

# SL(5)412 – The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019

## Background and Purpose

These Regulations amend the National Health Service (General Ophthalmic Services) Regulations 1986, the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004, the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006, the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006 and the National Health Service (Pharmaceutical Services) (Wales) Regulations 2013. Only the last of these was made bilingually, which is why the insertions made by the present Regulations are otherwise in English only.

The amendments place six duties, relating to the Welsh language, upon primary care providers in Wales through the terms of their agreements with Local Health Boards. They will require contractors to do the following:

1. Notify the Local Health Board of the service(s) it is willing to provide through the medium of Welsh;
2. Make a Welsh language version of any document or form provided by the Local Health Board available to patients and/or members of the public;
3. Display text on any new sign or notice relating to the service provided, in English and Welsh;
4. Encourage the wearing of a badge, provided by the Local Health Board, by Welsh speakers, to convey that they are able to speak Welsh;
5. Encourage those delivering services to utilise information and/or attend training courses and events provided by the Local Health Board, so that they can develop an awareness of the Welsh language (including awareness of its history and its role in Welsh culture) and an understanding of how the Welsh language can be used when delivering services; and
6. Encourage those delivering services to establish and record the Welsh or English language preference expressed by or on behalf of a patient. "

The Welsh Language Standards (No.7) Regulations 2018 ("the Standards Regulations")

[http://www.legislation.gov.uk/wsi/2018/441/pdfs/wsi\\_20180441\\_mi.pdf](http://www.legislation.gov.uk/wsi/2018/441/pdfs/wsi_20180441_mi.pdf)

specify 121 standards that apply to Community Health Councils, Local Health Boards and NHS Trusts in Wales. Standards 65-68 relate to primary care and require those bodies to support the provision of services in Welsh by primary care providers by:

- maintaining a website identifying those who provide primary care services in Welsh (standard 65);
- providing a translation service for primary care providers (standard 66);
- providing badges to enable Welsh speaking staff to be identified (standard 67);
- providing training courses relating to awareness and understanding of the Welsh language (standard 68).



The present Regulations place connected duties on providers of primary care.

The Standards Regulations were made under the Welsh Language Measure 2011 and were subject to the affirmative procedure. The present Regulations are made under the National Health Service (Wales) Act 2006 and are therefore subject to the negative procedure. They will not therefore be debated by the National Assembly as a matter of course.

The Culture, Welsh Language and Communications Committee has received representations regarding the content of these Regulations and will therefore consider the adequacy of the provisions.

## Procedure

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Negative

## Technical Scrutiny

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The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

The drafting of the National Health Service (Wales) Act 2006 is inconsistent. Certain powers cited in the preamble to the present Regulations refer specifically to the Welsh Ministers. An example is section 80 in relation to pharmaceutical services. Other powers cited, such as section 47 (in relation to general medical services contracts), refer to regulations without specifying who is to make them. It is necessary to refer to section 206 to discover that 'regulations' means regulations made by the Welsh Ministers. That section should therefore have been cited amongst the enabling powers, or at the very least in a footnote. [Standing Order 21.2(vi) – that its drafting appears to be defective]

## Merits Scrutiny

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The following points are identified for reporting under Standing Order 21.3(ii) in respect of this instrument – that the Regulations are of political or legal importance or give rise to issues of public policy likely to be of interest to the Assembly.

1. These Regulations impose six contractual duties on contractors who provide primary care services to the National Health Service. These can be contrasted with the 121 Welsh Language standards applicable to other health service providers.
2. The Regulations into which these additional duties are inserted make it clear, in different ways, that they form part of the contractual duties of contractors from the dates that the relevant provisions come into force – the 30<sup>th</sup> May 2019 in relation to these new duties. However, there is nothing in the Explanatory Note to the present Regulations, or the accompanying Explanatory Memorandum to explain that the amendments apply to all contracts from that date and are not limited to new contracts entered into after that date.

## Implications arising from exiting the European Union

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No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Government Response

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A government response is required.

### Legal Advisers

**Constitutional and Legislative Affairs Committee**



15 May 2019



**National Assembly for Wales**  
Constitutional and Legislative Affairs Committee