



# Community Care (Delayed Discharges etc.) Act 2003

## 2003 CHAPTER 5

### PART 2

#### LOCAL AUTHORITY COMMUNITY CARE SERVICES AND SERVICES FOR CARERS

#### 15 Free provision of services in England

- (1) The Secretary of State may by regulations require that the provision of any qualifying service of a description prescribed in the regulations is to be free of charge to the person to whom it is provided.
- (2) The regulations may (without prejudice to the generality of subsection (1))—
  - (a) prescribe circumstances in which a qualifying service is to be provided free of charge; and
  - (b) limit the period for which a qualifying service is to be so provided.
- (3) In this section “qualifying service” means—
  - (a) the provision of accommodation under Part 3 of the National Assistance Act 1948 (c. 29) in pursuance of arrangements made by a local authority in England; or
  - (b) any service which is provided to a person by, or in pursuance of arrangements made by, a local authority in England under any enactment mentioned in section 17(2)(a) to (c) and (f) of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (charges for local authority services).
- (4) The regulations may not require any of the following services to be provided free of charge for a period of more than six weeks—
  - (a) the provision of accommodation under Part 3 of the National Assistance Act 1948;
  - (b) the provision of personal care to a person in any place where that person is living, other than accommodation provided under that Part of that Act;

- (c) a service provided to a carer under section 2 of the Carers and Disabled Children Act 2000 which consists of the provision of personal care delivered to the person cared for (in accordance with subsection (3) of that section).
- (5) The regulations may—
  - (a) make different provision for different descriptions of qualifying service; and
  - (b) make supplementary, consequential, incidental, transitional or saving provision.
- (6) The power of the Secretary of State to make regulations under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **16 Free provision of services in Wales**

The Assembly may by regulations made by statutory instrument make in relation to local authorities in Wales any provision which may be made by the Secretary of State under section 15 in relation to local authorities in England.

## **17 Consequential amendments**

- (1) In section 22 of the National Assistance Act 1948 (c. 29) (charges for accommodation provided or arranged by local authority), after subsection (8) there is inserted—
  - “(8A) This section shall have effect subject to any regulations under section 15 of the Community Care (Delayed Discharges etc.) Act 2003 (power to require certain community care services and services for carers to be provided free of charge).”
- (2) In section 26 of that Act (provision of accommodation in premises maintained by voluntary organisations), after subsection (4) there is inserted—
  - “(4AA) Subsections (2) to (4) shall have effect subject to any regulations under section 15 of the Community Care (Delayed Discharges etc.) Act 2003 (power to require certain community care services and services for carers to be free of charge).”
- (3) In section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (power to charge for certain local authority services), after subsection (4) there is inserted—
  - “(5) This section has effect subject to any regulations under section 15 of the Community Care (Delayed Discharges etc.) Act 2003 (power to require certain community care services and services for carers to be free of charge).”