

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2007 No. (W.)

**NATIONAL HEALTH
SERVICE, WALES**

**Local Health Boards (Functions)
(Wales) (Amendment) Regulations
2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Health Boards (Functions) (Wales) Regulations 2003 so as to extend the category of people for whom a Local Health Board (“LHB”) is responsible as a commissioner (and therefore also as funder) of services.

The amendments to the Principal Regulations have the effect of maintaining a Local Health Board’s responsibility for children in certain categories who come from the area but are then placed out of area and who would otherwise become the responsibility of another LHB by virtue of being “usually resident” in that area.

The children concerned are children looked after by local authorities, local authority care leavers, children resident at a school named in their statement of special educational needs and children with ongoing health needs and who, for any of those reasons, are placed out of their area.

2007 No. (W.)

**NATIONAL HEALTH
SERVICE, WALES**

**Local Health Boards (Functions)
(Wales) (Amendment) Regulations
2007**

Made 2007

Coming into force X July 2007

The National Assembly for Wales, in exercise of the powers conferred by sections 16BB and 126 (4) of the National Health Service Act 1977 (a) hereby makes the following Regulations.

Citation, commencement extent and interpretation

1. —1) The name of these Regulations is the “Local Health Boards (Functions) (Wales) (Amendment) Regulations 2007”.

(1) These Regulations come into force on X July 2007.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations “the Principal Regulations” means the Local Health Boards (Functions) (Wales) Regulations 2003(b).

(a) 1977 c.49 Section 16BB is inserted by section 6(1) of the National Health Service Reform and Health Care Professions Act 2002.

(b) S.I. 2003/150 (W. 20) as amended by S.I. 2003/816 (W. 101).

Amendment of the Principal Regulations

2. —2) In regulation 2(1) of the Principal Regulations insert the following definitions in the appropriate alphabetical order—

““continuing care” means care provided over an extended period of time to a person to meet physical or mental health needs which have arisen as a result of illness;”;

““general ophthalmic services” has the same meaning as in section 38(7) of the Act(a);”;

““pharmaceutical services” has the same meaning as in section 41(2) of the Act(b);”;

““primary dental services” has the same meaning as in section 16CA of the Act(c);”;

““primary medical services” has the same meaning as in section 16CC of the Act(d);”;

““the 1989 Act” means the Children Act 1989(e);”.

(1) In regulation 2(2) of the Principal Regulations, after the words “For the purposes of these Regulations,” insert the words “and subject to regulation 2A,”.

(2) After regulation 2 of the Principal Regulations, insert the following regulation—

“**2A.**—(1) A Local Health Board of origin continues to be responsible for the persons specified in paragraph (3) below who have been usually resident in the area for which it is established, in the circumstances set out in paragraph (2).

(2) The circumstances are that—

(a) on or after x July 2007

(i) the Local Health Board of origin has made an arrangement in the exercise of its functions; or

(ii) a local authority(a) has made an arrangement

(a) section 38(7) of the Act is re-enacted as section 71(10) of the National Health Service (Wales) Act 2006.

(b) section 41(2) of the Act is re-enacted as section 80(8) of the National Health Service (Wales) Act 2006.

(c) section 16CA of the Act is re-enacted as section 56 of the National Health Service (Wales) Act 2006.

(d) section 16CC of the Act is re-enacted as section 41 of the National Health Service (Wales) Act 2006.

(e) 1989 c.41.

by virtue of which a person to whom paragraph (3) applies is provided with services which consist of or include the provision of accommodation situated in the area of another Local Health Board or a Primary Care Trust; and

- (b) the person is thereby living in the accommodation.

(3) This paragraph applies

- (a) to a person who is under the age of 18 and
 - (i) is looked after by a local authority within the meaning of section 22(1) of the 1989 Act;
 - (ii) is a relevant child within the meaning of section 23A of the 1989 Act;
 - (iii) qualifies for advice and assistance under section 24(1A) or section 24(1B) of the 1989 Act;
 - (iv) is placed at a school in accordance with a statement of special educational needs made under section 324 of the Education Act 1996**(b)** that names the school; or
 - (v) requires accommodation to meet continuing care needs

and

- (b) to a person under the age of 21 who was, immediately prior to his or her eighteenth birthday, a person within one of the subcategories of subparagraph (a).

(4) The responsibility of a Local Health Board of origin under this regulation does not extend to its functions in relation to primary medical, primary dental, pharmaceutical and general ophthalmic services.

(5) In this regulation “Local Health Board of origin” means the Local Health Board which made the arrangement under subparagraph 2A(2)(a)(i) or the Local Health Board which corresponds to the geographical area of the local authority which made the arrangement under subparagraph 2A(2)(a)(ii).”

(a) “local authority” is defined in section 128 of the National Health Service Act 1977 c. 49.

(b) 1996 c. 56.

Signed on behalf of the National Assembly for Wales
under section 66(1) of the Government of Wales Act
1998(a)

Date

Dafydd Elis Thomas

The Presiding Officer of the National Assembly

(a) 1998 c.38.