

SCHEDULE 1

Article 3

Savings and transitional provision other than in relation to looked after and accommodated children

Interpretation

1. In this Schedule—

“the 1948 Act” (“*Deddf 1948*”) means the National Assistance Act 1948⁽¹⁾;

“the 2001 Act” (“*Deddf 2001*”) means the Health and Social Care Act 2001⁽²⁾;

“relevant date” (“*dyddiad perthnasol*”) means, in relation to a person, the date on which the Act applies to that person by virtue of paragraph 2.

Transitional provision in respect of persons in receipt of services

2.—(1) Notwithstanding the commencement of the provisions of the Act by article 2 of this Order, the Act does not apply in the case of a person to whom, or in relation to whom, immediately before the coming into force of the provisions of the Act—

(a) support or services are being provided,

(b) payments towards the cost of support or services are being made.

(2) For the purposes of this paragraph, the provision of support or services includes the provision of assistance under section 17(6) of the Children Act 1989.

(3) But the Act will apply in respect of that person’s case from the time the local authority has completed a review of that person’s case in accordance with sub-paragraph (3) or (4).

(4) A local authority providing support or services or making payments to an adult to whom sub-paragraph (1) applies must complete a review of the adult’s case before 1 April 2017.

(5) A local authority providing support or services or making payments to a child to whom sub-paragraph (1) applies must complete a review of the child’s case before 1 October 2016.

(6) If a local authority fails to comply with sub-paragraph (3), the Act applies in that adult’s case with effect from 1 April 2017.

(7) If a local authority fails to comply with sub-paragraph (4), the Act applies in that child’s case with effect from 1 October 2016.

(8) In respect of a person to whom sub-paragraph (5) or (6) applies, the person is to be treated as—

(a) having needs for care and support or support which meet the eligibility criteria under section 32(4) of the Act or which the local authority is otherwise under a duty to meet following a determination under section 32(1)(b);

(b) being entitled to have those needs met under the Act; and

(c) having complied with any requirements in or under the Act to enable the person to have those needs met,

until the local authority has completed a review in that person’s case.

(9) A local authority has completed a review in a person’s case when—

(a) they conclude that the person does not have needs for care and support or for support (as the case may be) in accordance with the Act;

(1) 1948 c. 29.

(2) 2001 c. 15.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) having concluded that the person has such needs and that they are going to meet some or all of them, they begin to do so; or
- (c) having concluded that the person has such needs, they conclude that they are not going to meet any of those needs (whether because those needs do not meet the eligibility criteria or for some other reason).

Transitional provision in relation to sight registers

3. An adult who is registered as blind or partially sighted in a register maintained by or on behalf of a local authority in Wales under section 29 of the 1948 Act (welfare services) immediately before the coming into force of the provisions of the Act is to be treated on or after that date as being registered as, respectively, severely sight impaired or sight impaired in the register maintained by or on behalf of that local authority under section 18 of the Act (registers of sight-impaired, hearing-impaired and other disabled people).

Transitional modifications in respect of deferred payments

4. Where a deferred payment agreement under section 55 of the 2001 Act (power for local authorities to take charges on land instead of contributions) is in force in respect of a person to whom, by virtue of paragraph 2, the Act does not apply, the deferred payment agreement under section 55 of the 2001 Act is to continue to apply on the terms and conditions which pertained to it immediately before the coming into force of the Act, save that from the relevant date in relation to the person concerned, references in that agreement to—

- (a) accommodation provided under Part 3 of the 1948 Act must be read as including accommodation provided by a local authority under section 35 or 36 (duty or power to meet care and support needs of an adult) of the Act (including anything provided in connection with that accommodation), and
- (b) relevant contributions must be read as including the amount due from the person to the local authority under section 59 of the Act or, as the case may be, in accordance with regulations under section 57(2) of the Act.

Transitional provision in relation to the appointment of directors of social services

5.—(1) A director of social services who has been appointed by a local authority under section 6 of the Local Authority Social Services Act 1970 and who is in post immediately before the coming into force of the Act is to be treated as having been appointed under section 144(1) of the Act.

(2) Section 144(2) of the Act does not apply to an appointment to which subparagraph (1) applies.

Transitional provision relating to where a person's ordinary residence is

6. Any adult who, immediately before the relevant date in relation to that adult, is deemed to be ordinarily resident in a local authority's area by virtue of section 24(5) or (6) of the 1948 Act (authority liable for provision of accommodation) is, on that date, to be treated as ordinarily resident in that area for the purposes of the Act.