

Explanatory Memorandum to the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016

This Explanatory Memorandum has been prepared by the Health and Social Services Group and is laid before the National Assembly for Wales in conjunction with the above Regulations and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016.

Mark Drakeford

Minister for Health and Social Services

24 February 2016

1. Description

The Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”) brings together local authorities’ duties and functions in relation to improving the well-being of people who need care and support, and carers who need support, into a single Act. It provides the statutory framework to deliver the Welsh Government’s commitment to focus on well-being, rights and responsibilities.

These Regulations provide for the revocation of Wales only secondary legislation and the disapplication in relation to Wales of England and Wales secondary legislation made under any of the provisions of primary legislation that have been repealed as a consequence of the commencement of the 2014 Act. They also make consequential and incidental amendments to secondary legislation required as a consequence of the commencement of the 2014 Act.

In addition, the 2014 Act contains a number of provisions that amend the existing framework for social services in Wales. Many of these provisions will have an impact on people currently receiving care and support and on service providers. The transitional provision contained in Schedule 4 to the Regulations deals with the continuation of any child practice review undertaken but not completed before the coming into force of the 2014 Act; this provision forms part of a package of transitional and savings provisions which set out the way in which people currently receiving care and support within the framework of the existing system of social services will move across to the new framework that is set up under the 2014 Act. Additional transitional provision can also be found in the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 and the Social Services and Well-being (Wales) Act 2014 (Commencement No. 3, Savings and Transitional Provisions) Order 2016.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

No specific matters identified.

3. Legislative background

These Regulations are made under section 198 of the 2014 Act and sections 195(6) and 201 of the Health and Social Care (Community Health and Standards) Act 2003.

These Regulations are subject to the negative procedure. They will come into force on 6 April 2016.

4. Purpose and intended effect of the legislation

As a consequence of the implementation of the 2014 Act, propose to make a number of consequential amendments to secondary legislation to ensure that the relevant Welsh law is referred to as appropriate. Additional provision can also be found in the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 which relate to the repeal and amendment of primary legislation and the Social

Services and Well-being (Wales) Act 2014 (Commencement No. 3, Savings and Transitional Provisions) Order 2016.

These Regulations provide for the revocation of Wales only secondary legislation (Schedule 1) and the disapplication in relation to Wales of England and Wales secondary legislation (Schedule 2) made under any of the provisions of primary legislation that are to be repealed as a consequence of the commencement of the 2014 Act.

Schedule 3 of the Regulations set out the consequential and incidental amendments to secondary legislation required as a consequence of the commencement of the 2014 Act and, in one case, as a consequence of the commencement of the repeal of section 7B of the Local Authority Social Services Act 1970 in Schedule 14 of the Health and Social Care (Community Health and Standards) Act 2003.

Schedule 3 is divided into three parts. Part 1 deals with consequential amendments to secondary legislation which refers, for various purposes, to primary legislation that has been repealed in consequence of the commencement of the 2014 Act. Part 2 makes amendments to secondary legislation that refers to any other secondary legislation that is revoked or disapplied by Schedules 1 and 2 of these Regulations. Part 3 makes textual amendments to secondary legislation which is territorially disapplied in relation to Wales, but which continues to apply in relation to England. Schedule 4 makes savings and transitional provision.

5. Consultation

No formal consultation has taken place as these Regulations make consequential technical amendments. However, a draft copy of the Regulations has been made available on the Welsh Government website for comment and notified to key stakeholders since 18 December 2015. No comments were received.

6. Regulatory Impact Assessment

A regulatory impact assessment has not been prepared in respect of these consequential amendment regulations as they simply make amendments to statute and do not impose or reduce costs for businesses, charities or voluntary bodies or the public sector.