



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

2016 anaw 2

## PART 1

### REGULATION OF SOCIAL CARE SERVICES

#### CHAPTER 2

##### REGISTRATION ETC. OF SERVICE PROVIDERS

###### *Requirement to register*

#### **5 Requirement to register**

It is an offence for a person to provide a regulated service without being registered in accordance with this Chapter in respect of that service.

#### **Commencement Information**

**II** S. 5 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(c\)](#) (with [arts. 4, 5, 14](#))

###### *Application for, variation of and cancellation of registration*

#### **6 Application for registration as a service provider**

- (1) A person who wants to provide a regulated service must make an application for registration to the Welsh Ministers—
- (a) specifying the regulated service that the person wants to provide,

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- (b) specifying the places at, from or in relation to which the service is to be provided,
  - (c) designating an individual as the responsible individual in respect of each place and stating each such individual's name and address (section 21 sets out who may be designated as a responsible individual), and
  - (d) including such other information as may be prescribed.
- (2) An application must be in the prescribed form.
- (3) A person who wants to be registered as a service provider in respect of two or more regulated services may make a single application in respect of them.

#### **Commencement Information**

**I2** S. 6 in force at 1.2.2018 for specified purposes by [S.I. 2017/1326](#), [art. 2\(1\)\(2\)](#) (with [arts. 3-15](#))

## **7 Grant or refusal of registration as a service provider**

- (1) The Welsh Ministers must grant an application under section 6 if satisfied that—
- (a) the application—
    - (i) contains everything required by or under subsection (1) of that section,
    - (ii) in the case of an application relating to a domiciliary support service, contains the undertaking mentioned in section 8, and
    - (iii) meets the requirements prescribed under section 6(2);
  - (b) the applicant is a fit and proper person to be a service provider (see section 9);
  - (c) each individual to be designated as a responsible individual—
    - (i) is eligible to be a responsible individual in accordance with section 21(2),
    - (ii) is a fit and proper person to be a responsible individual (see section 9), and
    - (iii) will comply with any requirements of regulations under section 28 (so far as applicable);
  - (d) the requirements of—
    - (i) any regulations under section 27 (including any requirements as to the standard of care and support that must be provided), and
    - (ii) any other enactment which appears to the Welsh Ministers to be relevant,

will be complied with (so far as applicable) in relation to the provision of the regulated service.
- (2) In any other case the Welsh Ministers must refuse an application.
- (3) The grant of an application—
- (a) must be subject to a condition specifying—
    - (i) the places at, from or in relation to which the service provider is to provide a regulated service, and
    - (ii) the individual designated as the responsible individual for each place, and

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- (b) may be subject to such further conditions as the Welsh Ministers think appropriate.
- (4) Where a person has made a single application in respect of two or more regulated services the Welsh Ministers may separately grant or refuse the application in respect of each service.
- (5) But the grant of an application takes effect only if the requirements of sections 18 to 20 are met (so far as applicable).

#### **Commencement Information**

**I3** S. 7 in force at 2.4.2018 by [S.I. 2017/1326](#), **art. 2(3)(d)** (with [art. 9](#))

## **8 Duration of domiciliary support visits**

- (1) The undertaking mentioned in section 7(1)(a)(ii) and 11(3)(a)(ii) is that a domiciliary support service will not be provided by way of a visit which is shorter than 30 minutes unless either condition A, B or C is met.
- (2) Condition A applies where—
  - (a) a local authority is required—
    - (i) by virtue of section 35 or 37 of the 2014 Act, to meet the needs of the person being visited, or
    - (ii) by virtue of section 40 or 42 of that Act, to meet the needs of that person's carer, and
  - (b) the authority meets those needs by providing or arranging the provision of a domiciliary support service to the person being visited.
- (3) Condition A is that—
  - (a) the individual carrying out the visit has previously carried out a visit during the period for which the local authority maintains—
    - (i) a care and support plan under section 54(1) of the 2014 Act in respect of the person being visited, or
    - (ii) a support plan under that section in respect of the person's carer, and
  - (b) either—
    - (i) the visit is conducted for the sole purpose of checking whether the person is safe and well, or
    - (ii) the tasks to be performed during the visit can reasonably be, and are, completed to a standard which satisfies any requirements specified in regulations made under section 27 that are relevant to the visit.
- (4) Condition B applies where a domiciliary support service is provided in circumstances where Condition A does not apply.
- (5) Condition B is that—
  - (a) a visit of less than 30 minutes is consistent with the terms of any arrangement to provide the service made between the service provider and the person being visited (or another person acting on behalf of the person being visited),
  - (b) the visit is conducted for the sole purpose of checking whether the person is safe and well, or

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- (c) the tasks to be performed during the visit can reasonably be, and are, completed to a standard which satisfies any requirements specified in regulations made under section 27 that are relevant to the visit.
- (6) Condition C applies in any case where a domiciliary support service is provided by way of a visit to a person.
- (7) Condition C is that the visit is curtailed at the request of the person being visited.

#### **Commencement Information**

**I4** S. 8 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

## **9 Fit and proper person: relevant considerations**

- (1) This section applies to any decision of the Welsh Ministers as to whether—
  - (a) a service provider,
  - (b) a person applying to be a service provider,
  - (c) a responsible individual, or
  - (d) a person to be designated as a responsible individual,
 is a fit and proper person to be a service provider or, as the case may be, a responsible individual.
- (2) In making such a decision the Welsh Ministers must have regard to all matters they think appropriate.
- (3) In particular, the Welsh Ministers must have regard to any evidence falling within subsections (4) to (8).
- (4) Evidence falls within this subsection if it shows that the person has—
  - (a) committed—
    - (i) any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c.42) (offences attracting notification requirements),
    - (ii) an offence under this Act or regulations made under it,
    - (iii) an offence under Part 2 of the Care Standards Act 2000 (c.14) or regulations made under it, or
    - (iv) any other offence which the Welsh Ministers think is relevant, or
  - (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 (c.15), or victimised another person contrary to that Act, in or in connection with the carrying on of any business.
- (5) Evidence is within this subsection if—
  - (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (4), and
  - (b) it appears to the Welsh Ministers that the evidence is relevant to the question as to whether the person is a fit and proper person to be a service provider or, as the case may be, a responsible individual.

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- (6) Evidence is within this subsection if it shows that the person has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision—
- (a) of a regulated service or a service provided outside Wales which, if provided in Wales, would be a regulated service;
  - (b) of a service which would have fallen within paragraph (a) had the regulatory system established by this Part been operating at the time the service was being provided.
- (7) When having regard to evidence within subsection (6), the Welsh Ministers must, among other things, take account of—
- (a) the seriousness and duration of the misconduct or mismanagement;
  - (b) harm caused to any person, or any evidence of an intent to cause harm;
  - (c) any financial gain made by the person;
  - (d) any action taken by the person to remedy the misconduct or mismanagement.
- (8) Evidence is within this subsection if it shows that the person has previously failed to comply with—
- (a) an undertaking given under section 7(1)(a)(ii) or 11(3)(a)(ii),
  - (b) a condition imposed under this Part, or
  - (c) a requirement imposed by regulations under section 27(1) or 28(1).
- (9) The Welsh Ministers may by regulations amend this section to vary the evidence to which they must have regard.

#### **Commencement Information**

**I5** S. 9 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

## **10 Annual return**

- (1) A service provider must submit an annual return to the Welsh Ministers following the end of each financial year during which the provider is registered.
- (2) An annual return must contain—
- (a) the following information—
    - (i) the regulated services that the service provider is registered to provide;
    - (ii) the places at, from or in relation to which the provider is registered to provide those services;
    - (iii) the name of the responsible individual registered in respect of each such place;
    - (iv) the date on which the provider's registration took effect in respect of each such regulated service and place;
    - (v) details of any other conditions imposed on the service provider's registration;
    - (vi) details of the number of persons to whom the provider provided care and support during the year in the course of providing each such service;
    - (vii) such information about training offered or undertaken in relation to each such service as may be prescribed;

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- (viii) such information about workforce planning as may be prescribed;
- (ix) such other information as may be prescribed, and
- (b) a statement setting out how the service provider has complied with any regulations made under section 27(1) specifying the standard of care and support that must be provided by a service provider (see section 27(2)).
- (3) An annual return must be in the prescribed form.
- (4) An annual return must be submitted to the Welsh Ministers within the prescribed time limit.
- (5) The Welsh Ministers must publish each annual return submitted under subsection (1).
- (6) Despite section 187(3), a statutory instrument containing—
  - (a) the first regulations made under subsection (2)(a)(vii),
  - (b) the first regulations made under subsection (2)(a)(viii), or
  - (c) the first regulations made under subsection (2)(a)(ix),
 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

#### **Commencement Information**

**I6** S. 10 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

## **11 Application for variation of registration as a service provider**

- (1) A service provider must apply to the Welsh Ministers for a variation of the provider's registration if—
  - (a) the provider wants to—
    - (i) provide a regulated service which the provider is not already registered to provide,
    - (ii) provide a regulated service at, from or in relation to a place which is not already specified in the provider's registration in relation to that service,
    - (iii) cease to provide a regulated service, or
    - (iv) cease to provide a regulated service at, from or in relation to a place;
  - (b) the provider wants a condition imposed under section 7(3)(b), 12(2) or 13(1) to be varied or removed;
  - (c) the provider wants to designate a different responsible individual in respect of a place or is required to designate a responsible individual because there is no such individual designated in respect of a place at, from or in relation to which the provider provides a regulated service.
- (2) The Welsh Ministers must by regulations prescribe a time limit within which an application for variation of a provider's registration must be made in circumstances where there is no responsible individual designated in respect of a place at, from or in relation to which the provider provides a regulated service.
- (3) An application under subsection (1) must—
  - (a) contain—
    - (i) details of the variation sought by the provider,

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- (ii) in the case of an application under subsection (1)(a)(i) to provide a domiciliary support service, the undertaking set out in section 8, and
  - (iii) such other information as may be prescribed;
- (b) be in the prescribed form.

**Commencement Information**

**I7** S. 11 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

## 12 Grant or refusal of application for variation

- (1) The Welsh Ministers may grant or refuse an application under section 11 (but see subsection (2)).
- (2) In the case of an application under section 11(1)(b), the Welsh Ministers may (instead of granting or refusing the application)—
  - (a) vary a condition on different terms to those specified in the application, or
  - (b) impose another condition on the provider's registration (whether in place of or in addition to the condition which the provider applied to have varied or removed).
- (3) But a variation under this section takes effect only if the requirements of sections 18 to 20 are met (so far as applicable).

**Commencement Information**

**I8** S. 12 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

## 13 Variation without application

- (1) The Welsh Ministers may—
  - (a) vary any condition imposed under section 7(3)(b), 12(2) or paragraph (b) of this subsection, or
  - (b) impose a further condition on a service provider's registration.
- (2) No variation of a provider's registration may be made under subsection (1) unless the requirements of sections 18 and 19 are met (but this does not affect the Welsh Ministers' power to urgently vary a registration under section 25).
- (3) If a service provider provides more than one regulated service, the Welsh Ministers may vary the provider's registration by removing a regulated service if satisfied that—
  - (a) the service provider no longer provides that service, or
  - (b) the service is not being provided in accordance with the requirements mentioned in section 7(1)(d) so far as applicable to that service.
- (4) If a service provider provides a regulated service at, from or in relation to more than one place, the Welsh Ministers may vary the provider's registration by removing a place if satisfied that—
  - (a) the service provider no longer provides a regulated service at, from or in relation to that place,

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- (b) the service provided at, from or in relation to that place is not being provided in accordance with the requirements mentioned in section 7(1)(d) so far as applicable to that service, or
  - (c) there is no responsible individual designated in respect of that place (and the time limit prescribed under section 11(2) has expired).
- (5) No variation may be made under subsection (3) or (4) unless the requirements of sections 16 and 17 are met (but this does not affect the Welsh Ministers' power to urgently vary a registration under section 23).

**Commencement Information**

**I9** S. 13 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**14 Application for cancellation of registration as a service provider**

- (1) If a service provider applies to the Welsh Ministers for cancellation of the provider's registration, the Welsh Ministers must grant the application unless they have taken action with a view to cancelling the registration under section 15 or 23.
- (2) The Welsh Ministers must give notice of the granting of an application for cancellation under this section to the service provider.
- (3) Cancellation under this section takes effect—
  - (a) on the day falling 3 months after the day on which the service provider receives the notice, or
  - (b) such earlier day as the Welsh Ministers may specify in the notice.

**Commencement Information**

**I10** S. 14 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**15 Cancellation without application**

- (1) The Welsh Ministers may cancel the registration of a service provider on any of the following grounds—
  - (a) the service provider no longer provides any regulated services;
  - (b) the Welsh Ministers are no longer satisfied that the service provider is a fit and proper person to be a service provider (see section 9);
  - (c) there is no responsible individual designated in respect of each place at, from or in relation to which the provider provides a regulated service (and the time limit for applying to vary the registration prescribed in regulations made under section 11(2) has expired);
  - (d) the service provider or a responsible individual designated in respect of a place at, from or in relation to which the provider provides a regulated service has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;
  - (e) any other person has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;



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- (f) a regulated service provided by the service provider is not being provided in accordance with the requirements mentioned in section 7(1)(d) so far as applicable to that service.
- (2) For the purposes of subsection (1)(d) and (e), the following are relevant offences—
- (a) an offence under this Act or regulations made under it;
  - (b) an offence under Part 2 of the Care Standards Act 2000 (c.14) or regulations made under it;
  - (c) any offence which, in the opinion of the Welsh Ministers, makes it appropriate for the registration to be cancelled (including an offence committed outside England and Wales which, if committed in England and Wales, would constitute a criminal offence).
- (3) No cancellation may be made under this section unless the requirements of sections 16 and 17 are met (but this does not affect the Welsh Ministers' power to urgently cancel a registration under section 23).

**Commencement Information**

**III** S. 15 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

*Notice requirements*

**16 Improvement notices**

- (1) This section applies where the Welsh Ministers propose to—
- (a) cancel the registration of a service provider under section 15, or
  - (b) vary a provider's registration under section 13(3) or (4).
- (2) Before cancelling or varying the registration the Welsh Ministers must give an improvement notice to the service provider.
- (3) An improvement notice given under subsection (2) must specify—
- (a) the ground on which the Welsh Ministers propose to cancel or vary the registration and, in the case of a variation, the manner of the variation,
  - (b) action the Welsh Ministers think the provider must take, or information the provider must provide, in order to satisfy them that cancellation or variation on the basis of that ground is not appropriate, and
  - (c) a time limit within which—
    - (i) the action must be taken or the information must be provided, and
    - (ii) the service provider may make representations.
- (4) The service provider may make representations to the Welsh Ministers before the expiry of the time limit specified in the improvement notice and the Welsh Ministers must have regard to those representations when deciding what to do under section 17.

**Commencement Information**

**III** S. 16 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

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## 17 Notice of decision following improvement notice

- (1) If the Welsh Ministers are satisfied that—
  - (a) action specified in an improvement notice has been taken, or
  - (b) information so specified has been provided,
 within the time limit specified in the notice they must notify the service provider that they have decided not to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (2) If the Welsh Ministers are not satisfied that information specified in an improvement notice has been provided within the time limit specified in the notice they must give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice.
- (3) If the Welsh Ministers are not satisfied that action specified in an improvement notice has been taken within the time limit specified in the notice they must either—
  - (a) give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice, or
  - (b) notify the provider—
    - (i) that the action has not been taken,
    - (ii) of a new date by which the action must be taken,
    - (iii) that, following that date, an inspection under section 33 of the regulated service or place to which the improvement notice relates will be carried out, and
    - (iv) that, following that inspection, if the action has not been taken they will proceed to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (4) If, after the inspection, the Welsh Ministers are satisfied that the action specified in the improvement notice has been taken they must notify the service provider that they have decided not to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (5) If, after the inspection, the Welsh Ministers are still not satisfied that the action specified in the improvement notice has been taken they must give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice.
- (6) A decision notice given under subsection (2), (3)(a) or (5) must—
  - (a) state the reasons for the decision (including the grounds for cancellation or variation), and
  - (b) explain the right of appeal conferred by section 26.
- (7) A decision stated in a notice given under subsection (2), (3)(a) or (5) takes effect—
  - (a) if no appeal is made against the decision, on the day after the last day of the 28 day period referred to in section 26(2), or
  - (b) if an appeal is made, on the day specified by the tribunal in determining the appeal or on the day the appeal is withdrawn.

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#### **Commencement Information**

**I13** S. 17 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

### **18 Notice of proposal**

- (1) This section applies where the Welsh Ministers propose to—
  - (a) grant an application for registration as a service provider subject to a condition that has not been agreed in writing with the applicant,
  - (b) refuse an application for registration or for variation of registration as a service provider, or
  - (c) vary the registration of a service provider other than—
    - (i) in accordance with an application for variation made under section 11, or
    - (ii) under section 13(3) or (4), 23(1)(b) or 25(2)(a).
- (2) The Welsh Ministers must give a notice of the proposal to the service provider—
  - (a) specifying the action the Welsh Ministers propose to take,
  - (b) giving reasons for the proposal, and
  - (c) specifying a time limit of no less than 28 days from the date on which the notice is given within which the service provider may make representations to the Welsh Ministers.
- (3) A notice of proposal may specify action which, if taken by a provider within the time limit specified in the notice, would result in the Welsh Ministers not taking the action they propose in the notice.
- (4) In the case of a refusal of an application for registration as a service provider references in this section and section 19 to a “service provider” are to be treated as references to the person who applied to be registered as a service provider.

#### **Commencement Information**

**I14** S. 18 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

### **19 Notice of decision following notice of proposal**

- (1) This section applies where the Welsh Ministers have given a notice of proposal.
- (2) In making a decision on the proposal, the Welsh Ministers must have regard to any representations made to them (whether made by the service provider or any other person who the Welsh Ministers think has an interest).
- (3) If the Welsh Ministers are satisfied that a service provider has taken such action as may be specified under section 18(3) within the time limit specified in the notice of proposal, they must not take the action proposed in the notice.
- (4) The Welsh Ministers must give a notice of decision to the service provider no later than 28 days after the expiry of the later of—
  - (a) the time limit specified under subsection (2)(c) of section 18, or
  - (b) any time limit as may be specified under subsection (3) of that section.

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- (5) Despite subsection (4), a notice of decision given after the 28 day period mentioned in that subsection is valid if the notice—
- (a) gives reasons for the delay in making the decision, and
  - (b) is given no later than 56 days after the expiry of the later of the time limits mentioned in paragraphs (a) and (b) of subsection (4).
- (6) A notice of decision given under subsection (4) must—
- (a) state whether the Welsh Ministers have decided to take the action specified in the notice of proposal,
  - (b) give reasons for the decision, and
  - (c) if the Welsh Ministers have decided to take the action specified in the notice of proposal, explain the right of appeal conferred by section 26.
- (7) A decision stated in a notice given under subsection (4) to take action specified in a notice of proposal takes effect—
- (a) if no appeal is made against the decision, on the day after the last day of the 28 day period referred to in section 26(2), or
  - (b) if an appeal is made, on the day specified by the tribunal in determining the appeal or on the day the appeal is withdrawn.
- (8) The Welsh Ministers may by regulations amend—
- (a) the 28 day period mentioned in subsection (4);
  - (b) the 56 day period mentioned in subsection (5)(b).

**Commencement Information**

**I15** S. 19 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**20 Notice of decision without notice of proposal**

- (1) This section applies where the Welsh Ministers have decided to—
- (a) grant an application for registration as a service provider subject only to conditions that have been agreed in writing with the applicant, or
  - (b) vary the registration of a service provider in accordance with an application for variation made under section 11.
- (2) The Welsh Ministers must give a notice of decision to the service provider.
- (3) A decision stated in a notice given under subsection (2) takes effect on the date on which the notice is given.

**Commencement Information**

**I16** S. 20 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

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## *Responsible individuals*

### **21 Responsible individuals**

- (1) In this Part, “responsible individual” means an individual—
  - (a) who is eligible to be a responsible individual under subsection (2),
  - (b) who the Welsh Ministers are satisfied is a fit and proper person to be a responsible individual (see section 9), and
  - (c) designated by a service provider in respect of a place at, from or in relation to which the provider provides a regulated service and specified as such in the service provider's registration.
- (2) To be eligible to be a responsible individual the individual must—
  - (a) where the service provider is an individual, be the service provider;
  - (b) where the service provider is a partnership, be one of the partners;
  - (c) where the service provider is a body corporate other than a local authority—
    - (i) be a director or similar officer of the body,
    - (ii) in the case of a public limited company, be a director or company secretary, or
    - (iii) in the case of a body corporate whose affairs are managed by its members, be a member of the body;
  - (d) where the service provider is an unincorporated body, be a member of the body;
  - (e) where the service provider is a local authority, be an officer of the local authority designated by the authority's director of social services.
- (3) For the purposes of subsection (2)(e), a local authority's director of social services may designate an officer only if the director thinks that the officer has the necessary experience and expertise to be a responsible individual.
- (4) The same responsible individual may be designated in relation to more than one place at, from or in relation to which a regulated service is provided.
- (5) The Welsh Ministers may, by regulations—
  - (a) specify circumstances in which the Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual despite the requirements of subsection (2) not being met in respect of the individual, and
  - (b) make provision for this Part to apply with prescribed modifications to such a responsible individual.

#### **Commencement Information**

**I17** S. 21 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

### **22 Cancellation of designation of a responsible individual**

- (1) The Welsh Ministers may cancel a responsible individual's designation only on one or more of the following grounds—
  - (a) they have reason to believe the individual no longer satisfies the requirements of section 21(2);

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*Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, CHAPTER 2. (See end of Document for details)*

- (b) they have reason to believe the individual has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;
  - (c) they are no longer satisfied that the individual is a fit and proper person to be a responsible individual (see section 9);
  - (d) they have reason to believe that the individual has not complied with a requirement imposed on the individual by regulations under section 28(1).
- (2) In subsection (1)(b), “relevant offence” has the same meaning as in section 15.
- (3) If the Welsh Ministers propose to cancel a responsible individual's designation they must give the individual an improvement notice.
- (4) An improvement notice given under subsection (3) must specify—
- (a) the reason why the Welsh Ministers propose to cancel the responsible individual's designation,
  - (b) either—
    - (i) action that they think the individual must take, or
    - (ii) information they think the individual must provide,
 in order to satisfy them that the individual's designation should not be cancelled, and
  - (c) a time limit within which the action must be taken or the information must be provided.
- (5) If the Welsh Ministers are not satisfied that—
- (a) action specified in an improvement notice has been taken, or
  - (b) information so specified has been provided,
- within the time limit specified in the notice they may give a notice of cancellation.
- (6) The Welsh Ministers may give a notice of cancellation of a responsible individual's designation without taking the steps mentioned in subsections (3) to (5) if they have reasonable cause to believe that unless the designation is cancelled a person will or may be exposed to a risk of harm.
- (7) A notice of cancellation must be given to—
- (a) the responsible individual, and
  - (b) the service provider who designated the individual.
- (8) An individual ceases to be designated as a responsible individual when the notice of cancellation is given to the service provider.
- (9) A notice of cancellation must—
- (a) give reasons for the decision,
  - (b) explain the right of appeal conferred by section 26,
  - (c) explain the requirement on the service provider to apply for variation of registration (see section 11(1)(c)), and
  - (d) state the time limit prescribed under section 11(2) (prescribed time limit for applying to designate a new responsible individual).
- (10) In subsection (6), “harm” means abuse or impairment of—
- (a) physical or mental health, or
  - (b) physical, intellectual, emotional, social or behavioural development,

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and in a case where the harm relates to the impairment of a child's health or development, the child's health or development is to be compared with that which could reasonably be expected of a similar child.

#### **Commencement Information**

**I18** S. 22 in force at 2.4.2018 by S.I. 2017/1326, art. 2(3)(d)

### *Urgent action*

## **23 Urgent cancellation or variation of services or places**

- (1) The Welsh Ministers may apply to a justice of the peace for an order authorising them—
  - (a) to cancel the registration of a service provider, or
  - (b) to vary the registration of a service provider by removing from the registration—
    - (i) a regulated service, or
    - (ii) a place at, from or in relation to which the provider is providing a regulated service.
- (2) The Welsh Ministers may apply for an order under subsection (1) only on the ground that unless the registration is cancelled or varied there is a serious risk—
  - (a) to a person's—
    - (i) life, or
    - (ii) physical or mental health, or
  - (b) of a person suffering from abuse or neglect.
- (3) As soon as practicable after making an application under subsection (1) the Welsh Ministers must notify—
  - (a) each local authority and Local Health Board in whose area the service provider provides a regulated service, and
  - (b) any other person the Welsh Ministers think it appropriate to notify.
- (4) The justice of the peace may make the order only if the justice is satisfied as to the ground on which the Welsh Ministers made the application.
- (5) An order under this section may be made in the absence of the service provider to whom it relates if the justice of the peace is satisfied that—
  - (a) the Welsh Ministers have taken all reasonable steps to notify the service provider of their intention to apply for an order under this section, or
  - (b) it is not appropriate to take any such steps.
- (6) An order made under this section has effect—
  - (a) as soon as it is made, or
  - (b) at such other time as the justice of the peace thinks appropriate.
- (7) In particular, the justice of the peace may specify that the order is not to take effect until such time following the giving of notice under section 24(1) as the justice thinks appropriate.

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*Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, CHAPTER 2. (See end of Document for details)*

**Commencement Information**

**I19** S. 23 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**24 Urgent cancellation or variation: notification and appeals**

- (1) As soon as is practicable after an order is made under section 23 the Welsh Ministers must give a notice to the service provider to whom the order relates explaining—
  - (a) the terms of the order, and
  - (b) the right of appeal conferred by subsection (2).
- (2) No later than 14 days after the day on which the notice given under subsection (1) is given, the service provider may appeal to the tribunal against the making of the order.
- (3) But the tribunal may allow an appeal to be made after the expiry of that 14 day period if it is satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).
- (4) On an appeal under subsection (2), the tribunal may—
  - (a) confirm the order;
  - (b) revoke the order;
  - (c) make such other order (including an interim order) as the tribunal thinks appropriate.
- (5) An interim order of the tribunal may, among other things, suspend the effect of an order made under section 23 for such period as the tribunal may specify.

**Commencement Information**

**I20** S. 24 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**25 Urgent variation of registration: other conditions**

- (1) This section applies where the Welsh Ministers think that unless they act under this section there is, or may be, a risk—
  - (a) to a person's—
    - (i) life, or
    - (ii) physical or mental health, or
  - (b) of a person suffering from abuse or neglect.
- (2) The Welsh Ministers may give a decision notice to a service provider—
  - (a) varying a condition imposed under section 7(3)(b), 12(2), 13(1) or previously imposed under this section, or
  - (b) imposing a condition that could have been imposed under any of those sections.
- (3) A decision notice given under subsection (2) takes effect on the day it is given.
- (4) A decision notice given under subsection (2) must—
  - (a) state that it is given under this section,
  - (b) specify the condition to be varied or imposed,



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- (c) give reasons for imposing or varying the condition,
  - (d) explain the right to make representations conferred by subsection (5), and
  - (e) explain the right of appeal conferred by section 26.
- (5) The Welsh Ministers may vary or remove a condition varied or imposed under subsection (2) by giving a further decision notice to the service provider, but before doing so they must have regard to any representations made to them by the service provider about the notice given under subsection (2).
- (6) A decision notice given under subsection (5) takes effect on the day it is given.
- (7) A decision notice given under subsection (5) must—
- (a) state that it is given under this section,
  - (b) specify the condition to be varied or removed,
  - (c) give reasons for the decision, and
  - (d) explain the right of appeal conferred by section 26.

**Commencement Information**

**I21** S. 25 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

*Appeals*

**26 Appeals**

- (1) An appeal lies to the tribunal against a decision contained in a notice given under section 17(2), (3)(a) or (5), 19(4), 22(5) or (6) or 25(2) or (5).
- (2) An appeal under subsection (1) must be made no later than 28 days after the date on which the decision notice is given.
- (3) But the tribunal may allow an appeal to be made after the expiry of that 28 day period if it is satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).
- (4) On an appeal under subsection (1), the tribunal may—
- (a) confirm the decision;
  - (b) direct that the decision is not to take effect (or, if the decision has taken effect, direct that the decision is to cease to have effect);
  - (c) substitute for the decision appealed against another decision that the Welsh Ministers could have made;
  - (d) make such other order (including an interim order) as the tribunal thinks appropriate.
- (5) An interim order may, among other things, suspend the effect of a decision for such period as the tribunal may specify.

**Commencement Information**

**I22** S. 26 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, CHAPTER 2. (See end of Document for details)*

### *Regulations and guidance*

#### **27 Regulations about regulated services**

- (1) The Welsh Ministers may by regulations impose requirements on a service provider in relation to a regulated service.
- (2) Requirements imposed by regulations under subsection (1) must include requirements as to the standard of care and support to be provided by a service provider.
- (3) The Welsh Ministers must, when making regulations imposing requirements of the kind mentioned in subsection (2), have regard to—
  - (a) the importance of the well-being of any individuals to whom care and support will be provided, and
  - (b) the quality standards included in any code issued under section 9 of the 2014 Act (codes to help achieve outcomes specified in well-being statements).
- (4) Before making regulations under this section the Welsh Ministers must—
  - (a) consult any persons they think appropriate, and
  - (b) publish a statement about the consultation.
- (5) The Welsh Ministers must lay a copy of a statement published under subsection (4) (b) before the National Assembly for Wales.
- (6) But the requirement to consult and publish a statement does not apply to regulations which—
  - (a) amend other regulations made under this section, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

#### **Commencement Information**

**I23** S. 27 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

#### **28 Regulations about responsible individuals**

- (1) The Welsh Ministers may by regulations impose requirements on a responsible individual in relation to a place in respect of which the individual is designated.
- (2) Regulations under subsection (1) may include provision requiring a responsible individual to appoint an individual of a prescribed description to manage the place in respect of which the responsible individual is designated.
- (3) Regulations under subsection (1) may make provision for a function conferred on a responsible individual by the regulations to be delegated to another person only in prescribed circumstances but such provision may not affect the liability or responsibility of the responsible individual for exercising the function.
- (4) Before making regulations under this section the Welsh Ministers must consult any persons they think appropriate.
- (5) But the requirement to consult does not apply to regulations which—
  - (a) amend other regulations made under this section, and

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- (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

**Commencement Information**

**I24** S. 28 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**29 Guidance about regulations under sections 27 and 28**

- (1) The Welsh Ministers must publish guidance about how—
- (a) service providers may comply with requirements imposed by regulations under section 27(1) (including how providers may meet any standards for the provision of a regulated service specified by such regulations);
  - (b) responsible individuals may comply with requirements imposed by regulations under section 28(1).
- (2) The Welsh Ministers may revise guidance published under subsection (1) and must publish the revised guidance.
- (3) Service providers and responsible individuals must have regard to guidance published under this section.

**Commencement Information**

**I25** S. 29 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**30 Regulations about service providers who are liquidated etc.**

- (1) The Welsh Ministers may by regulations make provision—
- (a) requiring an appointed person to notify them of that appointment;
  - (b) for this Part to apply with prescribed modifications to service providers in relation to whom such a person has been appointed.
- (2) In subsection (1) “appointed person” means a person appointed as—
- (a) a receiver or administrative receiver of the property of a service provider who is a body corporate or a partnership;
  - (b) a liquidator, provisional liquidator or administrator of a service provider who is a body corporate or a partnership;
  - (c) a trustee in bankruptcy of a service provider who is an individual or a partnership.

**Commencement Information**

**I26** S. 30 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**31 Regulations about service providers who have died**

- (1) The Welsh Ministers may by regulations make provision—

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- (a) for this Part to apply with prescribed modifications where a service provider who is an individual has died;
  - (b) requiring the personal representatives of such an individual to notify the Welsh Ministers of the death.
- (2) Regulations under subsection (1) may in particular provide for a prescribed person who is not a service provider to act in that capacity for a prescribed period and for that period to be extended in prescribed circumstances.

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**Commencement Information**

**I27** S. 31 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**Status:**

Point in time view as at 02/04/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, CHAPTER 2.