

EXECUTIVE NOTE

THE SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND (EXCEPTED SERVICES) REGULATIONS 2012 SSI 2012/44

The above instrument, if approved, will be made in exercise of the powers conferred by sections 104(1) and paragraphs 1(2)(a), 4 and 13 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (the “2010 Act”). In accordance with section 104(2) of that Act the instrument is subject to affirmative resolution procedure.

Background

The Care Inspectorate (Social Care and Social Work Scotland) was established on 1 April 2011 under the 2010 Act as the organisation which takes the lead in improving the quality of social care, social work and children’s services, taking over from the Care Commission, the Social Work Inspection Agency and part of HMIE. It will achieve this by regulating and inspecting; assessing risk; providing guidance and advice; influencing policy and standards; supporting improvement, and reporting publicly.

Part 5 of the 2010 Act defines the “care services” to be regulated by the Care Inspectorate, whilst its schedule 12 then gives more detailed definitions of individual types of care services such as “support services”, “care home service”, “nurse agency” and “day care of children”. Schedule 12 also enables services to be excepted from the definition of those care services by regulations.

Policy Objectives

These Regulations exclude certain specified activities from the definition of care services under Part 5 of the 2010 Act.

Regulation 2 excepts certain activities from the definition of “support service”, whilst regulation 3 provides that activities discharged by health boards, special health boards or the Common Services Agency for the Scottish Health Service acting in exercise of functions conferred by the National Health Service (Scotland) Act 1978 are excepted from the definition of “nurse agency”. Regulation 4 excepts certain activities from the definition of “day care of children”.

These exceptions are necessary to ensure that activities whose primary purpose is not that of providing a care service under the 2010 Act or which are not instrumental to the provision of care as part of a planned programme of care are excluded from the scope of the 2010 Act.

Consultation

These regulations have not been consultation upon since they are of technical nature and address any unintended consequences of the scope of the 2010 Act.

These regulations have, however, been the subject of a number of extensive discussions with the Care Inspectorate.

Financial Effects

These regulations do not impose any additional requirements or costs on care services, hence they will have no financial impact.

Impact

Business Regulatory Impact Assessment (BRIA) has not been prepared for this instrument. This is because of the technical nature of the regulations which will ensure that certain services are not subject to regulation under the 2010 Act.

Scottish Government

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