

Draft Regulations laid before the Senedd Cymru under section 187(2)(b) and (f) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2022 No. (W.)

SOCIAL CARE, WALES

**The Regulated Services (Service
Providers and Responsible
Individuals) (Wales) (Amendment)
and (Coronavirus) (Revocation)
Regulations 2022**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under powers given to the Welsh Ministers by the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) (“the Act”).

Part 1 of the Act sets out the social care services to which the Act applies, and defines them as “regulated services”. Section 2(3) gives the Welsh Ministers the power to prescribe in regulations that particular services are not “regulated services”. Section 27 of the Act gives the Welsh Ministers the power to impose, in regulations, requirements on providers of regulated services in relation to the services they provide.

The Welsh Ministers have exercised this power to make the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (S.I. 2017/1264 (W. 295)) (“the Regulated Services Regulations”).

Regulations 2 to 7 revoke changes made to the Regulated Services Regulations by the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) (Coronavirus) Regulations 2020 (S.I. 2020/570 (W. 131)) (“the 2020 Regulations”) which created limited exceptions that were not to be treated as a regulated service and made other changes to requirements for specified services as part of the response to the spread of severe acute

respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

Regulation 8 amends the description of “Category C” premises within regulation 49 of the Regulated Services Regulations to provide that premises and establishments, in respect of which a person had been registered under any of the relevant enactments which previously provided for regulatory control and oversight of the provision of accommodation and care, come within the scope of Category C premises; regulation 9 makes transitional arrangements in respect of these amendments.

Regulation 10 revokes the 2020 Regulations.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, CF10 3NQ and is published on www.gov.wales.

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Made

Coming into force

1 November 2022

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 2(3), 27(1) and 187(1)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”)(1).

The Welsh Ministers have consulted such persons as they think appropriate, as required by sections 2(4) and 27(4)(a) of the Act and have published a statement about the consultation as required by section 27(4)(b) of the Act. The Welsh Ministers have laid a copy of the statement before Senedd Cymru as required by section 27(5) of the Act.

A draft of these Regulations was laid before Senedd Cymru under section 187(2)(b) and (f) of the Act and has been approved by a resolution of Senedd Cymru(2).

(1) 2016 anaw 2; *see* the definition of “prescribed” in section 189 of the Act.

(2) The references in sections 27(5) and 187(2) of the Act to the National Assembly for Wales now have effect as references to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) and (Coronavirus) (Revocation) Regulations 2022.

(2) These Regulations come into force on 1 November 2022.

(3) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the Regulated Services Regulations” (“*y Rheoliadau Gwasanaethau Rheoleiddiedig*”) means the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017⁽¹⁾.

Amendments to the Regulated Services Regulations

2. The Regulated Services Regulations are amended in accordance with regulations 3 to 8.

3. In regulation 1(3) (title, commencement, application and interpretation), omit the definitions of “Care Quality Commission” and “coronavirus”.

4. In regulation 2(1) (care home services)—

- (a) at the end of sub-paragraph (j), for the semi-colon substitute a full-stop;
- (b) omit sub-paragraph (k) and the full-out words immediately following.

5. In regulation 3(1) (domiciliary support services)—

- (a) at the end of sub-paragraph (i), for the semi-colon substitute a full-stop;
- (b) omit sub-paragraph (j) and the full-out words immediately following.

6. In regulation 35 (fitness of staff)—

- (a) in paragraph (2)(d), omit “subject to paragraph (9A) of this regulation,”;
- (b) omit paragraph (9A).

7. In regulation 45 (single occupancy and shared rooms – adults)—

- (a) omit paragraph (2A);
- (b) for paragraph (3)(c), substitute—
 - “(c) all the adults who are accommodated in shared rooms were sharing a room with another adult at the relevant time.”

(1) S.I. 2017/1264 (W. 295), relevant amending instruments are S.I. 2019/757 (W. 142), S.I. 2020/389 (W. 87) and 2020/570 (W. 131) and S.I. 2022/832 (W. 184).

8. In regulation 49 (application of Part 13)—

- (a) in paragraph (2), for the text describing Category C premises, substitute—

“Category C: The premises consist of a building which was unoccupied immediately prior to the service provider’s registration but was previously used for any of the following purposes—

- (a) for the purpose of providing an accommodation-based service at a place specified as a condition to the registration of another service-provider;
- (b) as an establishment in respect of which a person was registered under Part 2 of the Care Standards Act 2000⁽¹⁾ to provide accommodation in a children’s home, a care home, or a residential family centre;
- (c) as an establishment in respect of which a person was registered under Part 1 or 2 of the Registered Homes Act 1984⁽²⁾ to provide residential accommodation for persons in need of personal care (by reason of old age, disablement, drug or alcohol dependence or mental disorder);
- (d) as an establishment in respect of which a person was registered in a register kept for the purposes of section 60 of the Children Act 1989⁽³⁾, or under Part 8 of that Act, to provide residential accommodation for children.”;

- (b) for paragraph (4) substitute—

“(4) In this regulation—

- (a) “accommodation-based service” means a care home service, a secure accommodation service or a residential family centre service;
- (b) “children’s home”, “care home” and residential family centre” have the meanings respectively given in sections 1, 3 and 4 of the Care Standards Act 2000 as it had effect in Wales immediately before 1 April 2017.”

(1) 2000 c. 14.
(2) 1984 c. 23.
(3) 1989 c. 41.

Transitional Provision

9. Regulation 49 of the Regulated Services Regulations continues to have effect without the amendments made by regulation 8 in relation to an application (including any appeal arising from such an application) which was made to the Welsh Ministers on or before 31 October 2022 for—

- (a) registration as a service provider (under section 6 of the Act);
- (b) variation of registration as a service provider (under section 11 of the Act).

Revocation

10. The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) (Coronavirus) Regulations 2020⁽¹⁾ are revoked.

Name

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

Date

(1) S.I. 2020/570 (W. 131).