



# Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

## PART 11

### FINAL PROVISIONS

#### **185 Minor and consequential amendments**

Schedule 3 makes minor and consequential amendments.

#### **186 Power to make consequential etc. provision**

- (1) The Welsh Ministers may by regulations make such consequential, incidental, transitional, transitory or saving provision as they think appropriate for the purposes of or in connection with this Act.
- (2) Regulations under this section may amend, revoke or repeal any enactment contained in, or made under, primary legislation.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (5) A statutory instrument containing regulations under this section to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) In this section, “primary legislation” means—
  - (a) an Act of Parliament;
  - (b) an Act or Measure of the National Assembly for Wales (including this Act).

**187 Regulations under this Act**

- (1) A power to make regulations under this Act—
- (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes, for different cases and for different areas.
- (2) A statutory instrument containing regulations made under any of the following provisions of this Act may not be made unless a draft of the instrument containing the regulations has been laid before and approved by resolution of the National Assembly for Wales—
- (a) section 2(1)(i) (regulations specifying other care and support services as regulated services);
  - (b) section 2(3) (regulations prescribing things not to be treated as regulated services);
  - (c) section 3(3) (regulations prescribing things not to be treated as care and support);
  - (d) section 9(9) (regulations varying the evidence to be taken into account when determining whether a person is fit and proper);
  - (e) section 11(2) (regulations prescribing a time limit within which an application to designate a replacement responsible individual must be made);
  - (f) section 27(1) (regulations imposing requirements on service providers);
  - (g) section 28(1) (regulations imposing requirements on responsible individuals);
  - (h) section 37(1) (regulations about inspection ratings);
  - (i) section 40(1) (regulations about charging fees);
  - (j) section 45 (regulations creating offences for failure to comply with requirements imposed on service providers);
  - (k) section 46 (regulations creating offences for failure to comply with requirements imposed on responsible individuals);
  - (l) sections 59(1) and (4) and 61(6) and (9) (regulations about the market oversight regime);
  - (m) section 79(2) (regulations prescribing descriptions of persons to be treated as social care workers);
  - (n) section 80(1)(b) (regulations prescribing descriptions of social care worker in respect of whom SCW must keep a register);
  - (o) section 111(2) (regulations prescribing protected titles for social care workers other than social workers);
  - (p) section 117 (amending the grounds on which a registered person's fitness to practise may be regarded as impaired);
  - (q) section 130 (arrangements for mediation);
  - (r) section 136(2)(d) (persons to whom undertakings may be disclosed by SCW);
  - (s) section 142 (amending the ways in which a fitness to practise panel may dispose of matters);
  - (t) section 165 (designation of regulated activities etc. for the purposes of prohibition orders under Part 7);
  - (u) section 171(3) (creation of offences in relation to employment or appointment of persons subject to prohibition orders etc.);
  - (v) section 177(1)(h) (regulations prescribing other persons as relevant authorities for the purposes of Part 9);

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*Status: This is the original version (as it was originally enacted).*

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- (w) paragraph 7 of Schedule 1 (regulations specifying certain services as regulated advocacy services).
- (3) Any other statutory instrument containing regulations made under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) This section does not apply to regulations made under section 186.

## **188 Coming into force**

- (1) The provisions of this Act (except this section and sections 186, 187, 189 and 190) come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (2) This section and sections 186, 187, 189 and 190 come into force on the day after the day on which this Act receives Royal Assent.
- (3) An order under this section may—
  - (a) appoint different days for different purposes or areas;
  - (b) include such transitory, transitional or saving provision as the Welsh Ministers think appropriate.

## **189 General interpretation**

In this Act—

“caution” (*“rhybuddiad”*), in relation to an offence, means—

- (a) a conditional caution given under section 22 of the [Criminal Justice Act 2003 \(c.44\)](#) (conditional cautions for adults) or under section 66A of the [Crime and Disorder Act 1998 \(c.37\)](#) (conditional cautions for children and young persons);
- (b) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, that person has admitted;
- (c) anything corresponding to a caution falling within paragraph (a) or (b) (however described) which—
  - (i) is given to a person in respect of an offence committed outside England and Wales which, if committed in England and Wales, would constitute a criminal offence, and
  - (ii) is not an alternative to prosecution (within the meaning of section 8AA of the [Rehabilitation of Offenders Act 1974 \(c.53\)](#));

“financial year” (*“blwyddyn ariannol”*) means the period of one year beginning on 1 April and ending on 31 March;

“local authority” (*“awdurdod lleol”*) means the council of a county or county borough in Wales;

“Local Health Board” (*“Bwrdd Iechyd Lleol”*) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

“prescribed” (*“a ragnodir”* and *“rhagnodedig”*) means prescribed by regulations made by the Welsh Ministers;

“SCW” (*“GCC”*) has the meaning given by section 67;

“the tribunal” (*“y tribiwnlys”*) means the First-tier tribunal;

“well-being” (*“llesiant”*) has the same meaning as in section 2 of the 2014 Act;

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“the 2014 Act” (“*Deddf 2014*”) means the [Social Services and Well-Being \(Wales\) Act 2014 \(anaw 4\)](#).

**190 Short title**

The short title of this Act is the Regulation and Inspection of Social Care (Wales) Act 2016.