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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) establishes a new system of regulation and inspection of social care services in Wales, which replaces the system that was established under the Care Standards Act 2000.

Section 2 of and Schedule 1 to the Act specify the services which are “regulated services” for the purposes of the Act. These are a care home service, a secure accommodation service, a residential family centre service, an adoption service, a fostering service, and adult placement service, an advocacy service and a domiciliary support service.

Under section 3(1)(c) of the Act, a person who is registered to provide a regulated service is referred to as a “service provider”. Regulations made under section 27 of the Act impose requirements on service providers in respect of the regulated services they provide.

Section 6 of the Act requires a service provider to designate an individual as the “responsible individual” in respect of each place at, from, or in relation to which a regulated service is to be provided. Regulations made under section 28 of the Act impose requirements on the responsible individual in relation to the regulated services for which they are responsible.

Section 45 of the Act enables the Welsh Ministers to make regulations providing that it is an offence for a service provider to fail to comply with a specified provision of regulations made under section 27. Under section 46 of the Act, the Welsh Ministers may also make regulations providing that it is an offence for a responsible individual to fail to comply with a specified provision of regulations made under section 28 of the Act.

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (“the 2017 Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated care home services, secure accommodation services, residential family centre services and domiciliary support services to fail to comply with any of the provisions specified in regulations 85 and 86 respectively of those Regulations.

The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Adoption Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated adoption services to fail to comply with any of the provisions specified in regulations 54 and 55 respectively of those Regulations.

The Adult Placement Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Adult Placement Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated adult placement services to fail to comply with any of the provisions specified in regulations 64 and 65 respectively of those Regulations.

The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Advocacy Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated advocacy services to fail to comply with any of the provisions specified in regulations 55 and 56 respectively of those Regulations.

The Regulated Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Fostering Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated fostering services to fail to comply with any of the provisions specified in regulations 68 and 69 respectively of those Regulations.

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

Section 52(1) of the Act gives the Welsh Ministers the power to give a penalty notice to a person instead of bringing proceedings for an offence, but only in relation to those offences that are prescribed in regulations. Under section 52(2), only offences under sections 47 (false statements), 48 (failure to submit annual return) or 49 (failure to provide information) or under regulations made under sections 45 or 46 of the Act may be so prescribed.

These Regulations prescribe the offences for which a penalty notice may be given to a person instead of proceedings being brought in relation to the offence.

Regulations 3 and 4 prescribe the offences in the Act in respect of which the Welsh Ministers may give a penalty notice to a person. These Regulations also specify the amount of the penalty payable in respect of each of the prescribed offences.

The amount of the penalty payable in respect of each of the offences prescribed in these Regulations is expressed as multiples of the amount corresponding to level 4 on the standard scale (and range between multiples of one to two and a half times).

Regulation 5 and the first column in the table in Schedule 1 prescribe the offences in the 2017 Regulations in respect of which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 6 and the first column in the table in Schedule 2 prescribe the offences in the Adoption Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 7 and the first column in the table in Schedule 3 prescribe the offences in the Adult Placement Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 8 and the first column in the table in Schedule 4 prescribe the offences in the Advocacy Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 9 and the first column in the table in Schedule 5 prescribe the offences in the Fostering Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulations 10 and 11 make provision about the time by which a penalty notice must be paid and specify the way in which a payment may be made.

Regulation 12 makes provision about the period during which proceedings may not be instituted for the offence to which the penalty notice relates.

Regulation 13 makes provision about the circumstances in which a penalty notice, once given, may be withdrawn, the consequences of such withdrawal, and specifies when proceedings may be instituted or continued in respect of the offence to which the penalty notice relates.

Regulation 14 sets out the requirements for the content of a penalty notice.

Regulation 15 sets out the record-keeping requirements of the Welsh Ministers in respect of any penalty notice that is given.

Regulation 16 revokes the Regulated Services (Penalty Notices) (Wales) Regulations 2017.

The Welsh Ministers' Code of Practice on the carrying on 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

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