

Changes to legislation: Regulation and Inspection of Social Care (Wales) Act 2016, PART 2 is up to date with all changes known to be in force on or before 27 October 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 3

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 2

SOCIAL CARE WALES

Mental Health Act 1983

37 The Mental Health Act 1983 (c.20) is amended as follows.

Commencement Information

I1 Sch. 3 para. 37 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

38 In section 114A (approval of courses for mental health professionals: Wales)—

- (a) in subsection (1), for “Care Council for Wales” substitute “ Social Care Wales ”;
- (b) for subsection (2) substitute—
 - “(2) For that purpose—
 - (a) subsections (2), (3), (4)(a) and (7) of section 114 of the Regulation and Inspection of Social Care (Wales) Act 2016 apply as they apply to approvals given, rules made and courses approved under that section, and
 - (b) sections 73 to 75 and section 115 of that Act apply accordingly.”;
- (c) in subsection (4), for the words from “for” to the end substitute “ for the purposes of Parts 3 to 8 of the Regulation and Inspection of Social Care (Wales) Act 2016 ”;
- (d) in subsection (5), for “Care Council for Wales” substitute “ Social Care Wales ”.

Commencement Information

I2 Sch. 3 para. 38 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

39 In section 130H(7)(b) (independent mental health advocates for Wales: supplementary powers and duties), for the words from “principal” to the end substitute “ social worker part or the visiting European part of the register kept under section 80(1) of the Regulation and Inspection of Social Care (Wales) Act 2016. ”

Commencement Information

I3 Sch. 3 para. 39 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Care Standards Act 2000

40 The Care Standards Act 2000 (c.14) is amended as follows.

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Commencement Information

I4 Sch. 3 para. 40 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 41 The following provisions are repealed—
- (a) sections 56 (the register) to 66 (visitors for certain social work courses);
 - (b) sections 68 (appeals to the tribunal), 69 (publication etc. of register) and 71 (rules);
 - (c) section 113 (default powers of appropriate Minister);
 - (d) the entry for the Welsh Council in the table in section 121(13) (general interpretation etc.);
 - (e) Schedule 1 (the Welsh Council).

Commencement Information

I5 Sch. 3 para. 41 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 42 In section 55 (interpretation)—
- (a) for subsections (2), (3) and (4) substitute—
 - “(2) “Social care worker” means a person (other than a person excepted by regulations) who—
 - (a) engages in social work which is required in connection with any health, education or social services provided in England (referred to in this Part as a “social worker”),
 - (b) is employed at a children's home in England, a care home in England or a residential family centre in England,
 - (c) manages a home or centre of a kind mentioned in paragraph (b),
 - (d) is employed for the purposes of a domiciliary care agency, a fostering agency, a voluntary adoption agency or an adoption support agency, in so far as the agency provides services to persons in England,
 - (e) manages an agency of the kind mentioned in paragraph (d), or
 - (f) is supplied by a domiciliary care agency to provide personal care in their own homes for persons in England who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
 - (3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers—
 - (a) a person engaged in work for the purposes of a local authority in England's social services functions;
 - (b) a person engaged in work in England comprising the provision of services similar to services which may or must be provided by a local authority in England in the exercise of its social services functions;
 - (c) a person engaged in the provision of personal care for any person in England;

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- (d) a person who is employed in an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care to persons in England;
 - (e) a person who manages an undertaking of the kind mentioned in paragraph (d);
 - (f) a person who is employed in connection with the discharge of the functions of the Secretary of State under section 80 of the 1989 Act (inspection of children's homes etc.);
 - (g) a person who is employed as a member of staff of the Office for Standards in Education, Children's Services and Skills who inspects premises under—
 - (i) section 87 of the 1989 Act (welfare of children accommodated in independent schools and colleges),
 - (ii) section 31 of this Act (inspection of establishments and agencies by persons authorised by registration authority), or
 - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector);
 - (h) a person who is employed as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part);
 - (i) a person who manages employees mentioned in paragraph (g) or (h);
 - (j) a person employed in a day centre in England;
 - (k) a person participating in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to become social workers.”, and
- (b) omit subsections (6), (7) and (8).

Commencement Information

16 Sch. 3 para. 42 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 43 In section 67 (functions of the appropriate Minister)—
- (a) in subsection (1), for “appropriate Minister” substitute “ Secretary of State ”
 - (b) for subsection (2) substitute—
 - “(2) The Secretary of State shall encourage persons to take part in—
 - (a) courses approved by the Health and Social Care Professions Council under article 15 or by virtue of article 19(4) of the Health and Social Care Work Professions Order 2001 for persons who are or wish to become social workers, and

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- (b) other courses relevant to the training of persons who are or wish to become social care workers.”;
- (c) in subsection (3)—
 - (i) for “appropriate Minister” at the first place it appears substitute “ Secretary of State ”, and
 - (ii) for “appropriate Minister” at the second place it appears substitute “ Secretary of State ”;
- (d) in subsection (4)—
 - (i) for “appropriate Minister” at the first place it appears substitute “ Secretary of State ”,
 - (ii) for “the Minister” substitute “ he or she ”, and
 - (iii) in paragraph (a), omit “and Wales,”;
- (e) omit subsection (6);
- (f) in subsection (7)—
 - (i) in paragraph (a), omit “or (6)(b)”,
 - (ii) in paragraph (b), for “appropriate Minister” substitute “ Secretary of State ”, and
 - (iii) in the words after paragraph (b), for “and, in respect of an authorisation given by the Assembly, references to a Minister included the Assembly; and in subsection (5)(b) and (6)(b)” substitute “ and in subsection (5)(b) ”;
- (g) for the heading, substitute “ Functions of the Secretary of State ”.

Commencement Information

I7 Sch. 3 para. 43 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 44 In Schedule 2A (persons subject to review by the Children's Commissioner for Wales), in paragraph 14, for “The Care Council for Wales” substitute “ Social Care Wales ”.

Commencement Information

I8 Sch. 3 para. 44 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Adoption and Children Act 2002

- 45 The Adoption and Children Act 2002 (c.38) is amended as follows.

Commencement Information

I9 Sch. 3 para. 45 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 46 In section 10(2) (management etc. of agencies), for “section 56(1) of the Care Standards Act 2000 (c. 14)” substitute “ section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) ”.

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I10 Sch. 3 para. 46 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Public Audit (Wales) Act 2004

47 The Public Audit (Wales) Act 2004 (c.23) is amended as follows.

Commencement Information

I11 Sch. 3 para. 47 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

48 In section 41 (studies for improving economy etc. in services), after subsection (6) insert—

“(7) Subsection (8) applies in respect of the discharge of social services functions by local authorities in Wales.

(8) The Auditor General and the Social Care Wales must co-operate with each other with respect to the exercise of their respective functions under this section and section 70 of the Regulation and Inspection of Social Care (Wales) Act 2016 (studies by SCW as to economy etc.).

(9) In subsection (7) “social services functions” has the same meaning as in the Social Services and Well-being (Wales) Act 2014.”

Commencement Information

I12 Sch. 3 para. 48 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Public Services Ombudsman (Wales) Act 2005

49 The Public Services Ombudsman (Wales) Act 2005 (c.10) is amended as follows.

Commencement Information

I13 Sch. 3 para. 49 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

50 In Schedule 3 (listed authorities), for “The Care Council for Wales” substitute “Social Care Wales”.

Commencement Information

I14 Sch. 3 para. 50 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Commissioner for Older People (Wales) Act 2006

51 The Commissioner for Older People (Wales) Act 2006 (c.30) is amended as follows.

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Commencement Information

I15 Sch. 3 para. 51 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 52 In Schedule 2 (persons whose functions are subject to review by the Commissioner), for “The Care Council for Wales” substitute “ Social Care Wales ”.

Commencement Information

I16 Sch. 3 para. 52 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Safeguarding Vulnerable Groups Act 2006

- 53 The Safeguarding Vulnerable Groups Act 2006 (c.47) is amended as follows.

Commencement Information

I17 Sch. 3 para. 53 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 54 In section 41 (registers: power to refer information to the Disclosure and Barring Service), in entry number 8 in the table in subsection (7)—
- (a) in column 1, for “under section 56 of the Care Standards Act 2000 (c. 14)” substitute “ under section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) ”, and
 - (b) in column 2, for “The Care Council for Wales” substitute “ the registrar appointed under section 81 of that Act ”.

Commencement Information

I18 Sch. 3 para. 54 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 55 In Part 3 of Schedule 3 (barred lists: supplementary provision)—
- (a) in paragraph 16(4)(l), for “the Care Council for Wales” substitute “ Social Care Wales ”, and
 - (b) after paragraph 16(4) insert—

“(4A) The reference in sub-paragraph (4) to “any of its committees” is, in respect of Social Care Wales, to be read as if it were a reference to “any panel established under Part 8 of the Regulation and Inspection of Social Care (Wales) Act 2016”.”

Commencement Information

I19 Sch. 3 para. 55 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

- 56 In Part 2 of Schedule 4 (regulated activity in relation to vulnerable adults)—
- (a) at the beginning of paragraph 7(3C) insert “ In relation to a vulnerable adult in in England, ”, and
 - (b) after paragraph 7(3C) insert—

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“(3CA) In relation to a vulnerable adult in Wales, relevant social work has the meaning given by section 79(4) of the Regulation and Inspection of Social Care (Wales) Act 2016, and social care worker means a person who is a social care worker by virtue of section 79(1)(a) of that Act.”

Commencement Information

I20 Sch. 3 para. 56 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Health and Social Care Act 2008

57 The Health and Social Care Act 2008 (c.14) is amended as follows.

Commencement Information

I21 Sch. 3 para. 57 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

58 The following provisions are repealed—

- (a) section 124 (regulation of social care workers);
- (b) section 125 (standard of proof in proceedings relating to registration of social care workers);
- (c) section 126 (education and training of approved mental health professionals);
- (d) subsection (3)(b) (and the “or” immediately before it) of section 163 (orders and regulations: control by National Assembly for Wales);
- (e) subsection (4)(za) of section 171 (the appropriate authority by whom commencement order is made);
- (f) Schedule 9 (regulation of social care workers: Wales).

Commencement Information

I22 Sch. 3 para. 58 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 80(1)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 80(2)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 80(3)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 84(aa)(ii) omitted by [S.I. 2019/761 reg. 6](#)
- s. 85A omitted by [S.I. 2019/761 reg. 8](#)
- s. 90A omitted by [S.I. 2019/761 reg. 10](#)
- Sch. 1 para. 7(4A) inserted by [S.I. 2019/761 reg. 14\(1\)\(b\)](#)
- Sch. 1 para. 7(4)(b)(c) substituted for Sch. 1 para. 7(4)(b) by [S.I. 2019/761 reg. 14\(1\)\(a\)\(ii\)](#)
- Sch. 1 para. 7(4A) words omitted by [S.I. 2019/761 reg. 14\(2\)](#)