

SL(6)462 – The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2024

Background and Purpose

These Regulations amend the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (**the Regulated Services Regulations**) that were made under the Regulation and Inspection of Social Care (Wales) Act 2016 (**the 2016 Act**)

These Regulations provide that a local authority intermediate care service is not treated as a care home service for the purposes of the 2016 Act (but see regulations 3 and 4 of these Regulations for the complete scope of this exception). The local authority intermediate care service will continue to be regulated as a domiciliary support service.

“Intermediate care” means the provision of accommodation, together with nursing or care, to an adult for a limited period for the purpose of promoting the adult’s ability to live independently in their own home by—

- (a) avoiding unnecessary admission to hospital,
- (b) minimising the duration of any admission to hospital by enabling timely discharge,
- (c) enabling recovery following discharge from hospital, or
- (d) preventing or delaying admission to a care home service.

The Regulations also clarify that when a provider of an accommodation-based service reconfigures premises, resulting in an increased capacity to accommodate five or more people, the additional bedroom(s) and the communal areas of the service must meet specified requirements. This includes the requirement to have ensuite bathrooms, minimum bedroom sizes, minimum communal space, accessible outdoor space and, in certain circumstances, a passenger lift.

Procedure

Draft Affirmative

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny



The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 2(1) of the Regulated Services Regulations currently includes sub-paragraphs (a) to (j). These Regulations add an additional sub-paragraph after sub-paragraph (j). However, the additional sub-paragraph is not labelled as sub-paragraph (k), instead it is labelled as sub-paragraph (l).

It is unclear why the order of the alphabet was not followed when adding the new sub-paragraph after sub-paragraph (j).

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

At the beginning of the Regulations, there is reference to the dates the Regulations are made, laid and come into force. However, for draft affirmative instruments such as these Regulations, the convention is to refer only to the dates the Regulations are made and come into force.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

The 2016 Act requires the Welsh Ministers to consult before making these Regulations and to publish a statement about the consultation. The 2016 Act also requires the Welsh Ministers to lay a copy of the statement before Senedd Cymru.

The preamble to these Regulations states that the Welsh Ministers have laid a copy of that statement before Senedd Cymru. However, we are not aware of any such statement having been laid before Senedd Cymru.

We would welcome clarity from the Welsh Government as to the current status of the consultation statement.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

These Regulations define the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 as “the Regulated Services Regulations”.

However, the Explanatory Memorandum defines the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 as “the Service Provider Regulations”.



It would be helpful if definitions used in the Regulations and the Explanatory Memorandum were consistent.

Welsh Government response

A Welsh Government response is required to reporting points 1 to 3.

Legal Advisers

Legislation, Justice and Constitution Committee

5 March 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee