

Status: Point in time view as at 06/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, SCHEDULE 13. (See end of Document for details)

SCHEDULES

SCHEDULE 13

Section 147(6)

TRANSITIONAL PROVISIONS RELATING TO S. 147

Interpretation of Schedule

1 In this Schedule “the 1948 Act” means the National Assistance Act 1948 (c. 29).

Commencement Information

- I1** Sch. 13 para. 1 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)
I2 Sch. 13 para. 1 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

Complaints, orders and payments under section 43 of the 1948 Act

- 2 (1) No complaint may be made under section 43 of the 1948 Act on or after the appointed day, not even—
- (a) in respect of assistance given, or applied for, before that day, or
 - (b) in respect of expenditure incurred by virtue of section 47 of that Act—
 - (i) before the appointed day, or
 - (ii) in connection with the maintenance of a person who is maintained in pursuance of an order under section 47 of that Act (order for removing, to suitable premises, person in need of care and attention) made before the appointed day.
- (2) No order may be made under section 43(2) of the 1948 Act on or after the appointed day, not even on a complaint made before that day.
- (3) No order made under section 43(2) of the 1948 Act—
- (a) may be varied on or after the appointed day so as to—
 - (i) provide for any additional payment,
 - (ii) increase the amount of any payment, or
 - (iii) bring forward the time for making any payment;
 - (b) may be revived on or after the appointed day.
- (4) Where an order has been made under section 43(2) of the 1948 Act, the only payments required to be made under the order on or after the appointed day are overdue pre-commencement payments.
- (5) This Act does not prevent enforcement after the appointed day (whether by proceedings or otherwise) of an order under section 43(2) of the 1948 Act so far as the order relates to overdue pre-commencement payments.
- (6) In this paragraph—

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“the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(a);

“overdue pre-commencement payment”, in relation to an order under section 43(2) of the 1948 Act, means a payment that under the order should have been (but was not) made before that day.

- (7) Sub-paragraphs (3) to (5) apply in relation to a registered order as to an order made under section 43(2) of the 1948 Act in England and Wales, except that in relation to a registered order “overdue pre-commencement payment” means a payment that under the registered order should have been (but was not) made before 5 October 2007.
- (8) In sub-paragraph (7) “registered order” means—
- (a) an order made in Scotland under section 43(2) of the 1948 Act, and
 - (b) registered in England and Wales under Part 2 of the Maintenance Orders Act 1950 (c. 37) (enforcement in one part of the United Kingdom of orders made in another part).

Commencement Information

I3 Sch. 13 para. 2 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

I4 Sch. 13 para. 2 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)

Recovery of expenditure incurred under section 47(8) of the 1948 Act

- 3 (1) Sub-paragraphs (3) to (5) apply in relation to expenditure incurred under section 47(8) of the 1948 Act in connection with the maintenance of any particular person (“A”).
- (2) In sub-paragraphs (3) to (5) “liability proceedings” means proceedings for the expenditure's recovery under section 47(9) of the 1948 Act from a person other than A if the proceedings are brought against that other person (“B”) on account of B having, at a time before the appointed day, been for the purposes of the 1948 Act liable to maintain A.
- (3) No liability proceedings may be begun, or continued, on or after the appointed day; but this is subject to sub-paragraph (5).
- (4) Sub-paragraph (3) applies (subject to sub-paragraph (5))—
- (a) even to expenditure incurred before the appointed day, and
 - (b) even where A is maintained in pursuance of an order under section 47 of the 1948 Act made before the appointed day.
- (5) Where liability proceedings begun before the appointed day resulted in a court making an order before that day for the recovery of the expenditure from B, this Act does not prevent the enforcement of the order (whether by proceedings or otherwise) on or after the appointed day.
- (6) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(b).

Commencement Information

I5 Sch. 13 para. 3 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

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16 Sch. 13 para. 3 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)

Recovery of expenses incurred under section 48 of the 1948 Act

- 4 (1) Sub-paragraphs (3) to (5) apply in relation to reasonable expenses incurred under section 48(1) and (2) of the 1948 Act in relation to a person (“C”) admitted, or removed, as mentioned in section 48(1) of that Act.
- (2) In sub-paragraphs (3) to (5) “liability proceedings” means proceedings for the expenses’ recovery under section 48(3) of the 1948 Act from a person other than C if the proceedings are brought against that other person (“D”) on account of D having, at a time before the appointed day, been for the purposes of the 1948 Act liable to maintain C.
- (3) No liability proceedings may be begun, or continued, on or after the appointed day; but this is subject to sub-paragraph (5).
- (4) Sub-paragraph (3) applies (subject to sub-paragraph (5))—
- (a) even to expenses incurred before the appointed day, and
- (b) even where C was admitted, or removed, before the appointed day.
- (5) Where liability proceedings begun before the appointed day resulted in a court making an order before that day for the recovery of the expenditure from D, this Act does not prevent the enforcement of the order (whether by proceedings or otherwise) on or after the appointed day.
- (6) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(c).

Commencement Information

17 Sch. 13 para. 4 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

18 Sch. 13 para. 4 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)

Prosecutions under section 51 of the 1948 Act

- 5 (1) Sub-paragraph (2) applies in relation to an offence under section 51 of the 1948 Act (offence where accommodation is provided under Part 3 of that Act in consequence of persistent refusal or neglect to maintain a person), other than an offence in respect of accommodation being provided to a person in consequence of that person's persistent refusal or neglect to maintain himself.
- (2) Proceedings for the offence may be begun or continued on or after the appointed day, but only if the accommodation provided in consequence of the refusal or neglect (or alleged refusal or neglect) began to be provided before the appointed day.
- (3) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(d).

Commencement Information

19 Sch. 13 para. 5 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

110 Sch. 13 para. 5 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)

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Transitional cases under paragraph 19(1) of Schedule 6 to the 1948 Act

- 6 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person was by virtue of an enactment repealed by the 1948 Act under a liability (whether under an order of a court or otherwise) to maintain another person,
 - (b) on the repeal of that enactment by the 1948 Act, that liability was saved by the operation of section 38(2) of the Interpretation Act 1889 (c. 63), and
 - (c) paragraph 19(1) of Schedule 6 to the 1948 Act (which ended a saved liability to maintain a person where there was no liability to maintain that person for the purposes of the 1948 Act) did not have effect to end that liability.
- (2) If that liability has not come to an end before the appointed day, it comes to an end as from the beginning of that day; but this is subject to sub-paragraph (3).
- (3) Where that liability is brought to an end by this Act and an order of a court made before the appointed day requires the making of payments on account of that liability, this Act—
- (a) does not end liability to make payments under the order that should have been (but were not) made before the appointed day, and
 - (b) does not prevent enforcement after the appointed day (whether by proceedings or otherwise) of the order so far as it relates to payments required by it to be made before the appointed day.
- (4) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(e).

Commencement Information

- I11** Sch. 13 para. 6 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)
I12 Sch. 13 para. 6 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

Transitional cases under paragraph 19(2) of Schedule 6 to the 1948 Act

- 7 (1) Sub-paragraphs (2) and (3) apply where an order of court, or agreement, such as is mentioned in sub-paragraph (2) of paragraph 19 of Schedule 6 to the 1948 Act has effect at any time on or after 5 July 1948 by virtue of that sub-paragraph.
- (2) If the order or agreement has not ceased to have effect before the appointed day, it ceases to have effect as from the beginning of that day; but this is subject to sub-paragraph (3).
- (3) Where the order or agreement ceases to have effect as a result of the operation of this Act, this Act—
- (a) does not end liability to make payments under the order or agreement that should have been (but were not) made before the appointed day, and
 - (b) does not prevent enforcement after the appointed day (whether by proceedings or otherwise) of the order or agreement so far as it relates to payments required by virtue of the order or agreement to be made before the appointed day.
- (4) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(f).

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I13 Sch. 13 para. 7 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

I14 Sch. 13 para. 7 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)

Recovery of expenses under section 46 of the Public Health (Control of Disease) Act 1984

- 8 (1) Sub-paragraphs (3) to (5) apply in relation to expenses incurred under subsection (1) or (2) of section 46 of the Public Health (Control of Disease) Act 1984 (c. 22) in relation to a person (“E”) whose body has been buried, or cremated, as mentioned in that subsection.
- (2) In sub-paragraphs (3) to (5) “liability proceedings” means proceedings for the expenses’ recovery under section 46(5) of that Act from a person (“F”) on account of F having, at a time before the appointed day, been for the purposes of the 1948 Act liable to maintain E.
- (3) No liability proceedings may be begun, or continued, on or after the appointed day; but this is subject to sub-paragraph (5).
- (4) Sub-paragraph (3) applies (subject to sub-paragraph (5))—
- (a) even to expenses incurred before the appointed day, and
 - (b) even where E died before the appointed day.
- (5) Where liability proceedings begun before the appointed day resulted in a court making an order before that day for the recovery of the expenditure from F, this Act does not prevent the enforcement of the order (whether by proceedings or otherwise) on or after the appointed day.
- (6) In this paragraph “the appointed day” means the day appointed under this Act for the coming into force of section 147(1)(g).

Commencement Information

I15 Sch. 13 para. 8 in force at 6.4.2009 for W. by S.I. 2009/631, art. 2(b)

I16 Sch. 13 para. 8 in force at 6.4.2009 except in relation to local authorities in W. by S.I. 2009/462, art. 4(b)

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