

# Personal Care at Home Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department of Health, are published separately as Bill 11 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Andy Burnham has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Personal Care at Home Bill are compatible with the Convention rights.

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TO

Amend section 15 of the Community Care (Delayed Discharges etc.) Act 2003 so as to remove the restriction on the period for which personal care may be provided free of charge to persons living at home; and to make consequential provision.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Free provision of personal care at home**

- (1) Section 15 of the Community Care (Delayed Discharges etc.) Act 2003 (power to require free provision of local authority care services in England) is amended as set out in subsections (2) to (5).
- (2) *In subsection (4) (six-week restriction on free provision of certain services), for paragraph (b) substitute –* 5  
     “(b) *the provision of personal care to a person living in accommodation that an establishment provides to the person together with the care;*”.
- (3) *After subsection (4) insert –*  
     “(4A) *Subsection (4)(b) does not apply to the provision of personal care under arrangements made in connection with an adult placement scheme (within the meaning given by section 22(6) of the Safeguarding Vulnerable Groups Act 2006).*” 10
- (4) *After subsection (4A) insert –*  
     “(4B) *Regulations requiring the provision of personal care to a person living at home to be free of charge for more than six weeks may, in particular –* 15  
         (a) *impose on a local authority functions (including the exercise of a discretion) relating to eligibility for the free provision;*  
         (b) *make provision by reference to guidance given under section 7 of the Local Authority Social Services Act 1970.* 20
- (4C) *Provision by virtue of subsection (4B)(a) may, in particular, authorise a local authority to make a person’s eligibility for the free provision conditional on the*

*person undergoing a process designed to maximise the person's ability to live independently.*

(4D) *For the purposes of this section, a provision of personal care is to a person living at home if the provision does not come within subsection (4)(a) or (b)."*

(5) After subsection (4D) insert – 5

“(4E) Section 21(5) of the National Assistance Act 1948 (references to accommodation provided under Part 3 of that Act to include services etc. provided in connection with the accommodation) applies for the purposes of this section as it applies for the purposes of that Act.”

(6) *In Schedule 1 to the Local Authority Social Services Act 1970 (list of social services functions), in the entry for the Community Care (Delayed Discharges etc.) Act 2003, after the entry for Part 1, insert –* 10

“Part 2

*Functions imposed by regulations relating to eligibility for free provision of personal care to persons living at home.”*

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(7) In Part 3 of the National Assistance Act 1948 (local authority services) –

(a) in section 22 (charges for accommodation), in subsection (8A), after “section 15” insert “or 16”, and

(b) in section 26 (recovery of costs of accommodation in voluntary organisations' premises), in subsection (4AA), after “section 15” insert “or 16”. 20

(8) In section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (recovery of charges for local authority services), in subsection (5), after “section 15” insert “or 16”. 25

## 2 Extent and short title

(1) This Act extends to England and Wales only.

(2) This Act may be cited as the Personal Care at Home Act 2010.

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## B I L L

To amend section 15 of the Community Care (Delayed Discharges etc.) Act 2003 so as to remove the restriction on the period for which personal care may be provided free of charge to persons living at home; and to make consequential provision.

*Presented by Secretary Andy Burnham  
supported by  
The Prime Minister, Mr Chancellor of the Exchequer,  
Secretary Alan Johnson, Secretary John Denham,  
Secretary Ed Balls, Secretary Yvette Cooper,  
and Mr Phil Hope.*

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*Ordered, by The House of Commons,  
to be Printed, 25 November 2009.*

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