

Draft Regulations laid before the National Assembly for Wales under section 186(4) of the Regulation and Inspection of Social Care (Wales) Act 2016 for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

**SOCIAL CARE, ENGLAND
AND WALES**

**The Regulation and Inspection of
Social Care (Wales) Act 2016
(Consequential Amendments)
Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 186 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”).

The Act introduces a new system of registration for care and support services in Wales, replacing that established by the Care Standards Act 2000 (“the 2000 Act”).

Part 1 of the Act replaces the system of registration for providers of social care services set out in Parts 1 and 2 of the 2000 Act, which registers establishments and agencies. The 2000 Act requires a separate registration for each location at which a social care service is provided.

The Act takes a different approach which is service based. A provider must register with the Welsh Ministers in order to provide any care and support service which is a regulated service under the Act and that registration will contain the details of all the locations at which the provider provides a regulated service.

These Regulations make consequential amendments to primary legislation which refer for various purposes to one of the categories of establishment or agency which were regulated under the 2000 Act in order to

replace such references with references to the appropriate “regulated service” under the Act.

Part 1 of the Act was commenced on 2 April 2018 in relation to the following regulated services—

- (a) care home services;
- (b) secure accommodation services;
- (c) residential family centre services;
- (d) domiciliary support services.

On 29 April 2019 Part 1 of the Act is commenced in relation to the remaining regulated services—

- (a) adoption services;
- (b) fostering services;
- (c) adult placement services;
- (d) advocacy services (advocacy services are not currently registered under the 2000 Act).

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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**SOCIAL CARE, ENGLAND
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**The Regulation and Inspection of
Social Care (Wales) Act 2016
(Consequential Amendments)
Regulations 2019**

Made ***

Coming into force ***

The Welsh Ministers, in exercise of the power conferred by section 186 of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾, make the following Regulations:

A draft of these Regulations was laid before the National Assembly for Wales under section 186(4) of the Regulation and Inspection of Social Care (Wales) Act 2016 and has been approved by a resolution of the National Assembly for Wales.

Title and commencement

1.—(1) The title of these Regulations is the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019.

(2) These Regulations come into force on 29 April 2019.

(1) 2016 anaw 2.

Children Act 1989 (c. 41)

2. The Children Act 1989 is amended as follows.

3. In section 62(6)(c)(1), after “Health and Social Care Act 2008” insert “, or section 27 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

4. In section 80(2)—

- (a) in the following provisions for “Secretary of State” in each place that it occurs, substitute “Appropriate National Authority”—
 - (i) subsection (1);
 - (ii) subsection (2);
 - (iii) subsection (4);
 - (iv) subsection (7);
 - (v) subsection (11);
- (b) in subsection (1)(a), after “home” insert “in England”;
- (c) in subsection (1)(j), after “home” insert “in England”;
- (d) in subsection (4), for “him” in both places it occurs substitute “it”;
- (e) in subsection (4)(c), for “his” substitute “its”;
- (f) in subsection (5)(c), after “home” insert “in England”;
- (g) after subsection (11) insert—

“(11A) But subsections (1), (4) and (6) do not apply if—

 - (a) the Appropriate National Authority is the Welsh Ministers; and
 - (b) the inspection relates to a private children’s home or a care home (see, instead the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)).”;
- (h) after subsection (13) insert—

“(14) In this section “Appropriate National Authority” means—

 - (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers.”;

(1) As amended by the Care Standards Act 2000 (c. 14), section 116 and Schedule 4, paragraph 14(1)(a) and S.I. 2010/813, article 7(2).

(2) In section 80(1)(a), the word “private” was inserted by the Care Standards Act 2000, section 116 and Schedule 4, paragraph 14(16).

- (i) in the heading, for “Secretary of State” substitute “the Appropriate National Authority”.

5. In section 105(1)(1), in the definition of “children’s home”, for paragraph (b) substitute—

“(b) means a place in Wales at which—

- (i) a care home service is provided wholly or mainly to children, or
- (ii) a secure accommodation service is provided,

and in this paragraph “care home service” and “secure accommodation service” have the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);”.

Water Industry Act 1991 (c. 56)

6. In Schedule 4A(2) to the Water Industry Act 1991, after paragraph 9 insert—

“9A. Premises in Wales at which a secure accommodation service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided.”

Taxation of Chargeable Gains Act 1992 (c. 12)

7.—(1) Section 225D(3) of the Taxation of Chargeable Gains Act 1992 is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), omit “and Wales”;
- (b) after paragraph (a) insert—

“(aa) in Wales, pursuant to arrangements which constitute or form part of an adult placement service,”.

(3) In subsection (4), for the definition of “adult placement service”(4) substitute—

“adult placement service”—

- (a) in relation to Scotland, has the meaning given by paragraph 11 of Schedule 12 to the Public Services Reform (Scotland) Act 2010, and

(1) The definition of “children’s home” was substituted by S.I. 2018/195 (W. 44), regulation 12(b).
(2) Schedule 4A was inserted by the Water Industry Act 1999 (c. 9), section 1(2) and Schedule 1.
(3) Inserted by the Finance (No. 3) Act 2010 (c. 33), Part 1, section 16(3).
(4) The definition of “adult placement service” in relation to Scotland was substituted by the Finance (No. 3) Act 2010 (c. 33) Part 1, section 16(5).

- (b) in relation to Wales, has the meaning given by paragraph 6 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).”

Care Standards Act 2000 (c. 14)

8. The Care Standards Act 2000 is amended as follows.

9. In section 22—

- (a) in subsection (1)(b)(ii)(1), for “, (7)” to the end substitute “or (7) in so far as relevant to those establishments and agencies.”;
- (b) in subsection (2)(e)(2), omit “or section 81 of the Social Services and Well-being (Wales) Act 2014”;
- (c) in subsection (7)(3), omit paragraph (m);
- (d) in subsection (8)(b)(4), omit the words from “and section 119” to “restricting liberty” in the first place they occur.

10. In section 30ZA(3)(5)—

- (a) omit “, or” immediately following paragraph (a);
- (b) omit paragraph (b).

11. In section 30A(2)(6)—

- (a) omit “, or” immediately following paragraph (c);
- (b) omit paragraph (d).

12. In section 43(3)(7), omit paragraph (b)(ii).

13. In section 78(8)—

- (a) in subsection (2), after paragraph (a) insert—

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- (1) Section 22(1)(a) and (b) was substituted by the Children and Families Act 2014 (c. 6), section 103(1) and paragraph (b) was substituted by the Regulation and Inspection of Social Care (Wales) Act 2016, section 185 and Schedule 3 paragraphs 1 and 8(a).
 - (2) Subsection (2)(e) was substituted by S.I. 2016/413 (W. 131), regulation 171(a).
 - (3) Subsection (7)(m) was inserted by the Social Services and Well-being (Wales) Act 2014 (anaw 4), section 183.
 - (4) The reference to section 119 of the Social Services and Well-being (Wales) Act 2014 was inserted by S.I. 2016/413 (W. 131), regulation 171(b).
 - (5) Section 30ZA was inserted by the Health and Social Care Act 2008 (c. 14), section 95 and Schedule 5, paragraphs 1 and 25.
 - (6) Subsection (2)(d) was inserted by the Health and Social Care Act 2008, section 95 and Schedule 5, paragraphs 1 and 26(4).
 - (7) Subsection (3)(b) was substituted by S.I. 2016/413 (W. 133), regulation 173.
 - (8) To which there are amendments not relevant to these Regulations.

- “(aa) regulated services within the meaning of section 2 of the 2016 Act;”;
- (b) in subsection (3), after paragraph (a) insert—
 - “(aa) in the case of the services mentioned in subsection (2)(aa), the person registered under section 7 of the 2016 Act in respect of the regulated service is to be treated as the provider of the services;”;
- (c) after subsection (5) insert—
 - “(5A) In the case of services mentioned in subsection (2)(aa), where a service is provided at, from or in relation to two or more places, the service is to be treated as a separate service in relation to each place where it is provided at, from or in relation to for the purposes of this Part.”;
- (d) for subsection (8) substitute—
 - “(8) In this section—
 - “the 2016 Act” means the Regulation and Inspection of Social Care (Wales) Act 2016;
 - “relevant adoption functions” means the functions of local authorities in Wales under the Adoption and Children Act 2002 of making or participating in arrangements for the adoption of children or the provision of adoption support services (as defined in section 2(6) of that Act);
 - “relevant fostering functions” means the functions of local authorities in Wales under section 81 of the Social Services and Well-being (Wales) Act 2014 or regulations made under or by virtue of any of sections 87, 92(1)(a), (b), (d) or (e) or 93 of that Act in connection with placements with local authority foster parents.”

Adoption and Children Act 2002 (c. 38)

14. The Adoption and Children Act 2002 is amended as follows.

15. In section 2—

- (a) for subsection (2) substitute—
 - “(2) In this Act, “registered adoption society” means—
 - (a) in relation to England, a voluntary organisation which is an adoption society registered under Part 2 of the Care Standards Act 2000 (c. 14), or
 - (b) in relation to Wales, a voluntary organisation which is an adoption society registered as a provider in

Wales of an adoption service under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2),

but in relation to the provision of any facility of the Adoption Service, references to a registered adoption society or to an adoption agency do not include an adoption society which is not registered in respect of that facility.”;

- (b) in subsection (4), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

16. In section 6, after “Care Standards Act 2000 (c. 14)” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

17. In section 7(1)(b), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

18. Omit section 16(1).

19. In section 63(4)—

- (a) at the beginning of paragraph (c) insert “in relation to England,”;

- (b) after paragraph (c) insert—

“(d) in relation to Wales, an adoption support agency registered as an adoption service under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).”

20. In section 98(7)(2), for the definition of “registered adoption support agency” substitute—

““registered adoption support agency” means—

- (a) in relation to England, an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000 (c. 14), or

- (b) in relation to Wales, an adoption support agency registered as an adoption service under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);”.

21. In section 144(1), for the definition of “registration authority” substitute—

““registration authority” (in Part 1)—

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- (1) This repeal is consequential to the repeal of section 36A of the Care Standards Act 2000 in paragraph 12 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016.
 - (2) To which there are amendments not relevant to these Regulations.

- (a) in relation to England, has the same meaning as in the Care Standards Act 2000 (c. 14), and
- (b) in relation to Wales, means the Welsh Ministers.”.

22. In Schedule 2, for paragraph 2(2) substitute—

“(2) In sub-paragraph (1)(b), “registered adoption support agency” means—

- (a) in relation to England, an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000 (c. 14), or
- (b) in relation to Wales, an adoption support agency registered as an adoption service under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).”

Sexual Offences Act 2003 (c. 42)

23. The Sexual Offences Act 2003 is amended as follows.

24. In section 21(4)(1), after paragraph (g) insert—

“(h) premises in Wales at which a secure accommodation service is provided.”.

25. In section 22(5)(2), in the appropriate place insert—

““secure accommodation service” has the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;”.

Safeguarding Vulnerable Groups Act 2006 (c. 47)

26. The Safeguarding Vulnerable Groups Act 2006 is amended as follows.

27. In section 6(4)(b)(ii)(3), for “section 11 of the Care Standards Act 2000” substitute “Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).”

28. In Schedule 7—

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- (1) Section 21 was amended by the Children and Young Persons Act 2008 (c. 23), Schedule 1, paragraph 15 and by S.I. 2008/1779 and S.I. 2018/195 (W. 44). There are other amendments which are not relevant.
 - (2) Subsection (5) was amended by S.I. 2018/195 (W. 44), regulation 22(b). There are other amendments which are not relevant.
 - (3) Sub-paragraph (ii) of section 6(4)(b) was inserted by S.I. 2010/813.

- (a) in paragraph 1(1), in entry number 14 of Column 1 of the table—
 - (i) after “adult placement scheme” insert “or provides an adult placement service”;
 - (ii) after “the scheme” insert “or service”;
- (b) in paragraph 6(b)(2)—
 - (i) omit “, or” immediately following paragraph (i);
 - (ii) omit paragraph (ii);
- (c) after paragraph 6 insert—

“7. An adult placement service, in relation to Wales, has the meaning given in paragraph 6 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).”

Social Services and Well-being (Wales) Act 2014 (anaw 4)

29. In section 197(1)(3) of the Social Services and Well-being (Wales) Act 2014, in the definition of “children’s home”, for paragraph (b) substitute—

- “(b) a place in Wales in respect of which a person is registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 to provide—
 - (i) a care home service (within the meaning of paragraph 1 of Schedule 1 to that Act) wholly or mainly to children, or
 - (ii) a secure accommodation service (within the meaning of paragraph 2 of Schedule 1 to that Act);”.

Criminal Justice and Courts Act 2015 (c. 2)

30. The Criminal Justice and Courts Act 2015 is amended as follows.

31. In section 22(8)—

- (a) in the definition of “registered adoption society”, after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”;

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- (1) Paragraph 1 of Schedule 7 was amended by the Protection of Freedoms Act 2012 (c. 9), section 115(1), Schedule 9, Part 6, paragraphs 43, 73(1) and (2)(a); there are other amendments which are not relevant.
 - (2) Paragraph 6 of Schedule 7 was amended by S.I. 2010/813, article 19(1) and (6).
 - (3) The definition of “children’s home” was substituted by the Regulation and Inspection of Social Care (Wales) Act 2016, section 185 and Schedule 3(1), paragraph 36.

- (b) in the definition of “registered adoption support agency”, after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

32. In Schedule 4(1)—

- (a) in paragraph 1(1)(ca)—
 - (i) at the end of sub-paragraph (i) omit “or”;
 - (ii) at the end of sub-paragraph (ii) insert—
 - “or
 - (iii) a secure accommodation service;”;
- (b) in paragraph 4, at the appropriate place insert—
 - “secure accommodation service” has the meaning given in paragraph 2 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016.”

Counter-Terrorism and Security Act 2015 (c. 6)

33.—(1) Part 1 of Schedule 7(2) to the Counter-Terrorism and Security Act 2015 is amended as follows.

(2) Under the heading “Education, child care etc”(3), in the entry beginning “A person registered under Part 1”—

- (a) at the end of paragraph (a) omit “or”;
- (b) after paragraph (b) insert—
 - “(c) a secure accommodation service, or
 - (d) a fostering service.”.

Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)

34.—(1) Part 1 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016 is amended as follows.

(2) In paragraph 5—

- (a) for sub-paragraph (a) substitute—
 - “(a) in subsection (1)(b), for “in any other case” substitute “in the case of establishments and agencies mentioned in subsection (1B)””;

(1) Paragraphs 1 and 4 were amended by S.I. 2018/195 (W. 44), regulation 54.

(2) The existing Schedule 7 was moved into a new Part 1 by S.I. 2015/928, regulation 8 and Schedule 2, paragraph 2 with effect from 12 April 2015.

(3) The entry relating to “a person registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)” was inserted by S.I. 2018/195 (W. 55), regulation 55.

(b) for sub-paragraph (c) substitute—

“(c) after subsection (1A), insert—

“(1B) The establishments mentioned in subsection (1)(b) are—

- (a) independent hospitals in Wales;
- (b) independent clinics in Wales;
- (c) independent medical agencies in Wales.””

Julie Morgan

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

Date