



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 4

### MEETING NEEDS

#### *Meeting needs: exceptions and restrictions*

#### **46 Exception for persons subject to immigration control**

- (1) A local authority may not meet the needs for care and support of an adult to whom section 115 of the Immigration and Asylum Act 1999 (“the 1999 Act”) (exclusion from benefits) applies and whose needs for care and support have arisen solely—
  - (a) because the adult is destitute, or
  - (b) because of the physical effects, or anticipated physical effects, of being destitute.
- (2) For the purposes of subsection (1), section 95(2) to (7) of the 1999 Act applies but with the references in section 95(4) and (5) of that Act to the Secretary of State being read as references to the local authority in question.
- (3) But, until the commencement of section 44(6) of the Nationality, Immigration and Asylum Act 2002, subsection (2) is to have effect as if it read as follows—
  - “(2) For the purposes of subsection (1), section 95(3) and (5) to (8) of, and paragraph 2 of Schedule 8 to, the 1999 Act apply but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to the local authority in question.”
- (4) The reference in subsection (1) to meeting an adult's needs for care and support includes a reference to doing so in order to meet a carer's needs for support.

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**Modifications etc. (not altering text)**

- C1** Ss. 46-49 applied (1.4.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Care Act 2014 \(c. 23\)](#), **ss. 52(8)**, 127(1) (with s. 52(13)(14)); [S.I. 2015/993](#), **art. 2(p)** (with transitional provisions in [S.I. 2015/995](#)); [S.I. 2016/464](#), **art. 2(b)**

**Commencement Information**

- II** S. 46 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

**47 Exception for provision of health services**

- (1) A local authority may not meet a person's needs for care and support (including a carer's needs for support) under sections 35 to 45 by providing or arranging for the provision of a service or facility which is required to be provided under a health enactment, unless doing so would be incidental or ancillary to doing something else to meet needs under those sections.
- (2) A local authority may not secure services or facilities for a person under section 15 (preventative services) that are required to be provided under a health enactment, unless doing so would be incidental or ancillary to securing another service or facility for that person under that section.
- (3) Regulations may specify—
  - (a) types of services or facilities which may, despite subsections (1) and (2), be provided or arranged by a local authority, or circumstances in which such services or facilities may be so provided or arranged;
  - (b) types of services or facilities which may not be provided or arranged by a local authority, or circumstances in which such services or facilities may not be so provided or arranged;
  - (c) services or facilities, or a method for determining services or facilities, the provision of which is, or is not, to be treated as incidental or ancillary for the purposes of subsection (1) or (2).
- (4) A local authority may not meet a person's needs for care and support (including a carer's needs for support) under sections 35 to 45 by providing or arranging for the provision of nursing care by a registered nurse.
- (5) A local authority may not secure the provision of nursing care by a registered nurse in discharging its duty under section 15.
- (6) But a local authority may, despite subsections (1), (2), (4) and (5), arrange for the provision of accommodation together with nursing care by a registered nurse—
  - (a) if the authority has obtained consent for it to arrange for the provision of the nursing care from—
    - (i) whichever Local Health Board regulations require, in the case of accommodation in Wales, Scotland or Northern Ireland, or
    - (ii) whichever English health body regulations require, in the case of accommodation in England, or
  - (b) in an urgent case and where the arrangements are temporary.

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- (7) In a case to which subsection (6)(b) applies, the local authority must seek to obtain the consent mentioned in subsection (6)(a) as soon as is feasible after the temporary arrangements are made.
- (8) Regulations may require a local authority—
- (a) to make arrangements in connection with the resolution of disputes between the authority and a health body about whether or not a service or facility is required to be provided under a health enactment;
  - (b) to be involved in the manner specified in processes for assessing a person's needs for health care and deciding how those needs should be met.
- (9) Nothing in this section affects what a local authority may do under the National Health Service (Wales) Act 2006, including entering into arrangements under regulations made under section 33 of that Act (arrangements with NHS bodies).
- (10) In this section—
- a “English health body” (“*corff iechyd Seisnig*”) means—
    - (a) [<sup>F1</sup>an integrated care board;]
    - (b) [<sup>F2</sup>NHS England;]
  - a “health body” (“*corff iechyd*”) means—
    - (a) a Local Health Board;
    - (b) [<sup>F3</sup>an integrated care board;]
    - (c) [<sup>F4</sup>NHS England;]
    - (d) a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978;
    - (e) a Special Health Board constituted under that section;
    - (f) a Health and Social Care trust;
  - a “health enactment” (“*deddfiad iechyd*”) means—
    - (a) the National Health Service (Wales) Act 2006;
    - (b) the National Health Service Act 2006;
    - (c) the National Health Service (Scotland) Act 1978;
    - (d) the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14));
    - (e) the Health and Social Care (Reform) Act (Northern Ireland) 2009;
- “nursing care” (“*gofal nyrsio*”) means a service which involves either the provision of care or the planning, supervision or delegation of the provision of care, but does not include a service which, by its nature and in the circumstances in which it is to be provided, does not need to be provided by a registered nurse.

#### Textual Amendments

- F1** Words in s. 47(10) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 219\(a\)\(i\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** Words in s. 47(10) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 25\(a\)\(i\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Words in s. 47(10) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 219\(a\)\(ii\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Words in s. 47(10) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 25\(a\)\(ii\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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**Modifications etc. (not altering text)**

- C1** Ss. 46-49 applied (1.4.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Care Act 2014 \(c. 23\)](#), **ss. 52(8)**, 127(1) (with s. 52(13)(14)); [S.I. 2015/993](#), **art. 2(p)** (with transitional provisions in [S.I. 2015/995](#)); [S.I. 2016/464](#), **art. 2(b)**

**Commencement Information**

- I2** S. 47 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

**48 Exception for provision of housing etc**

A local authority may not meet an adult's needs for care and support (including a carer's needs for support) under sections 35 to 45 or discharge its duty under section 15 by doing anything which that authority or another local authority is required to do under—

- (a) the [<sup>F5</sup>Housing (Wales) Act 2014], or
- (b) any other enactment specified in regulations.

**Textual Amendments**

- F5** Words in s. 48(a) substituted (27.4.2015) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), **Sch. 3 para. 22(2)**; [S.I. 2015/1272](#), **art. 2**, **Sch. para. 53**; [S.I. 2015/1272](#), **art. 2**, **Sch. para. 53**

**Modifications etc. (not altering text)**

- C1** Ss. 46-49 applied (1.4.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Care Act 2014 \(c. 23\)](#), **ss. 52(8)**, 127(1) (with s. 52(13)(14)); [S.I. 2015/993](#), **art. 2(p)** (with transitional provisions in [S.I. 2015/995](#)); [S.I. 2016/464](#), **art. 2(b)**

**Commencement Information**

- I3** S. 48 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

**49 Restrictions on provision of payments**

- (1) A local authority may not provide payments to meet a person's needs for care and support or a carer's needs for support under sections 35 to 45 unless—
  - (a) the payments are direct payments (see sections 50 to 53),
  - (b) the authority considers—
    - (i) that the person's needs are urgent, and
    - (ii) that it would not be reasonably practicable to meet those needs in any other way,
  - (c) the payments are provided under or by virtue of a contract, or
  - (d) the payments are provided in circumstances specified in regulations.
- (2) A local authority may not provide payments in the discharge of its duty under section 15(1) unless—
  - (a) the authority considers—
    - (i) that the payments would achieve one or more of the purposes mentioned in section 15(2), and
    - (ii) that it would not be reasonably practicable to achieve that purpose or those purposes in any other way,

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- (b) the payments are provided under or by virtue of a contract which relates to the provision of services for the authority's area, or
- (c) the payments are provided in circumstances specified in regulations.

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**Modifications etc. (not altering text)**

**C1** Ss. 46-49 applied (1.4.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Care Act 2014 \(c. 23\)](#), **ss. 52(8)**, 127(1) (with s. 52(13)(14)); S.I. 2015/993, art. 2(p) (with transitional provisions in S.I. 2015/995); S.I. 2016/464, art. 2(b)

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**Commencement Information**

**I4** S. 49 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with art. 4, Schs. 1, 2)

**Changes to legislation:**

Social Services and Well-being (Wales) Act 2014, Cross Heading: Meeting needs: exceptions and restrictions is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))