

Explanatory Memorandum to the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019

This Explanatory Memorandum has been prepared by the Welsh Government's Health and Social Services department 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 Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019.

Julie Morgan AC/AM

Deputy Minister for Health and Social Services

13 February 2019

1. Description

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) reforms the regulation and inspection regime for social care in Wales, replacing that established under the Care Standards Act 2000 (“the 2000 Act”).

The 2016 Act provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It also enables the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, the publication of guidance and the issuing of codes of practice.

This Explanatory Memorandum relates to the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019.

These Regulations make amendments to secondary legislation consequential upon the commencement of provisions within Part 1 of the 2016 Act, on 29 April 2019, through the Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 6, Savings, Transitory and Transitional Provisions) Order 2019; this Order will be made by the Deputy Minister in April 2019.

These Regulations also revoke Wales-only secondary legislation made under certain provisions of the 2000 Act which will be repealed as a consequence of this commencement.

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

No specific matters identified.

3. Legislative background

These Regulations are made using powers under section 186 of the 2016 Act and are subject to the National Assembly for Wales’ Negative procedure.

4. Purpose & intended effect of the legislation

These Regulations make consequential amendments to secondary legislation arising from the commencement of the provisions in Part 1 of the 2016 Act which relate to the regulation of adoption services, adult placement services, advocacy services and fostering services. These are examples of what section 2 of the 2016 Act refers to as “regulated services”.

This commencement will bring to an end the regulation of adoption, adult placement and fostering services in Wales under the Care Standards Act 2000; advocacy services are not currently regulated.

With the aforementioned exception of advocacy, these are all services which have been regulated under Part 2 of the 2000 Act. Many of the amendments within these Regulations therefore remove references to one of the sorts of establishment or agency which were hitherto regulated under the 2000 Act and replace them with references to the appropriate sort of “regulated service” under the 2016 Act. These amendments, made using powers in section 186 of the 2016 Act, are necessary to provide clarity and to ensure consistency in the law.

Regulation 3 and Schedule 2 of these Regulations provide for the revocation of the statutory instruments listed within Schedule 2, which would otherwise cease to have effect on 29 April 2019 when the relevant enabling powers within the 2000 Act will be repealed.

5. Consultation

No formal consultation has taken place as these Regulations make only consequential technical amendments.

6. Regulatory Impact Assessment (RIA)

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.