an administrator or liquidator of the company, being the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the 1986 Act (company voluntary arrangements), summons meetings of the company and of its creditors, to consider the proposal, in accordance with section 3(2) (summoning of meetings) of the 1986 Act.
- (2) In relation to a care provider who is an individual, the circumstances referred to in regulation 3(2)(b) are—
- (a) the individual is adjudged bankrupt or sequestration of the provider's estate has been awarded;
 - (b) the nominee in relation to a proposal for a voluntary arrangement under Part 8 of the 1986 Act submits a report to the court under section 256(1) or 256A(3) of that Act which states that in the nominee's opinion a meeting of the individual's creditors should be summoned to consider the debtor's proposal;
 - (c) a deed of arrangement made by or in respect of the affairs of the individual is registered in accordance with the Deeds of Arrangement Act 1914(b);
 - (d) the individual executes a trust deed for the individual's creditors or enters into a composition contract.
- (3) In relation to a care provider which is a partnership, the circumstances referred to in regulation 3(2)(b) are—
- (a) an order for the winding up of the partnership is made by the court under any provision of the 1986 Act (as applied by an order under section 420 (insolvent partnerships) of that Act);
 - (b) sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985(c) or the partnership grants a trust deed for its creditors;
 - (c) the nominee in relation to a proposal for a voluntary arrangement under Part 1 of the 1986 Act (as applied by an order under section 420 of that Act) submits a report to the court under section 2 (procedure where nominee is not the liquidator or administrator) of that Act which states that in the nominee's opinion meetings of the members of the partnership and the partnership's creditors should be summoned to consider the proposal;
 - (d) the members of the partnership lodge with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 (moratorium where directors propose voluntary arrangement) to the 1986 Act (as applied by an order under section 420 of that Act).

Specified duties

5.—(1) The duties referred to in regulation 3(1)(a) are the duties under section 12 or 13A of the Social Work (Scotland) Act 1968 (social welfare services and residential accommodation with nursing)(d) in so far as the discharge of the duties would involve meeting the relevant adult's needs by taking the following steps—

- (a) providing or securing the provision of accommodation; or

(a) S.I. 1986/1925.

(b) 1914 c.47.

(c) 1985 c.66.

(d) 1968 c.49. Section 12 has been amended by paragraph 10(5) of Schedule 9 to the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), paragraph 15(11) of Schedule 4 to the Children (Scotland) Act 1995 (c.36), section 120(1) of the Immigration and Asylum Act 1999 (c.33) ("the 1999 Act") and section 3 of the Community Care and Health (Scotland) Act 2002 (asp 5) ("the CCHSA 2002"), and is prospectively amended by section 46(1) of the Nationality, Immigration and Asylum Act 2002 (c.41) ("the 2002 Act"). Section 13A was inserted by section 56 of the 1990 Act and amended by section 120(2) of the 1999 Act, section 72(a) of, and paragraph 4(3) of Schedule 3 to, the Regulation of Care (Scotland) Act 2001 (asp 8) and paragraph 1(4) of Schedule 2 to the CCHSA 2002, and by S.S.I. 2011/211, and is prospectively amended by section 46(2) of the 2002 Act.

- (b) providing, maintaining and making such arrangements as a local authority considers appropriate and adequate for the provision of suitable accommodation where nursing is provided for persons who are or appear to be in need of such accommodation by reason of infirmity, age, illness or mental disorder, dependency on drugs or alcohol or being substantially handicapped by any deformity or disability.

(2) In paragraph (1), “needs” means, in relation to an adult, the needs of the adult which were being met by the relevant care provider under the relevant arrangements immediately before the provider became unable to continue to provide the care service in question as mentioned in regulation 3(2)(a).

Signed by authority of the Secretary of State for Health

Date

Name
Minister of State for Health
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 1 to the Care Act 2014 makes provision to ensure that where a local authority in England, Wales or Scotland, or a Health and Social Care trust in Northern Ireland makes arrangements for the provision to an adult of residential accommodation in another of those territories, in general, this does not result in the transfer of that authority’s responsibility for that adult. The relevant provisions are to be found in paragraphs 1 to 4 of Schedule 1.

These Regulations make provision to specify circumstances in which in the case of arrangements for the provision of accommodation in Scotland, specified duties on Scottish local authorities under Part 2 of the Social Work (Scotland) Act 1968 (“the 1968 Act”) are nonetheless to apply in the case of the adult concerned.

Regulation 3 sets out that the circumstances are that the care provider with whom the arrangements have been made is unable to continue to provide the service in respect of which those arrangements have been made (this would be accommodation) and this inability arises by virtue of any of the circumstances set out in regulation 4. Those duties are to continue to be discharged for so long as the local authority considers necessary.

Regulation 5 sets out the duties under the 1968 Act which are to apply.

2014 No.

SOCIAL CARE, ENGLAND

Care and Support (Registers) Regulations 2014

Made - - - - ***

Laid before Parliament ***

Coming into force - - ***

The Secretary of State for Health, in exercise of the power conferred by section 77(2) of the Care Act 2014(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Registers) Regulations 2014 and come into force on 1st April 2015.

(2) In these Regulations—

“Certificate of Visual Impairment” means the form endorsed by the Department of Health for the purpose of certifying a person as sight-impaired or severely sight-impaired;

“consultant ophthalmologist” means a consultant or honorary consultant appointed in the medical speciality of ophthalmology, who is employed for the purposes of providing any service as part of the health service continued under section 1(1) and (2) of the National Health Service Act 2006(b).

Persons to be treated as sight-impaired or severely sight-impaired

2.—(1) A person is to be treated as being sight-impaired if it is so provided in a Certificate of Visual Impairment issued by a consultant ophthalmologist.

(2) A person is to be treated as being severely sight-impaired if it is so provided in a Certificate of Visual Impairment issued by a consultant ophthalmologist.

Signed by authority of the Secretary of State for Health.

[Date]

[Name]
Parliamentary Under Secretary of State
Department of Health

(a) 2014 c. 23. The powers to make regulations are exercisable by the Secretary of State. See section 125(1).
(b) 2006 c. 41. Section 1 has been substituted by the Health and Social Care Act 2012 c. 7.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 77(1) of the Care Act 2014 (“the Act”) sets out the requirement on local authorities to establish and maintain a register of people who are ordinarily resident in their area and are sight-impaired or severely sight-impaired. These Regulations specify the persons who are to be treated as being sight-impaired and severely sight-impaired for the purposes of that section.

 STATUTORY INSTRUMENTS

[2014] No. 000

NATIONAL HEALTH SERVICE, ENGLAND
**The National Health Service (Licence Exemptions, etc.)
Amendment Regulations [2014]**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	1 st April 2015

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 83, 150(1), 304(9) and (10) of the Health and Social Care Act 2012(a). In accordance with section 83(4) to (7) of that Act, the Secretary of State has given notice to Monitor, the National Health Service Commissioning Board, and the Care Quality Commission and its Healthwatch England committee and published that notice.

Citation and commencement

1. These Regulations may be cited as the National Health Service (Licence Exemptions, etc.) Amendment Regulations [2014] and come into force on 1st April 2015.

Amendment of the National Health Service (Licence Exemptions, etc.) Regulations 2013

2.—(1) These Regulations amend the National Health Service (Licence Exemptions, etc.) Regulations 2013(b).

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), in the definition of “application turnover”, in paragraph (c) omit “before 1st April 2015”.

(3) In regulation 6 (exemption from the requirement to hold a licence: NHS Continuing Healthcare and NHS funded nursing care), omit paragraph (2).

(4) In regulation 9 (Exemptions: general conditions and withdrawal), in paragraphs (1), (3), (4) and (5), omit the references to regulation 6.

Signed by authority of the Secretary of State for Health

Date

 Parliamentary Under Secretary of State
Department of Health

(a) 2012 c. 7. See section 150(1) of the Health and Social Care Act 2012 for the meaning of “prescribed”.
(b) S.I. 2013/2677.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Licence Exemptions, etc.) Regulations 2013.

Regulation 2(2) amends the definition of “applicable turnover” to provide that the turnover from providing NHS Continuing Healthcare or NHS funded nursing care remains excluded from the calculation of applicable turnover. Regulation 2(3) makes amendments to provide that providers of NHS Continuing Healthcare and NHS funded nursing care remain exempt from the requirement to hold a licence. Regulation 2(4) removes NHS Continuing Healthcare and NHS funded nursing care from the application of regulation 9 of the National Health Service (Licence Exemptions, etc.) Regulations 2013 so the exemption to hold a licence (which is granted by regulation 6 of those Regulations) cannot be withdrawn upon the request of National Commissioning Board, a clinical commissioning group or upon Monitor.

[A full Regulatory Impact Assessment has not been carried out]



Department
of Health