



National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART III

COMMUNITY CARE: ENGLAND AND WALES

Provision of accommodation and welfare services

42 Provision of accommodation and welfare services: agency arrangements.

(1) In section 21(1) of the ^{M1}National Assistance Act 1948 (duties of local authorities to provide accommodation for persons aged 18 or over who are in need of care and attention by reason of age, infirmity or other circumstances)—

(a) in paragraph (a) for the word “infirmity” there shall be substituted “illness, disability”; and

(b) at the end of that paragraph there shall be added “and

(aa) residential accommodation for expectant and nursing mothers who are in need of care and attention which is not otherwise available to them”.

^{F1}(2)

(3) [^{F2}In section 26 of that Act (arrangements for provision of accommodation in premises maintained by voluntary organisations etc.), at the end of subsection (2)] (under which the arrangements must provide for the local authority to make payments in respect of accommodation provided) there shall be added “and subject to subsection (3A) below the local authority shall recover from each person for whom accommodation is provided under the arrangements the amount of the refund which he is liable to make in accordance with the following provisions of this section”.

(4) At the beginning of subsection (3) of that section (liability of persons for whom accommodation is provided to make refunds to the local authority) there shall be

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inserted “Subject to subsection (3A) below” and after that subsection there shall be inserted the following subsection—

“(3A) Where accommodation in any premises is provided for any person under arrangements made by virtue of this section and the local authority, the person concerned and the voluntary organisation or other person managing the premises (in this subsection referred to as “the provider”) agree that this subsection shall apply—

- (a) so long as the person concerned makes the payments for which he is liable under paragraph (b) below, he shall not be liable to make any refund under subsection (3) above and the local authority shall not be liable to make any payment under subsection (2) above in respect of the accommodation provided for him;
- (b) the person concerned shall be liable to pay to the provider such sums as he would otherwise (under subsection (3) above) be liable to pay by way of refund to the local authority; and
- (c) the local authority shall be liable to pay to the provider the difference between the sums paid by virtue of paragraph (b) above and the payments which, but for paragraph (a) above, the authority would be liable to pay under subsection (2) above.”

(5) At the end of subsection (7) of that section (interpretation) there shall be added

““small home” means an establishment falling within section 1(4) of the Registered Homes Act 1984 and “exempt body” means an authority or body constituted by an Act of Parliament or incorporated by Royal Charter”.

(6) In section 30(1) of that Act (under which a local authority may employ certain voluntary organisations as their agents for the provision of welfare services for disabled persons) for the words from “any voluntary organisation” onwards there shall be substituted “any voluntary organisation or any person carrying on, professionally or by way of trade or business, activities which consist of or include the provision of services for any of the persons to whom section 29 above applies, being an organisation or person appearing to the authority to be capable of providing the service to which the arrangements apply”.

(7) In section 45(3) of the ^{M2}Health Services and Public Health Act 1968 (under which a local authority may employ certain voluntary organisations as their agents for promoting the welfare of old people) for the words from “any voluntary organisation” onwards there shall be substituted “any voluntary organisation or any person carrying on, professionally or by way of trade or business, activities which consist of or include the provision of services for old people, being an organisation or person appearing to the authority to be capable of promoting the welfare of old people”.

Textual Amendments

F1 S. 42(2) repealed (1.4.1993) by [Community Care \(Residential Accommodation\) Act 1992 \(c. 49\), s. 1\(2\)\(a\)](#); S.I. 1992/2976, [art.2](#).

F2 Words in s. 42(3) substituted (1.4.1993) by [Community Care \(Residential Accommodation\) Act 1992 \(c. 49\), s. 1\(2\)](#); S.I. 1992/2976, [art. 2](#).

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Commencement Information

I1 S. 42 wholly in force at 1.4.1993; s. 42 not in force at Royal Assent see s. 67(2); s. 42(6)(7) in force at 1.4.1991 by S.I. 1990/2218, **art. 2**; s. 42(1)-(5) in force at 1.4.1993 by S.I. 1992/2975, **art. 2(2)**, **Sch.**

Marginal Citations

M1 1948 c. 29.

M2 1968 c. 46.

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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. 4A(1)(c) and word added by [S.I. 2006/1056 Sch. para. 5\(a\)\(ii\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))