
WELSH STATUTORY INSTRUMENTS

2019 No. 887

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

Title and commencement

1.—(1) The title of these Regulations is the Regulated Services (Penalty Notices) (Wales) Regulations 2019.

(2) These Regulations come into force on 1 July 2019.

Interpretation

2. In these Regulations—

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

“the 2017 Regulations” (“*Rheoliadau 2017*”) means the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017(1);

“the Adoption Services Regulations” (“*y Rheoliadau Gwasanaethau Mabwysiadu*”) means the Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019(2);

“the Adult Placement Services Regulations” (“*y Rheoliadau Gwasanaethau Lleoli Oedolion*”) means the Adult Placement Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019(3);

“the Advocacy Services Regulations” (“*y Rheoliadau Gwasanaethau Eirioli*”) means the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019(4);

“the Fostering Services Regulations” (“*y Rheoliadau Gwasanaethau Maethu*”) means the Regulated Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019(5);

“offence” (“*trosedd*”) means a prescribed offence;

“payment period” (“*cyfnod talu*”) has the meaning given in regulation 10;

“penalty notice” (“*hysbysiad cosb*”) means a penalty notice given pursuant to section 52 of the Act;

“recipient” (“*derbynnydd*”) means a person to whom a penalty notice is given in accordance with section 52 of the Act;

“service provider” (“*darparwr gwasanaeth*”) means a person whose application for registration as provider of a regulated service has been granted under section 7(1) of the Act.

(1) [S.I. 2017/1264 \(W. 295\)](#).
(2) [S.I. 2019/762 \(W. 145\)](#).
(3) [S.I. 2019/163 \(W. 40\)](#).
(4) [S.I. 2019/165 \(W. 41\)](#).
(5) [S.I. 2019/169 \(W. 42\)](#).

Offences under the Act

3. An offence committed under section 47 (making false statements) of the Act is prescribed as an offence for the purposes of section 52(1) of that Act. The penalty to be paid is an amount corresponding to two and a half times level 4 on the standard scale⁽⁶⁾.

4. An offence committed under section 48 (failure to submit an annual return) or 49 (failure to provide information) of the Act is prescribed as an offence for the purposes of section 52(1) of that Act. The penalty to be paid is an amount corresponding to level 4 on the standard scale.

Offences under the 2017 Regulations

5.—(1) The offences under the provisions of the 2017 Regulations listed in the first column of the table in Schedule 1 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 1 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 1.

Offences under the Adoption Services Regulations

6.—(1) The offences under the provisions of the Adoption Services Regulations listed in the first column of the table in Schedule 2 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 2 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 2.

Offences under the Adult Placement Services Regulations

7.—(1) The offences under the provisions of the Adult Placement Services Regulations listed in the first column of the table in Schedule 3 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 3 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 3.

Offences under the Advocacy Services Regulations

8.—(1) 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 regulation 12.

(2) The second column of the table in Schedule 4 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 4.

Offences under the Fostering Services Regulations

9.—(1) The offences under the provisions of the Fostering Services Regulations listed in the first column of the table in Schedule 5 are prescribed as offences for the purposes of section 52(1) of the Act.

(6) See section 37 of the Criminal Justice Act 1982 (c. 48) (“the 1982 Act”); at the date of the coming into force of these Regulations, level 4 on the standard scale is set at £2,500 (this figure may be increased by virtue of an amendment to the 1982 Act).

(2) The second column of the table in Schedule 5 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 5.

Period for payment of the penalty

10.—(1) The time by which the penalty specified in a penalty notice is to be paid is the end of the period of 28 days beginning with the date of receipt of the notice (“payment period”).

(2) Section 184 of the Act⁽⁷⁾ applies to a penalty notice as it applies to a notice required to be given under the Act.

Payment of the penalty

11.—(1) Payment of the penalty specified in a penalty notice must be made to the Welsh Ministers by the method specified in the notice.

(2) In any proceedings a certificate purporting to be signed by or on behalf of the Welsh Ministers stating that payment of a penalty was or was not received by the date specified in the certificate is evidence of the facts stated.

Period during which proceedings may not be instituted

12. Where a recipient is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted against the recipient before the expiry of the payment period.

Withdrawal of penalty notice

13.—(1) The Welsh Ministers may withdraw a penalty notice by giving written notice of the withdrawal to the recipient if—

(a) the Welsh Ministers determine that—

(i) it ought not to have been given, or

(ii) it ought not to have been given to the person named as the recipient; or

(b) it appears to the Welsh Ministers that the notice contains material errors.

(2) A penalty notice may be withdrawn in accordance with paragraph (1) whether or not the payment period has expired, and whether or not the penalty has been paid.

(3) Where a penalty notice has been withdrawn in accordance with paragraph (1), the Welsh Ministers must repay any amount paid by way of penalty in pursuance of that notice to the person who paid it.

(4) Except as provided in paragraph (5), no proceedings may be instituted or continued against a recipient for the offence to which the penalty notice relates where the notice has been withdrawn in accordance with paragraph (1).

(5) Where a penalty notice has been withdrawn under paragraph (1)(b), proceedings may be instituted or continued for the offence in connection with which that penalty notice was given if a further penalty notice in respect of the offence has been given and the penalty has not been paid before the expiry of the payment period.

(7) Section 184 of the Act (service of documents etc.) specifies that notices may be hand delivered, may be left at a recipient’s address, sent by recorded delivery or, if the recipient has agreed to receive it electronically, by being sent electronically to an address provided for that purpose; subsection (8) provides that where a notice is sent by recorded delivery or electronically it is to be taken to have been received 48 hours after it is sent (unless the contrary is shown).

Content of penalty notice

14.—(1) A penalty notice must give such details of the circumstances alleged to constitute the offence as seem to the Welsh Ministers to be reasonably required to give the recipient information about it.

(2) A penalty notice must state—

- (a) the name and address of the recipient;
- (b) the amount of the penalty;
- (c) the payment period;
- (d) that payment within that period will discharge any liability for the offence;
- (e) the period within which proceedings in respect of the offence to which the notice relates will not be brought;
- (f) the consequences of the penalty not being paid before the expiry of the period for paying it;
- (g) the person to whom and the address at which the penalty may be paid and to which any correspondence about the penalty notice may be sent;
- (h) the means by which payment of the penalty may be made;
- (i) the grounds on which the penalty notice may be withdrawn.

Records

15. The Welsh Ministers must keep a record of any penalty notices given, which must include—

- (a) a copy of each penalty notice given;
- (b) a record of all payments made and the dates upon which they were received;
- (c) details of any penalty notice which was withdrawn and the grounds for its withdrawal;
- (d) details of whether the recipient was prosecuted for the offence for which the penalty notice was given.

Revocation

16. The Regulated Services (Penalty Notices) (Wales) Regulations 2017⁽⁸⁾ are revoked.

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

25 April 2019

⁽⁸⁾ S.I. 2017/1292 (W. 298).