

## HEALTH AND SOCIAL CARE (WALES) BILL – STAGE 2 GOVERNMENT AMENDMENTS

This table provides information about the amendments tabled in the name of Dawn Bowden MS on 18 November 2024.

No.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
9.	<p>Section 2, page 2, leave out—</p> <p>‘(2) For the purposes of subsection (1), a care home service is provided wholly or mainly to children if—</p> <p>(a) it has provided more days of accommodation to children than to adults for any period of 12 months falling within the previous 24 months, or</p> <p>(b) it intends to provide more days of accommodation to children than to adults for any period of 12 months falling within the following 24 months.’.</p>	<p>Adran 2, tudalen 2, hepgorer—</p> <p>‘(2) At ddibenion is-adran (1), mae gwasanaeth cartref gofal yn cael ei ddarparu’n gyfan gwbl neu’n bennaf i blant—</p> <p>(a) os yw wedi darparu mwy o ddiwrnodau o lety i blant nag i oedolion am unrhyw gyfnod o 12 mis sy’n dod o fewn y 24 mis blaenorol, neu</p> <p>(b) os yw’n bwriadu darparu mwy o ddiwrnodau o lety i blant nag i oedolion am unrhyw gyfnod o 12 mis sy’n dod o fewn y 24 mis dilynol.’.</p>	<p>This amendment is made to section 2 of the Bill and would remove new section 2A(2) of the 2016 Act. This approach follows consideration of the concerns raised by the Legislation, Justice and Constitution Committee during their scrutiny and in their Stage 1 report that the definition of “wholly or mainly for children” in new section 2A(2) was not sufficiently clear. Following further consideration of the provisions, this amendment is proposed to remove the definition at new section 2A(2). The Bill will instead define a care home service provided at a place at which the service is provided wholly or mainly to children, as a restricted children’s</p>

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			<p>service. This approach will be consistent with other existing instances where “wholly or mainly” is used elsewhere in the 2016 Act (and in the 2014 Act). Leaving the term undefined will avoid the rigidity of a definition on the face of the Bill which might not accommodate the range of circumstances facing providers whose services are aimed at meeting the needs of older children and younger adults but will require the regulator to set out in guidance its approach to interpreting “wholly or mainly” to ensure there is transparency and consistency. The regulator will also be able have regard to providers’ statements of purpose to ensure that the flexibility is not exploited in ways which would defeat the policy purpose.</p>

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10.	Section 3, page 5, line 33, leave out 'having a share capital' has the meaning given by section 545 of that Act.'" and insert 'does not have a share capital if it does not have power under its constitution to issue shares.'	Adran 3, tudalen 5, llinell 36, hepgorer 'mae i "cwmni a chanddo gyfalaf cyfrannau" yr ystyr a roddir i "a company having a share capital" gan adran 545 o'r Ddeddf honno.'" a mewnosoder 'nid oes gan gwmni gyfalaf cyfrannau os nad oes ganddo bŵer o dan ei gyfansoddiad i ddyroddi cyfrannau.'	This amendment is made to <u>section 3(3) of the Bill</u> so that new section 6B(6)(b) of the 2016 Act will no longer define the term "company having a share capital" by referencing section 545 of the Companies Act 2006, as this exact term is not used in subsections (2) and (5) of new section 6B. The amendment has the effect that section 6B(6)(b) now uses the wording from section 545 of the Companies Act 2006 instead of referencing it, providing that "a company does not have a share capital if it does not have power under its constitution to issue shares". This amendment is pursuant to a recommendation of the Legislation, Justice and Constitution Committee's Stage 1 report (Recommendation 16).

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11.	Section 4, page 8, line 3, after 'service', insert 'or a place'.	Adran 4, tudalen 8, llinell 3, ar ôl 'gwasanaeth', mewnosoder 'neu ddileu man'.	This amendment is made to <u>section 4(3) of the Bill</u> , which inserts new Schedule 1A into the 2016 Act. The amendment adds the words "or a place" to paragraph 3(4). This has the effect that the Welsh Ministers (in practice, CIW) have the option of varying the registration of a service provider who is subject to the transitional provisions, to remove a place, in addition to the option of varying to remove a service, if the service provider fails to comply with requirements in regulations made under paragraph 3(1) of Schedule 1A or under section 87 of the 2014 Act.
12.	Section 4, page 9, line 2, leave out subsection (5).	Adran 4, tudalen 9, llinell 3, hepgorer is-adran (5).	This amendment is made to <u>section 4(5) of the Bill</u> , which inserts text into section 52(2) of the 2016 Act. The amendment removes section 4(5) from the Bill so that the amendment to section 52(2) of the 2016 Act is not made. This reflects the fact that any

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			offence committed by a service provider failing to comply with requirements of the regulations made under paragraph 3(1) of Schedule 1A (the restrictions placed on for-profit providers during the transitional period), will be set out in regulations that are made under section 45 of the 2016 Act (as amended by section 4(4) of the Bill), not regulations made under paragraph 3(1) of Schedule 1A which section 4(5) references.
13.	Section 8, page 13, line 31, after 'also', insert 'paragraph 3(4)(a) of'.	Adran 8, tudalen 13, llinell 33, ar ôl 'hefyd', mewnosoder 'baragraff 3(4)(a) o'.	This wording adds a reference to identify the specific paragraph of Schedule 1A which deals with the issue of varying the registration of providers during the transitional period.
14.	Section 8, page 14, line 7, after 'also', insert 'paragraph 3(4)(b) of'.	Adran 8, tudalen 14, llinell 8, ar ôl 'hefyd', mewnosoder 'baragraff 3(4)(b) o'.	This wording adds a reference to identify the specific paragraph of Schedule 1A which deals with the issue of cancelling the registration of providers

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			during the transitional period.
15.	<p>Section 11, page 15, after line 21, insert—</p> <p style="padding-left: 40px;">‘( ) An annual sufficiency plan must—</p> <p style="padding-left: 80px;">(a) be in such form as may be prescribed by regulations, and</p> <p style="padding-left: 80px;">(b) be approved by the Welsh Ministers before publication (see sections 75B and 75C).’.</p>	<p>Adran 11, tudalen 15, ar ôl llinell 22, mewnosoder—</p> <p style="padding-left: 40px;">‘( ) Rhaid i gynllun digonolrwydd blynyddol—</p> <p style="padding-left: 80px;">(a) bod ar ffurf a ragnodir drwy reoliadau, a</p> <p style="padding-left: 80px;">(b) cael ei gymeradwyo gan Weinidogion Cymru cyn ei gyhoeddi (gweler adrannau 75B a 75C).’.</p>	<p>The wording of new sections 75A and 75B in the 2014 Act, as inserted by the Bill as introduced, do not specify what would happen if the Welsh Ministers do not give approval in time for a local authority’s annual sufficiency plan to be published before the beginning of a given year. This amendment would insert a new section 75A(2)(b) to make clear that the local authority may not publish a plan unless the plan has first been approved by the Welsh Ministers.</p>
16.	<p>Section 11, page 16, leave out lines 12 to 13.</p>	<p>Adran 11, tudalen 16, hepgorer llinell 11.</p>	<p>This amendment follows on from the previous amendment (amendment 15). The amendment removes “A sufficiency plan must be in such form as may be prescribed by regulations” at this point in the Bill as the previous amendment has inserted a version of this text earlier on</p>

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			in the new section 75A, along with the additional clarification about what would happen if the Welsh Ministers do not give approval in time for a local authority's annual sufficiency plan to be published before the beginning of a given year.
17.	<p>Section 11, page 17, after line 18, insert—</p> <p>‘(4) Section 75B(4) applies where the Welsh Ministers approve a further draft submitted to them under this section as it applies where the Welsh Ministers approve a draft submitted to them under section 75B.’</p>	<p>Adran 11, tudalen 17, ar ôl llinell 20, mewnosoder—</p> <p>‘(4) Mae adran 75B(4) yn gymwys pan fo Gweinidogion Cymru yn cymeradwyo drafft pellach a gyflwynir iddynt o dan yr adran hon fel y mae'n gymwys pan fo Gweinidogion Cymru yn cymeradwyo drafft a gyflwynir iddynt o dan adran 75B.’</p>	<p>This amendment is made to section 11 of the Bill to amend new section 75C to insert new subsection (4), which provides that new section 75B(4) (which requires the Welsh Ministers to notify the local authority of a decision to approve a draft annual sufficiency plan) applies to decisions on draft plans submitted under section 75C as it does to decisions on draft plans submitted under section 75B.</p>
18.	<p>Section 13, page 20, line 10, leave out ‘that is providing the placement’.</p>	<p>Adran 13, tudalen 20, llinell 11, hepgorer ‘sy'n darparu'r lleoliad’.</p>	<p>The purpose of this amendment is to remove the words “that is providing the placement” given that the</p>

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			context here is a description of information required in an application for approval of a supplementary placement. It is possible that those words may create the impression that approval is a foregone conclusion, which is not the case.
19.	Section 13, page 20, leave out line 11.	Adran 13, tudalen 20, hepgorer llinell 12.	This amendment is made to section 13 of the Bill, which inserts new section 81B(3) into the 2016 Act. This amendment will remove the requirement for a child's care plan to be included with an application for a supplementary placement. This requirement would mean Welsh Government receiving many care and support plans containing sensitive personal data, much of which is likely to be irrelevant information for the Welsh Ministers' purposes. The other application requirements in section 81B(3) are sufficient for



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			Welsh Ministers to determine the application.
20.	<p>Section 13, page 20, leave out lines 13 to 30 and insert—</p> <p>( ) a statement setting out the reasons why the authority considers that it would be acting inconsistently with its duty under section 78 were it not to place C with the for-profit provider or private provider,’.</p>	<p>Adran 13, tudalen 20, hepgorer llinellau 14 hyd at 29 a mewnosoder—</p> <p>( ) datganiad sy’n nodi’r rhesymau pam y mae’r awdurdod o’r farn y byddai’n gweithredu yn anghyson â’i ddyletswydd o dan adran 78 pe na bai’n lleoli C gyda’r darparwr er elw neu’r darparwr preifat,’.</p>	<p>The purpose of this amendment to Section 13 of the Bill, is to amend new section 81B(3) to make it clear that a local authority applying for approval of a supplementary placement does not need to list all available placements in the same type of accommodation as the supplementary placement applied for (i.e. children’s homes or local authority foster carers) across the whole of England and Wales. The effect of the amendment is to require the applicant local authority to set out the reasons why it would be acting inconsistently with its duty under section 78 if it were not to place the child in for-profit/private provision.</p>
21.	<p>Section 16, page 23, line 35, after ‘the’ at the first place where it occurs on a line, insert ‘variation or’.</p>	<p>Adran 16, tudalen 23, llinell 37, ar ôl ‘wrth’, mewnosoder ‘amrywio neu’.</p>	<p>This amendment amends section 16(1) of the Bill, to include the amendment of</p>

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			section 13 of the 2016 Act in the overview of what this section of the Bill changes (see amendment 22 below).
22.	<p>Section 16, page 23, after line 36, insert—</p> <p>‘( ) In section 13 of the 2016 Act—</p> <p>(a) omit subsection (2);</p> <p>(b) in subsection (4), after paragraph (b) insert—</p> <p>“(ba) the responsible individual designated in respect of that place, or any other person, has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider at, from or in relation to that place,”;</p> <p>(c) after subsection (4) insert—</p> <p>“(4A) For the purposes of subsection (4)(ba) a relevant offence is an offence listed in section 15(2).”</p> <p>(d) in subsection (5), for the words from “subsection (3)” to the end substitute “this section unless—</p> <p>(a) in the case of variation under subsection (1), (3)(a) or (4)(a), the requirements of sections 18 and 19 are met, and</p>	<p>Adran 16, tudalen 23, ar ôl llinell 38, mewnosoder—</p> <p>‘( ) Yn adran 13 o Ddeddf 2016—</p> <p>(a) hepgorer is-adran (2);</p> <p>(b) yn is-adran (4), ar ôl paragraff (b) mewnosoder—</p> <p>“(ba) bod yr unigolyn cyfrifol sydd wedi ei ddynodi mewn cysylltiad â'r man hwnnw, neu unrhyw berson arall, wedi ei gollfarnu o drosedd berthnasol, neu wedi cael rhybuddiad mewn cysylltiad â throedd berthnasol, mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan y darparwr gwasanaeth yn y man hwnnw, ohono neu mewn perthynas ag ef,”;</p> <p>(c) ar ôl is-adran (4) mewnosoder—</p> <p>“(4A) At ddibenion is-adran (4)(ba) mae trosedd berthnasol yn drosedd a restrir yn adran 15(2).”</p> <p>(d) yn is-adran (5), yn lle'r geiriau o “is-adran (3)” hyd at y diwedd rhodder “yr adran hon—</p> <p>(a) yn achos amrywiad o dan is-adran (1), (3)(a) neu (4)(a), oni bai</p>	<p>Section 13 of the 2016 Act provides the Welsh Ministers with the power to vary a service provider's registration without an application having been made by cancelling a particular service whilst the service provider is still able to provide other services, or cancel a place at, from or in relation to which a service is provided while maintaining the registration of other places.</p> <p>The proposed amendment will change the procedure that is to be followed when varying a service provider's registration, depending on the grounds for variation. It will provide that the notice of proposal procedure (see section 18 and section 19 of the 2016 Act), rather than</p>

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	<p>(b) in the case of variation under subsection (3)(b), (4)(b), (ba) or (c), the requirements of sections 16 and 17 are met.”;</p> <p>(e) after subsection (5) insert—</p> <p>“(6) But nothing in subsection (5) affects the power of the Welsh Ministers to urgently vary a registration under section 23.”.</p>	<p>bod gofynion adrannau 18 a 19 wedi eu bodloni;</p> <p>(b) yn achos amrywiad o dan is-adran (3)(b), (4)(b), (ba) neu (c), oni bai bod gofynion adrannau 16 a 17 wedi eu bodloni.”;</p> <p>(e) ar ôl is-adran (5) mewnosoder—</p> <p>“(6) Ond nid oes dim byd yn is-adran (5) sy’n effeithio ar bŵer Gweinidogion Cymru i amrywio cofrestrriad ar frys o dan adran 23.”.</p>	<p>the improvement notice procedure, must be followed where cancellation is on any of the following grounds where no improvement is possible:</p> <p>i. the service provider no longer provides that service,</p> <p>ii. the service provider no longer provides a regulated service at, from or in relation to that place.</p> <p>The proposed amendment to section 13 of the 2016 Act will also provide the Welsh Ministers with the power to vary a service provider’s registration by removing a place if it is satisfied that the responsible individual designated in respect of that place, or any other person, has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider at, from or in relation to that place. The improvement</p>

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			notice procedure will apply where variation is on this ground.
23.	Section 16, page 24, line 12, leave out 'the grounds in subsection (1)(a), (b) and' and insert 'cancellation on the grounds set out in subsection (1)(a), (b) or'.	Adran 16, tudalen 24, llinell 13, hepgorer 'y seiliau yn is-adran (1)(a), (b) a' a mewnosoder 'canslo ar y seiliau a nodir yn is-adran (1)(a), (b) neu'.	This is an amendment to the drafting which amends section 15 of the 2016 Act dealing with the circumstances when the regulator may cancel a provider's registration to reflect that where cancellation is on one of the grounds listed it will follow the notice of proposal route under section 18 and 19 of the 2016 Act.
24.	Section 16, page 24, line 14, leave out 'the grounds in subsection (1)(c), (d), (e) and' and insert 'cancellation on the grounds set out in subsection (1)(c), (d), (e) or'.	Adran 16, tudalen 24, llinell 15, hepgorer 'y seiliau yn is-adran (1)(c), (d), (e) ac' a mewnosoder 'canslo ar y seiliau a nodir yn is-adran (1)(c), (d), (e) neu'.	This is an amendment to drafting which deals with the amendments to section 15 of the 2016 Act dealing with the circumstances when the regulator may cancel a provider's registration to reflect that where cancellation is on one of the grounds listed the process should be by serving a notice of improvement under section 16 and 17 of the 2016 Act. The purpose of

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			the amendment is to improve the clarity and precision of the drafting.
25.	<p>Section 17, page 24, line 21, leave out subsections (1) to (2) and insert—</p> <p>( ) This section amends Chapter 3 of the 2016 Act to make further provision in relation to the Welsh Ministers' powers to carry out inspections and to require information to be provided, including in respect of investigating offences.</p> <p>( ) In section 32 of the 2016 Act—</p> <p>(a) in subsection (1), for “The Welsh Ministers may require a relevant person to provide them with any” substitute “Subsections (1A) and (1B) apply where the Welsh Ministers consider that a relevant person may have”;</p> <p>(b) after subsection (1), insert—</p> <p>“(1A) Where this subsection applies, the Welsh Ministers may give a notice to a relevant person requiring that person—</p> <p>(a) to produce any documents which—</p> <p>(i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and</p> <p>(ii) are in the person's custody or under the person's control, and</p> <p>(b) to produce the documents in a manner specified in the notice.</p>	<p>Adran 17, tudalen 24, llinell 22, hepgorer is-adrannau (1) hyd at (2) a mewnosoder—</p> <p>( ) Mae'r adran hon yn diwygio Pennod 3 o Ddeddf 2016 i wneud darpariaeth bellach mewn perthynas â phwerau Gweinidogion Cymru i gynnal arolygiadau ac i'w gwneud yn ofynnol i wybodaeth gael ei darparu, gan gynnwys mewn cysylltiad ag ymchwilio i droseddau.</p> <p>( ) Yn adran 32 o Ddeddf 2016—</p> <p>(a) yn is-adran (1), yn lle “Caiff Gweinidogion Cymru ei gwneud yn ofynnol i berson perthnasol ddarparu unrhyw wybodaeth iddynt” rhodder “Mae is-adrannau (1A) ac (1B) yn gymwys pan fo Gweinidogion Cymru yn ystyried y gall fod gan berson perthnasol wybodaeth”;</p> <p>(b) ar ôl is-adran (1) mewnosoder—</p> <p>“(1A) Pan fo'r is-adran hon yn gymwys, caiff Gweinidogion Cymru roi hysbysiad i berson perthnasol sy'n ei gwneud yn ofynnol i'r person hwnnw—</p> <p>(a) cyflwyno unrhyw ddogfennau—</p> <p>(i) a bennir neu a ddisgrifir yn yr hysbysiad, neu sy'n dod o fewn categori o ddogfen a bennir neu a ddisgrifir yn yr hysbysiad, a</p> <p>(ii) sydd ym meddiant y person neu o dan reolaeth y person, a</p>	<p>The purpose of the proposed amendment is to make further provision in relation to the Welsh Ministers' powers to carry out inspections and to require information in Chapter 3 of Part 1 of the 2016 Act. To remove any ambiguity and ensure the Welsh Ministers have the powers to carry out their regulatory functions in relation to the requirement that those who provide regulated services are required to submit to registration in accordance with section 5 of the 2016 Act.</p> <p>The amendments to section 32 of the 2016 Act provide the Welsh Ministers with the power to require information from a person who they reasonably suspect is providing (or has provided) a regulated service at a place</p>

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	<p>(1B) Where this subsection applies, the Welsh Ministers may give a notice to a relevant person requiring that person—</p> <p>(a) to answer any question —</p> <p>(i) which is asked in the notice, and</p> <p>(ii) the answer to which is known to the person, and</p> <p>(b) to answer in a manner specified in the notice.”</p> <p>(c) in subsection (2), for the words “disclosure” to the end substitute “—</p> <p>(a) disclosure of that information is prohibited by any enactment or other rule of law;</p> <p>(b) the person would be entitled to refuse to disclose the information in proceedings in the High Court on grounds of legal professional privilege.”</p> <p>(d) after subsection (4), insert—</p> <p>“(5) Where the Welsh Ministers require a person to provide information as they suspect an offence is being or has been committed—</p> <p>(a) they may only require the information to be provided if they have reasonable grounds for their suspicion;</p> <p>(b) they must inform the person, in writing, of the purpose for which they are requiring the information to be provided.</p>	<p>(b) cyflwyno'r dogfennau mewn modd a bennir yn yr hysbysiad.</p> <p>(1B) Pan fo'r is-adran hon yn gymwys, caiff Gweinidogion Cymru roi hysbysiad i berson perthnasol sy'n ei gwneud yn ofynnol i'r person hwnnw—</p> <p>(a) ateb unrhyw gwestiwn—</p> <p>(i) sydd wedi ei ofyn yn yr hysbysiad, a</p> <p>(ii) y mae'r ateb iddo yn hysbys i'r person, a</p> <p>(b) ateb mewn modd a bennir yn yr hysbysiad.”</p> <p>(c) yn is-adran (2), yn lle'r geiriau o “os” hyd at y diwedd rhodder “—</p> <p>(a) os yw datgelu'r wybodaeth honno wedi ei wahardd drwy unrhyw ddeddfiad neu reol gyfreithiol arall;</p> <p>(b) pe bai gan y person hawlogaeth i wrthod datgelu'r wybodaeth mewn achos yn yr Uchel Lys ar sail braint broffesiynol gyfreithiol.”</p> <p>(d) ar ôl is-adran (4) mewnosoder—</p> <p>“(5) Pan fo Gweinidogion Cymru yn ei gwneud yn ofynnol i berson ddarparu gwybodaeth gan eu bod yn amau bod trosedd yn cael ei chyflawni neu fod trosedd wedi ei chyflawni—</p> <p>(a) ni chânt ei gwneud yn ofynnol i'r wybodaeth gael ei darparu ond os oes ganddynt sail resymol dros amau hynny;</p>	<p>for which that person is (or was) not registered under section 7.</p> <p>The insertion of a new section 32A into the 2016 Act provides safeguards to uphold a subject's privilege against self-incrimination, by providing that any information given in response to a notice under section 32(1B) may not be used against that person in criminal proceedings.</p> <p>The amendment to section 33 of the 2016 Act extends the meaning of an 'inspection' to include the management of a regulated service. The purpose is to clarify and more accurately reflect what an inspection relates to.</p> <p>Amendments to section 33 of the 2016 Act also introduce the term 'investigation' which is an investigation into whether a</p>

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	<p>(6) In this section references to a “service provider” include a person who the Welsh Ministers reasonably suspect—</p> <p>(a) is providing a regulated service at a place in respect of which that person is not registered under section 7, or</p> <p>(b) has provided a regulated service at a place in respect of which that person was not registered under section 7.”</p> <p>( ) After section 32, insert—</p> <p><b>“32A Privilege against self-incrimination</b></p> <p>(1) Information given by a person (“P”) in response to a notice given under section 32(1B) may not be used in criminal proceedings against P.</p> <p>(2) But subsection (1) does not apply—</p> <p>(a) if the proceedings are for an offence under section 5 of the Perjury Act 1911 (c. 6) (false statements made otherwise than on oath);</p> <p>(b) if, in the proceedings—</p> <p>(i) evidence relating to the information is adduced by or on behalf of P, or</p> <p>(ii) a question relating to it is asked by or on behalf of P.”</p>	<p>(b) rhaid iddynt hysbysu'r person, yn ysgrifenedig, at ba ddiben y maent yn ei gwneud yn ofynnol i'r wybodaeth gael ei darparu.</p> <p>(6) Yn yr adran hon mae cyfeiriadau at “darparwr gwasanaeth” yn cynnwys person y mae Gweinidogion Cymru yn amau'n rhesymol—</p> <p>(a) ei fod yn darparu gwasanaeth rheoleiddiedig mewn man nad yw'r person hwnnw wedi ei gofrestru mewn cysylltiad ag ef o dan adran 7, neu</p> <p>(b) ei fod wedi darparu gwasanaeth rheoleiddiedig mewn man nad oedd y person hwnnw wedi ei gofrestru mewn cysylltiad ag ef o dan adran 7.”</p> <p>( ) Ar ôl adran 32 mewnosoder—</p> <p><b>“32A Braint yn erbyn hunanargyhuddo</b></p> <p>(1) Ni chaniateir i wybodaeth a roddir gan berson (“P”) mewn ymateb i hysbysiad a roddir o dan adran 32(1B) gael ei defnyddio mewn achos troseddol yn erbyn P.</p> <p>(2) Ond nid yw is-adran (1) yn gymwys—</p> <p>(a) os yw'r achos am drosedd o dan adran 5 o Ddeddf Anudon 1911 (p. 6) (datganiadau anwir a wneir ac eithrio ar lw);</p> <p>(b) yn ystod yr achos—</p> <p>(i) os dygir tystiolaeth sy'n ymwneud â'r wybodaeth gan P, neu ar ei ran, neu</p>	<p>person is providing (or has provided) a regulated service at a place in respect of which that person is not (or was not) registered under section 7.</p> <p>Amendments to section 34 of the 2016 Act provide an inspector with the power to enter, for the purpose of an investigation, any premises which the inspector has reasonable grounds to believe is (or has been) used as a place at or from which a regulated service is (or has been) provided, or in connection with the provision of a regulated service.</p> <p>Amendments to section 35 of the 2016 Act provide an inspector with the power to interview any person for the purpose of an investigation.</p> <p>Amendments to section 36 of the 2016 Act allow the Welsh Ministers discretion to</p>

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	<p>( ) In section 33—</p> <p>(a) in subsection (1)(b), for “and” substitute “, management or”;</p> <p>(b) after subsection (1), insert—</p> <p>“(1A) In this Part a reference to an “investigation” is a reference to an investigation into whether a person—</p> <p>(a) is providing a regulated service at a place in respect of which that person is not registered under section 7, or</p> <p>(b) has provided a regulated service at a place in respect of which that person was not registered under section 7.”;</p> <p>(c) in subsection (2), at the end, insert “or an investigation”.</p> <p>( ) In section 34—</p> <p>(a) in subsection (1), after “inspection” insert “or an investigation”;</p> <p>(b) in subsection (3), after “inspection” insert “or an investigation”;</p> <p>(c) in subsection (4), at the beginning insert “When carrying out an inspection or an investigation,”.</p> <p>( ) In section 35—</p> <p>(a) in subsection (1)—</p> <p>(i) after “inspection” insert “or an investigation”;</p> <p>(ii) omit “in private”.</p>	<p>(ii) os gofynnir cwestiwn sy’n ymwneud â’r wybodaeth gan P, neu ar ei ran.”</p> <p>( ) Yn adran 33—</p> <p>(a) yn is-adran (1)(b), yn lle “o drefniadaeth a chydgysylltiad gwasanaethau rheoleiddiedig a ddarperir gan ddarparwr gwasanaeth” rhodder “o’r ffordd y mae gwasanaethau rheoleiddiedig a ddarperir gan ddarparwr gwasanaeth yn cael eu trefnu, eu rheoli neu eu cydgysylltu”;</p> <p>(b) ar ôl is-adran (1) mewnosoder—</p> <p>“(1A) Yn y Rhan hon mae cyfeiriad at “ymchwiliad” yn gyfeiriad at ymchwiliad ynghylch a yw person—</p> <p>(a) yn darparu gwasanaeth rheoleiddiedig mewn man nad yw’r person hwnnw wedi ei gofrestru mewn cysylltiad ag ef o dan adran 7, neu</p> <p>(b) wedi darparu gwasanaeth rheoleiddiedig mewn man nad oedd y person hwnnw wedi ei gofrestru mewn cysylltiad ag ef o dan adran 7.”;</p> <p>(c) yn is-adran (2), ar y diwedd mewnosoder “neu ymchwiliad”.</p> <p>( ) Yn adran 34—</p> <p>(a) yn is-adran (1), ar ôl “arolygiad” mewnosoder “neu ymchwiliad”;</p> <p>(b) yn is-adran (3), ar ôl “arolygiad” mewnosoder “neu ymchwiliad”;</p> <p>(c) yn is-adran (4), ar y dechrau mewnosoder “Wrth gynnal arolygiad neu ymchwiliad,”.</p>	<p>address the requirements in section 36(2) of the 2016 Act about the content of an inspection report to the extent considered proportionate. This amendment is intended to recognise that there are circumstances where an inspector may enter premises which do not warrant a full inspection report.</p> <p>These amendments also remove the requirement to publish inspection reports in circumstances where it would be inappropriate having regard to the best interests of the persons whose care, and support is assessed in the report. This is intended to protect the privacy of service users.</p>



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	<p>(b) after subsection (1), insert—</p> <p>“(1A) An inspector may require an interview under subsection (1) to be carried out in private.”;</p> <p>(c) in subsection (2), for the words “may” to the end, substitute “—</p> <p>(a) may not interview a person falling within subsection (3) without the person’s consent, and</p> <p>(b) may not interview a person (“P”) for the purpose of inquiring whether P has committed an offence unless—</p> <p>(i) P is informed of the purpose of the interview;</p> <p>(ii) P is given the opportunity to obtain legal representation.”</p> <p>(d) in subsection (4), after “may” insert “for the purposes of carrying out an inspection”.</p> <p>( ) In section 36—</p> <p>(a) in subsection (2), after “must” insert “, to the extent that the Welsh Ministers consider proportionate,”;</p> <p>(b) after subsection (3), insert—</p>	<p>( ) Yn adran 35—</p> <p>(a) yn is-adran (1)—</p> <p>(i) ar ôl “arolygiad” mewnosoder “neu ymchwiliad”;</p> <p>(ii) hepgorer “yn breifat”.</p> <p>(b) ar ôl is-adran (1) mewnosoder—</p> <p>“(1A) Caniateir i arolygydd ei gwneud yn ofynnol i gyfweliad o dan is-adran (1) gael ei gynnal yn breifat.”;</p> <p>(c) yn is-adran (2), yn lle’r geiriau “ni chaiff” hyd at y diwedd rhodder “o ran arolygydd—</p> <p>(a) ni chaiff gyf-weld â pherson sy’n dod o fewn is-adran (3) heb gydsyniad y person, a</p> <p>(b) ni chaiff gyf-weld â pherson (“P”) at ddibenion holi a yw P wedi cyflawni trosedd oni bai—</p> <p>(i) bod P wedi cael ei hysbysu am ddiben y cyfweliad;</p> <p>(ii) y rhoddir y cyfle i P i gael cynrychiolaeth gyfreithiol.”</p> <p>(d) yn is-adran (4), ar ôl “Caiff arolygydd” mewnosoder “, at ddibenion cynnal arolygiad,”.</p> <p>( ) Yn adran 36—</p> <p>(a) yn is-adran (2), ar ôl “adroddiad” mewnosoder “, i’r graddau a ystyrir yn gymesur gan Weinidogion Cymru,”;</p> <p>(b) ar ôl is-adran (3) mewnosoder—</p>	

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	“(3A) But a requirement in subsection (3) does not apply where the Welsh Ministers consider that fulfilling the requirement would be inappropriate having regard to the best interests of a person whose care and support is assessed in the report.”.	“(3A) Ond nid yw gofyniad yn is-adran (3) yn gymwys pan fo Gweinidogion Cymru yn ystyried y byddai cyflawni'r gofyniad yn amhriodol gan roi sylw i fudd pennaf person y mae ei ofal a'i gymorth wedi eu hasesu yn yr adroddiad.”.	
26.	Section 19, page 25, line 17, leave out ‘for up to a maximum of 18 months’.	Adran 19, tudalen 25, llinell 17, hepgorer ‘am hyd at 18 mis ar y mwyaf’.	This amendment is intended to ensure the wording in section 19, subsection (1), is consistent with the policy intention set out in subsection (2) of the same section of the Bill. This amendment is made in response to a recommendation from the Legislation, Justice and Constitution Committee’s Stage 1 report (Recommendation 22) which the Welsh Government accepted.
27.	Section 24, page 38, line 19, after ‘as’, insert ‘to’.	Adran 24, tudalen 38, llinell 19, ar ôl ‘as’, mewnosoder ‘to’.	This is an amendment to new section 10C(2)(l) of the National Health Service (Wales) Act 2006, which is being inserted by <u>section 24(2)</u> of the Bill. This will add the word “to” between “as” and “whether” in this provision. This is intended to

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			improve the clarity of the drafting of this provision.
28.	Section 24, page 39, line 16, after '203(6A)', insert 'after "section 10A(1)," insert "section 10C(1) (direct payments),"';	Adran 24, tudalen 39, llinell 16, ar ôl '203(6A)', mewnosoder 'ar ôl "section 10A(1)," mewnosoder "section 10C(1) (direct payments),"';	This amendment will apply the draft affirmative procedure to the regulation-making power to the regulations to make provision about direct payments under section 10C(1) of the National Health Services (Wales) Act 2006 (which is inserted by section 24 of the Bill). This amendment is made in response to a recommendation from the Legislation, Justice and Constitution Committee's Stage 1 report (Recommendation 28) which the Welsh Government accepted.
29.	Section 29, page 40, line 33, after '1,' at the first place where it occurs on a line, insert '16,'	Adran 29, tudalen 40, llinell 35, ar ôl '1,', mewnosoder '16,'.	The purpose of this amendment is to ensure that the changes which section 16 of the Bill makes to sections 13 and 15 of the 2016 Act will come into force before the changes which section 8 of the Bill makes to these sections of the 2016 Act. The effect of this

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			amendment is to ensure that section 16 of the Bill is commenced on the day after the Bill receives Royal Assent.
30.	Section 29, page 40, line 34, leave out 'paragraph 3(b)' and insert 'paragraphs [ <i>paragraph to be inserted by amendment 8</i> ], 3(b), 4(3), 5(1) to (3) and 5(9) and (10)'.	Adran 29, tudalen 40, llinell 37, hepgorer 'paragraff 3(b)' a mewnosoder 'paragraffau [ <i>paragraff i'w fewnosod gan welliant 8</i> ], 3(b), 4(3), 5(1) i (3) a 5(9) a (10)'.	The purpose of this amendment is to ensure that the changes made to various enactments by the paragraph to be inserted by amendment 8 as well as paragraphs 3(b), 4(3), 5(1) to (3) and 5(9) and (10) of Schedule 1 of the Bill come into force on the day after the day the Bill receives Royal Assent.
31.	<p>Schedule 1, page 42, after line 20, insert—</p> <p>( ) In section 13, in subsection (5), for paragraph (a) substitute “—</p> <p style="padding-left: 40px;">“(a) in the case of variation—</p> <p style="padding-left: 80px;">(i) under subsection (1), (3)(a) or (c) or (4)(a), or</p> <p style="padding-left: 80px;">(ii) in accordance with paragraph 3(4)(a) of Schedule 1A,</p> <p style="padding-left: 40px;">the requirements of sections 18 and 19 are met;”.</p> <p>( ) In section 15, in subsection (3), for paragraph (a) substitute—</p>	<p>Atodlen 1, tudalen 42, ar ôl llinell 20, mewnosoder —</p> <p>( ) Yn adran 13, yn is-adran (5), yn lle paragraff (a) rhodder —</p> <p style="padding-left: 40px;">“(a) yn achos amrywiad —</p> <p style="padding-left: 80px;">(i) o dan is-adran (1), (3)(a) neu (c) neu (4)(a), neu</p> <p style="padding-left: 80px;">(ii) yn unol â pharagraff 3(4)(a) o Atodlen 1A,</p> <p style="padding-left: 40px;">oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni;”.</p> <p>( ) Yn adran 15, yn is-adran (3), yn lle paragraff (a) rhodder —</p>	This amendment amends section 13 and 15 of the 2016 Act to assign the procedure which applies to a notice served by the regulator on a service provider to either cancel or vary the provider's registration on grounds relating to a breach of conditions of registration imposed on a provider of restricted children's services who is not subject to the requirement in section 6A(1)

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	<p>“(a) in the case of —</p> <p>(i) cancellation on the grounds set out in subsection (1)(a), (b), (ba) or (g), or</p> <p>(ii) cancellation in accordance with paragraph 3(4)(b) of Schedule 1A, the requirements of sections 18 and 19 are met”.</p>	<p>“(a) yn achos —</p> <p>(i) canslo ar y seiliau a nodir yn is-adran (1)(a), (b), (ba) neu (g), neu</p> <p>(ii) canslo yn unol â pharagraff 3(4)(b) o Atodlen 1A, oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni”.</p>	<p>during the transition period (i.e. an existing for-profit-provider operating under a transitional exemption).</p>
32.	<p>Schedule 1, page 42, line 24, after ‘(2),’ insert ‘—</p> <p>(a) after paragraph (c) insert—</p> <p>“(ca) section 6A(3)(b) (regulations prescribing public goods to which a person’s objects or purposes must primarily relate);”.</p>	<p>Atodlen 1, tudalen 42, llinell 24, ar ôl ‘(2),’ mewnosoder ‘—</p> <p>(a) ar ôl paragraff (c) mewnosoder—</p> <p>“(ca) adran 6A(3)(b) (rheoliadau sy’n rhagnodi buddion cyhoeddus y mae rhaid i amcanion neu ddibenion person ymwneud yn anad dim â hwy);”.</p>	<p>This amendment will be made to <u>paragraph 2(3)(a) of Schedule 1 to the Bill</u>, and will amend the list of provisions set out in section 187(2) of the 2016 Act that are subject to the draft affirmative procedure, so that the draft affirmative procedure will be applied to the power to make regulations prescribing a “public good” for the purposes of the objects and purposes test in new section 6A(3) of the 2016 Act, rather than the negative procedure. This followed the Welsh Government accepting in part a recommendation from the Legislation, Justice and Constitution Committee’s Stage 1 report</p>

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			(Recommendation 14) that a more stringent procedure should be applied to this regulation-making power.
33.	Schedule 1, page 43, after line 6, insert— ( ) In section 49(1)(a), for “sections 50 to 53” substitute “sections 49A to 53A”.	Atodlen 1, tudalen 43, ar ôl llinell 6, mewnosoder— ( ) Yn adran 49(1)(a), yn lle “adrannau 50 i 53” rhodder “adrannau 49A i 53A”.	This amendment and a following amendment (amendment 34) make changes to <u>paragraph 5 of Schedule 1 to the Bill</u> . They amend the 2014 Act (sections 49(1)(a), 187(2) and 189 respectively) and are consequential upon the changes to the numbering of the direct payment provisions in Part 4 of the 2014 Act, as amended by section 20 of the Bill.
34.	Schedule 1, page 43, after line 16, insert — ( ) In section 187(2), for “section 50 or 51” substitute “section 49A or Schedule A1”. ( ) In section 189— (a) in subsection (5)(a)(ii), for “section 50 or 52” substitute “section 49A(1)(a) or (c)”; (b) in subsection (7)(b), for “section 50 or 52” substitute “section 49A(1)(a) or (c)”.	Atodlen 1, tudalen 43, ar ôl llinell 16, mewnosoder — ( ) Yn adran 187(2), yn lle “adran 50 neu 51” rhodder “adran 49A nac Atodlen A1”. ( ) Yn adran 189 — (a) yn is-adran (5)(a)(ii), yn lle “adran 50 neu 52” rhodder “adran 49A(1)(a) neu (c)”; (b) yn is-adran (7)(b), yn lle “adran 50 neu 52” rhodder “adran 49A(1)(a) neu (c)”.	See previous amendment (amendment 33) above.
35.	Schedule 1, page 43, after line 16, insert—	Atodlen 1, tudalen 43, ar ôl llinell 16, mewnosoder —	Section 21 of the Criminal Justice and Courts Act 2015 (CJCA) makes it an offence for a care provider if an

	<p><i>‘Criminal Justice and Courts Act 2015 (c. 2)</i></p> <p>[ ] (1) The Criminal Justice and Courts Act 2015 is amended as follows.</p> <p>(2) In section 21, in subsection (8), for paragraph (d) substitute—</p> <p>“(d) Schedule A1 to the Social Services and Well-being (Wales) Act 2014 (anaw 4) (direct payments for after care made by local authorities);</p> <p>(e) regulations under section 49A of the Social Services and Well-being (Wales) Act 2014 (direct payments for care and support) where the payment is made towards the cost of meeting the needs of an adult or a carer who is an adult.”.</p>	<p><i>‘Deddf Cyfiawnder Troseddol a’r Llysoedd 2015 (p. 2)</i></p> <p>[ ] (1) Mae Deddf Cyfiawnder Troseddol a’r Llysoedd 2015 wedi ei diwygio fel a ganlyn.</p> <p>(2) Yn adran 21, yn is-adran (8), yn lle paragraff (d) rhodder —</p> <p>“(d) Schedule A1 to the Social Services and Well-being (Wales) Act 2014 (anaw 4) (direct payments for after care made by local authorities);</p> <p>(e) regulations under section 49A of the Social Services and Well-being (Wales) Act 2014 (direct payments for care and support) where the payment is made towards the cost of meeting the needs of an adult or a carer who is an adult.”.</p>	<p>employee or someone otherwise engaged by that care provider ill-treats or wilfully neglects someone to whom they provide health care or adult social care, or if the way in which the care provider manages or organises its activities amounts to a gross breach of that duty of care; and absent that breach the ill-treatment or wilful neglect would not have happened, or would have been less likely to happen.</p> <p>Subsection (8) excludes from the meaning of “providing or making arrangements for the provision of care”, cases where a care provider organisation (local authority or health body) is merely making direct payments to an individual, under specified legislation, for that individual to use to purchase their own health care or social care services.</p> <p>This amendment is required to section 21(8) CJA to</p>
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			<p>include the correct statutory references of the powers of local authorities to make direct payments in lieu of the provision of services.</p> <p>See also amendment 43, which further amends this section to add the references in relation to the making of direct payments by health bodies.</p>
36.	<p>Schedule 1, page 43, after line 18, insert —</p> <p>‘( ) In section 1, in paragraph (c), at the end insert “and investigations”.’.</p>	<p>Atodlen 1, tudalen 43, ar ôl llinell 18, mewnosoder —</p> <p>‘( ) Yn adran 1, ym mharagraff (c), ar y diwedd mewnosoder “ac ymchwiliadau”.’.</p>	<p>This is an amendment to the overview in section 1 of the 2016 Act to add reference to investigations into paragraph (c) of that section and relates to amendment 25.</p>
37.	<p>Schedule 1, page 43, line 19, leave out ‘(1)(a), for “section 15” substitute “section 15(1)(c), (d), (e) or (f)” and insert’ (1) —</p> <p>(a) in paragraph (a), for “section 15” substitute “section 15(1)(c), (d), (e) or (f)”;</p> <p>(b) in paragraph (b), for “section 13(3) or (4)” substitute “section 13(3)(b) or (4)(b), (ba) or (c)”.</p>	<p>Atodlen 1, tudalen 43, llinell 19, hepgorer ‘(1)(a), yn lle “adran 15” rhodder “adran 15(1)(c), (d), (e) neu (f)” a mewnosoder’ (1) —</p> <p>(a) ym mharagraff (a), yn lle “adran 15” rhodder “adran 15(1)(c), (d), (e) neu (f)”;</p> <p>(b) ym mharagraff (b), yn lle “adran 13(3) neu (4)” rhodder “adran 13(3)(b) neu (4)(b), (ba) neu (c)”.</p>	<p>This amendment changes the references in section 16(1) of the 2016 Act setting out the circumstances where a notice to cancel or vary the registration of a provider is subject to the improvement notice route under sections 16 and 17 of the Act.</p>



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38.	Schedule 1, page 43, line 22, leave out 'at the end of paragraph (c) insert “, and insert 'in paragraph (c)(ii), for “section 13(3) or (4), 23(1)(b) or 25(2)(a).” substitute “section 13(3)(b) or (4)(b), (ba) or (c), 23(1)(b) or 25(2)(a),’.	Atodlen 1, tudalen 43, llinell 22, hepgorer 'ar ddiwedd paragraff (c) mewnosoder “, a mewnosoder 'ym mharagraff (c)(ii), yn lle “adran 13(3) neu (4), 23(1)(b) neu 25(2)(a).” rhodder “adran 13(3)(b) neu (4)(b), (ba) neu (c), 23(1)(b) neu 25(2)(a),’.	This amendment amends section 18(1) of the 2016 Act to set out the circumstances when a notice to vary the registration of a provider is not subject to the requirement to serve a notice of proposal.
39.	Schedule 1, page 43, line 24, leave out 'under section 15(1)(a), (b) or (ba)' and insert 'other than under section 15(1)(c), (d), (e) and (f)'.	Atodlen 1, tudalen 43, llinell 24, hepgorer 'o dan adran 15(1)(a), (b) neu (ba)' a mewnosoder 'ac eithrio o dan adran 15(1)(c), (d), (e) ac (f)'.	This amendment amends section 18(1) of the 2016 Act setting out the circumstances when a notice to cancel the registration of a service provider is not subject to the requirement to serve a notice of proposal.
40.	Schedule 1, page 43, after line 25, insert— ( ) In the heading of Chapter 3, for the words “and inspections” substitute “, inspections and investigations”. ( ) In the heading of section 33, after the word “inspections” insert “, investigations”. ( ) In the heading of section 50, at the end, insert “and investigations”.	Atodlen 1, tudalen 43, ar ôl llinell 25, mewnosoder — ( ) Ym mhennawd Pennod 3, yn lle'r geiriau “ac arolygiadau” rhodder “, arolygiadau ac ymchwiliadau”. ( ) Ym mhennawd adran 33, ar ôl y gair “arolygiadau” mewnosoder “, ymchwiliadau”. ( ) Ym mhennawd adran 50, ar y diwedd mewnosoder “ac ymchwiliadau”.	This amendment is ancillary to amendment 25 and adds wording to the chapter heading in Part 1, Chapter 3 of the 2016 Act, and to the heading for section 50 of that Act to be consistent with the substantive amendments which make clear that the powers to require information, to enter and inspect and to interview persons are powers which

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			can be used in relation to investigations as well as for inspections.
41.	<p>Schedule 2, page 46, after line 13, insert —</p> <p>‘ ( ) In section 187 —</p> <p>(a) in subsection (2) —</p> <p>(i) in paragraph (a), before “health service body” insert “direct payment service provider,”;</p> <p>(ii) in paragraph (ca), before “health service body” insert “direct payment service provider,”;</p> <p>(b) in subsection (3), in the appropriate place insert —</p> <p>““direct payment service provider” means a person who provides services to any person in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(5),”.’.</p>	<p>Atodlen 2, tudalen 46, ar ôl llinell 13, mewnosoder —</p> <p>‘ ( ) Yn adran 187 —</p> <p>(a) yn is-adran (2) —</p> <p>(i) ym mharagraff (a), o flaen “health service body” mewnosoder “direct payment service provider,”;</p> <p>(ii) ym mharagraff (ca), o flaen “health service body” mewnosoder “direct payment service provider,”;</p> <p>(b) yn is-adran (3), yn y lle priodol mewnosoder —</p> <p>““direct payment service provider” means a person who provides services to any person in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(5),”.’.</p>	<p>This amendment, and the following amendment, are made to the new <u>paragraphs 3(4) and (5) of Schedule 2 to the Bill</u>. They make amendments to the National Health Service (Wales) Act 2006 in consequence of the new provision (inserted by section 24) to enable the Welsh Ministers to make direct payments in lieu of the provision of NHS services.</p>

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42.	Schedule 2, page 46, line 15, column 2, leave out '184(3A)' and insert '187(3)'.	Atodlen 2, tudalen 46, llinell 15, colofn 2, hepgorer '184(3A)' a mewnosoder '187(3)'.	See previous amendment (amendment 41) above.
43.	<p>Schedule 2, page 46, after line 26, insert—</p> <p><i>'Criminal Justice and Courts Act 2015 (c. 2)</i></p> <p>[ ] (1) The Criminal Justice and Courts Act 2015 is amended as follows.</p> <p>(2) In section 21, in subsection (8), after paragraph (b) insert—</p> <p style="padding-left: 40px;">“(ba) section 10B of the National Health Service (Wales) Act 2006 (c. 42) (direct payments for health care);</p> <p style="padding-left: 40px;">(bb) regulations under section 10B(5) of the National Health Service (Wales) Act 2006 (direct payments for after-care made by Local Health Boards);”.</p>	<p>Atodlen 2, tudalen 46, ar ôl llinell 26, mewnosoder—</p> <p><i>'Deddf Cyfiawnder Troseddol a'r Llysoedd 2015 (p. 2)</i></p> <p>[ ] (1) Mae Deddf Cyfiawnder Troseddol a'r Llysoedd 2015 wedi ei diwygio fel a ganlyn.</p> <p>(2) Yn adran 21, yn is-adran (8), ar ôl paragraff (b) mewnosoder—</p> <p style="padding-left: 40px;">“(ba) section 10B of the National Health Service (Wales) Act 2006 (c. 42) (direct payments for health care);</p> <p style="padding-left: 40px;">(bb) regulations under section 10B(5) of the National Health Service (Wales) Act 2006 (direct payments for after-care made by Local Health Boards);”.</p>	<p>Section 21 of the Criminal Justice and Courts Act 2015 (CJCA) makes it an offence for a care provider if an employee or someone otherwise engaged by that care provider ill-treats or wilfully neglects someone to whom they provide health care or adult social care, or if the way in which the care provider manages or organises its activities amounts to a gross breach of that duty of care; and absent that breach the ill-treatment or wilful neglect would not have happened, or would have been less likely to happen.</p> <p>Subsection (8) excludes from the meaning of “providing or making arrangements for the provision of care”, cases where a care provider organisation (local authority or health body) is merely</p>

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			<p>making direct payments to an individual, under specified legislation, for that individual to use to purchase their own health care or social care services.</p> <p>This amendment is required to section 21(8) CJA to include the correct statutory references of the powers of health bodies (the Welsh Ministers and Local Health Boards) to make direct payments in lieu of the provision of services.</p> <p>See also amendment 35, which further amends this section to add the references in relation to the making of direct payments by local authorities.</p>