

SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 194 – Ordinary residence

504. Subsection (1) sets out where an adult is to be treated as ordinarily resident, if the local authority which is responsible for meeting their needs for care and support makes arrangements for the adult to live in accommodation of a particular type. As a consequence of these arrangements, the adult may move to another area. In this situation, the effect of this provision is that the adult will be treated, for the purposes of this Act, as being ordinarily resident in the area of the local authority which made the arrangements (and not in the area to which they move).
505. Where arrangements are made for the adult to be accommodated in England, Scotland or Northern Ireland, the provisions in Schedule 1 to the Care Act 2014 will apply, if those provisions are commenced before this section. If not, section 24 of the National Assistance Act 1948 will continue to apply in relation to placements in England only, the effect of which is that a local authority in Wales will retain responsibility for adults who are placed in a care home in England.
506. Regulations may specify the types of accommodation to which subsection (1) applies and may make provision about whether an adult has a need for a particular type of accommodation. For example, provision could be made in regulations for the provisions in subsection (1) to apply only where the adult is accommodated in a care home.
507. Subsection (4) applies to both adults and children. If a person is admitted to hospital or any other accommodation provided under a health enactment in Wales, England, Scotland or Northern Ireland, that person is to be treated for the purposes of this Act as ordinarily resident in the area in which he or she was ordinarily resident before admission. This means that the local authority for that area will continue to be responsible for meeting the person's needs for care and support. Provision is also made for what happens if the person was of no settled residence before the accommodation was provided.
508. Subsection (6) makes provision in relation to a child's ordinary residence. The effect of this provision is that the child's ordinary residence is determined without having regard to any periods in which the child was living in certain types of places, including schools and local authority accommodation. For example, where a local authority makes arrangements for a child to be accommodated outside its area, this will have no effect on the child's ordinary residence status.
509. The provision made by this section is based on provision which is made in section 24 of the National Assistance Act 1948 and section 105 of the Children Act 1989.