

Explanatory Memorandum to:

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

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation 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 and Miscellaneous Amendments) Regulations 2019.

Julie Morgan
Deputy Minister for Health and Social Services
3 June 2019

PART 1

1. Description

In 2011 the Welsh Government published the white paper *Sustainable Social Services: A Framework for Action*, which set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales. To achieve this new approach, in the last assembly term, the Welsh Government made two pieces of primary legislation: the *Social Services and Well-being (Wales) Act 2014* and the *Regulation and Inspection of Social Care (Wales) Act 2016* ('the 2016 Act').

The 2016 Act reforms the regulation and inspection regime for social care in Wales, and 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 regulations, publish guidance and issue codes of practice.

This Explanatory Memorandum relates to *The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019*, which will come into force on 1 July 2019. These Regulations make amendments to *The Regulated Services (Penalty Notices) (Wales) Regulations 2019* and to instruments which were amended by *The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019*.

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

The Regulations make amendments in response to minor errors in some of the references within the two sets of regulations identified above, which were identified during technical scrutiny by the Constitutional and Legislative Affairs Committee. The Regulations are timed to come into effect to coincide with the coming into effect of *The Regulated Services (Penalty Notices) (Wales) Regulations 2019*, which they are amending.

3. Legislative background

These Regulations are made using powers under sections 52(1) and 186 of the 2016 Act and are subject to the National Assembly for Wales' negative procedure.

4. Purpose and intended effect of the legislation

The purpose of these Regulations is to make the following minor amendments:

The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019 made minor errors in relation to the following statutory instruments which need to be addressed:

- a) An amendment made to regulation 4(3) of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006 included an erroneous reference to an “individual placement plan”; the reference should have been to an “individual placement agreement”.

- b) An amendment made to regulation 4(b)(ii) of the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 substituted a reference to “9(7)(a)”. The substitution should be corrected to read “9(7)”.

The Regulated Services (Penalty Notices) (Wales) Regulations 2019

- c) Regulation 8(1) of these Regulations (Offences under the Advocacy Services Regulations) made a cross-reference to ‘regulation 12’; whereas the correct reference is “section 52(1) of the Act”. The corrected text will read:

‘The offences under the provisions of the Advocacy Services Regulations listed in the first column of the table in Schedule 4 are prescribed as offences for the purposes of section 52(1) of the Act.’

The overall purpose of these amending Regulations is to address the issues raised by the Constitutional and Legislative Affairs Committee and to make the minor corrections (as listed above) to ensure that the policy aims of the principal Regulations are secured.

5. Consultation

No consultation has been undertaken on these amending Regulations, which only make minor technical corrections to *The Regulated Services (Penalty Notices) (Wales) Regulations 2019* and to instruments which were originally amended by *The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019*.

6. Regulatory Impact Assessment (RIA)

A regulatory impact assessment has not been prepared in respect of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential and Miscellaneous Amendments) Regulations 2019 as they simply make minor amendments to correct errors in the above regulations and do not impose costs for businesses, charities or voluntary bodies or the public sector.

The relevant Explanatory Memoranda can be found via the following links.

The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2019:

<http://www.assembly.wales/laid%20documents/sub-ld12157-em/sub-ld12157-em-e.pdf>

The Regulated Services (Penalty Notices) (Wales) Regulations 2019:

<http://www.assembly.wales/laid%20documents/sub-ld12505-em/sub-ld12505-em-e.pdf>