

Draft Regulations laid before the National Assembly for Wales under section 196(6) of the Social Service and Well-being (Wales) Act 2014, for approval by resolution of the National Assembly for Wales.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2015 No. (W.)

SOCIAL CARE, WALES

**The Social Services and Well-being
(Wales) Act 2014 (Social
Enterprise, Co-operative and Third
Sector) (Wales) Regulations 2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 16(1) of the Social Services and Well-being (Wales) Act 2014 (“the Act”) imposes a duty on local authorities to promote social enterprises, co-operative organisations, co-operative arrangements and third sector organisations to provide care and support and preventative services in their area. Section 16(2) defines “social enterprise” and “third sector organisation”. The definition of “social enterprise” includes a requirement that its activities are wholly or mainly activities which a person might reasonably consider to be activities carried on for the benefit of society. “Third sector organisation” is defined as an organisation which a person might reasonably consider to exist wholly or mainly to provide benefits for society. The reference to “society” in both definitions is defined as including a section of society.

These Regulations provide further detail about the sorts of organisations or arrangements which are or are not to be treated as social enterprises, co-operative organisations or arrangements and what may be considered to be a section of society. These Regulations make provision as to what constitutes activity which a person might reasonably consider to be carried on for the benefit of society. The Regulations also make provision for what may constitute a section of society for the purpose of the definition of a “social enterprise” and a “third sector organisation”.

Regulations 3, 4, 5 and 6 make provision about what is treated as an activity which a person might reasonably consider to be an activity carried on for the benefit of society.

Regulation 7 lists examples of organisations which can be treated as a social enterprise. Regulation 8 provides that an organisation may be treated as a co-operative whether or not it is registered under the Co-operative and Community Benefit Societies Act 2014 provided that it conforms to the principles for a co-operative.

Regulation 9 specifies an example of what may constitute a section of society.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained by contacting the Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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(Wales) Act 2014 (Social
Enterprise, Co-operative and Third
Sector) (Wales) Regulations 2015

Made

Coming into force

6 April 2016

The Welsh Ministers, in exercise of the powers conferred on them by section 16(2) of the Social Services and Well-being (Wales) Act 2014(1), make the following Regulations.

In accordance with section 196(6) of that Act, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is The Social Services and Well-being (Wales) Act 2014 (Social Enterprise, Co-operative and Third Sector) (Wales) Regulations 2015.

(2) These Regulations come into force on the 6 April 2016 and apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014;

(1) 2014 anaw 4.

“local authority” (“*awdurdod lleol*”) means a local authority exercising functions under section 16 of the Act.

Activities that benefit society

3. For the purposes of the definition of “social enterprise” in section 16(2) of the Act, an activity is only to be treated as an activity which a person might reasonably consider to be an activity carried on for the benefit of society if—

- (a) it is inclusive (as defined in Regulation 4);
- (b) it involves people (as defined in Regulation 5); and
- (c) it promotes well-being (as defined in Regulation 6).

Inclusive

4. An activity is inclusive if the organisation that carries out the activity has, in relation to that activity, had regard to the factors to which a public authority must have regard in complying with the public sector equality duty set out in section 149 of the Equality Act 2010(1).

Involving People

5. An activity involves people if the organisation providing the activity promotes the involvement of persons for whom care and support or preventative services are to be provided in the design and operation of that provision.

Promoting Well-being

6. An activity promotes well-being if the organisation providing the activity has, in the design and operation of the activity, had regard to the aim of seeking to promote the well-being of people who need care and support, and carers who need support.

Social Enterprise

7.—(1) For the purposes of section 16 of the Act the following types of organisation are examples of organisations which are to be treated as social enterprises—

- (a) a community interest company as referred to in section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(2);

(1) 2010 c. 15.

(2) 2004 c. 27.

- (b) a community benefit society which meets the requirements for registration in section 2 of the Co-operative and Community Benefit Societies Act 2014 **(1)**;
- (c) a community enterprise;
- (d) a credit union which is registered and regulated under the Credit Unions Act 1979**(2)**;
- (e) a housing association (as defined in section 1 of the Housing Associations Act 1985**(3)**).

(2) In regulation 7(1)(c) above a “community enterprise” (“*menter gymunedol*”) means a body which—

- (a) has the primary purpose of contributing to the economic and social development of a particular area of Wales; and
- (b) by its written constitution, admits to membership only—
 - (i) persons resident in, or employed in, that area (or both so resident and so employed); or
 - (ii) persons nominated by such persons as are mentioned in sub-paragraph (i) above.

Co-operatives

8.—(1) For the purposes of section 16(1) of the Act—

- (a) an organisation may be treated as a co-operative organisation whether or not it meets all the requirements for registration under the Co-operative and Community Benefit Societies Act 2014**(4)**;
- (b) arrangements may be treated as co-operative arrangements whether or not the organisation making the arrangements meets all the requirements for registration under the Co-operative and Community Benefit Societies Act 2014;

if the organisation, or the organisation making the arrangements, conforms sufficiently with the principles for co-operatives in paragraph (2).

(2) The principles for co-operatives require that the organisation is—

- (a) autonomous,
- (b) has voluntary membership,

(1) 2007 c. 3.
 (2) 1979 c. 34.
 (3) 1985 c. 69.
 (4) 2014 c. 14.

- (c) has the purpose of meeting common economic, social and cultural needs and aspirations,
- (d) is jointly owned, and
- (e) is democratically controlled.

Section of society

9. For the purposes of section 16 of the Act a section of society may be made up of —

- (a) those persons who need or may need care and support;
- (b) carers who need or may need support; or
- (c) children, care leavers and young persons in relation to whom a local authority have functions exercisable under Part 6 of the Act.

Minister for Health and Social Services, one of the Welsh Ministers

Date