

*Status: Point in time view as at 03/04/2017.*

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

VALID FROM 02/04/2018

SCHEDULE 1

(as introduced by section 2(2))

REGULATED SERVICES: DEFINITIONS

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SCHEDULE 2

(as introduced by section 67(4))

SOCIAL CARE WALES

**PART 1**

STATUS

*Status*

- 1 (1) SCW is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) SCW's property is not to be regarded as property of, or property held on behalf of, the Crown.

**Commencement Information**

**I3** Sch. 2 para. 1 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

**PART 2**

MEMBERSHIP

*Members*

- 2 (1) SCW is to consist of—
  - (a) a member to chair SCW (“the chairing member”), and
  - (b) not more than 14 other members.
- (2) SCW's members are to be appointed by the Welsh Ministers.
- (3) A person who is a member of SCW's staff may not be appointed or hold office as a member of SCW.
- (4) SCW's members are to hold office on such terms and conditions as the Welsh Ministers may determine; but this is subject to the other provisions of this Schedule.

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- (5) Before making an appointment under this paragraph the Welsh Ministers must consult such persons as they think appropriate.
- (6) In exercising their functions under this paragraph the Welsh Ministers must have regard to the desirability of appointing a varied membership which comprises a majority of persons who are not, and have not been, social care workers or representatives of social care workers.

**Commencement Information**

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

*Remuneration etc. of members*

- 3 (1) SCW may pay to its members such remuneration, expenses and allowances as the Welsh Ministers may determine.
- (2) SCW is to pay, or make provision for the payment, of such pension, allowance or gratuities as the Welsh Ministers may determine to or in respect of a person who is or has been a member of SCW.
- (3) If the Welsh Ministers determine that there are special circumstances which make it right for a person ceasing to hold office as the chairing member of SCW to receive compensation, SCW must pay the person or make provision for the payment to the person of such compensation as the Welsh Ministers may determine.

**Commencement Information**

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

*Term of office*

- 4 A person appointed as a member of SCW holds office for such period as the Welsh Ministers may determine when making the appointment; but that period may not exceed 4 years.

**Commencement Information**

**I6** Sch. 2 para. 4 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Resignation*

- 5 (1) The chairing member may resign by giving written notice to the Welsh Ministers.
- (2) Resignation may be either—
  - (a) as chairing member, or
  - (b) as both chairing member and member.
- (3) A member of SCW who is not the chairing member may resign by giving written notice to the Welsh Ministers.

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**Commencement Information**

**I7** Sch. 2 para. 5 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Dismissal*

- 6 (1) The Welsh Ministers may by written notice dismiss the chairing member if satisfied that he or she—
- (a) is unfit to continue as chairing member, or
  - (b) is unable or unwilling to act as chairing member.
- (2) Dismissal may be either—
- (a) as chairing member, or
  - (b) as both chairing member and member.
- (3) The Welsh Ministers may by written notice dismiss a member of SCW who is not the chairing member if satisfied that he or she—
- (a) is unfit to continue as a member, or
  - (b) is unable or unwilling to act as a member.

**Commencement Information**

**I8** Sch. 2 para. 6 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

**PART 3**

**GENERAL POWERS**

*Committees*

- 7 (1) SCW may establish committees.
- (2) Committees established under sub-paragraph (1) may establish sub-committees.
- (3) A committee or sub-committee established under this paragraph may include, or be comprised entirely of, persons who are not members of SCW.
- (4) SCW may pay remuneration, expenses and allowances to any person who—
- (a) is a member of a committee or sub-committee established under this paragraph, and
  - (b) is not a member of SCW, or a member of its staff.

**Commencement Information**

**I9** Sch. 2 para. 7 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Delegation*

- 8 (1) SCW may arrange for any of its functions to be exercised by any of its—

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- (a) committees,
- (b) sub-committees,
- (c) members, or
- (d) staff.

(2) Sub-paragraph (1) does not affect SCW's responsibility for exercise of delegated functions or affect its ability to exercise delegated functions.

**Commencement Information**

**I10** Sch. 2 para. 8 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Supplementary powers*

9 SCW may do anything which is calculated to facilitate, or which is conducive or incidental to, the exercise of its functions.

**Commencement Information**

**I11** Sch. 2 para. 9 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

**PART 4**

PROCEEDINGS ETC.

*Procedure*

- 10 (1) SCW is to regulate its own procedure (including quorum); but this is subject to the other provisions of this Act and any regulations made under it.
- (2) SCW is to regulate the procedure (including quorum) of its—
- (a) committees, and
  - (b) sub-committees.

**Commencement Information**

**I12** Sch. 2 para. 10 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Application of seal*

- 11 (1) SCW may have a seal.
- (2) The application of the seal must be authenticated by the signature of—
- (a) any member of SCW, or
  - (b) any other person authorised by SCW for that purpose.

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**Commencement Information**

**I13** Sch. 2 para. 11 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Evidence*

- 12 A document purporting to be duly executed under the seal of SCW or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

**Commencement Information**

**I14** Sch. 2 para. 12 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

**PART 5**

**CHIEF EXECUTIVE AND OTHER STAFF**

*Chief executive and other staff*

- 13 (1) SCW must appoint a chief executive.
- (2) SCW may appoint such other staff as it thinks appropriate; but this is subject to section 81 (duty of SCW to appoint a registrar).
- (3) A person appointed as chief executive is employed on such terms and conditions as SCW may determine; but the appointment (including any terms and conditions of appointment) requires the approval of the Welsh Ministers.
- (4) Any other staff appointed under this paragraph are employed on such terms and conditions as SCW may determine; but SCW must consult the Welsh Ministers before determining any terms and conditions about the levels of remuneration, pensions, allowances and expenses payable to, or in respect of, such staff.

**Commencement Information**

**I15** Sch. 2 para. 13 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

**PART 6**

**FINANCIAL MATTERS AND ANNUAL REPORTS ETC.**

*Payments by the Welsh Ministers*

- 14 The Welsh Ministers may make payments to SCW of such amounts, and at such times and on such conditions (if any), as the Welsh Ministers think appropriate.

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**Commencement Information**

**I16** Sch. 2 para. 14 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Accounting officer*

- 15 (1) The chief executive is to act as SCW's accounting officer.
- (2) The accounting officer has, in relation to SCW's accounts and finances, the responsibilities specified in a direction by the Welsh Ministers.
- (3) The responsibilities that may be specified include—
- (a) responsibilities in relation to the signing of accounts;
  - (b) responsibilities for the propriety and regularity of SCW's finances;
  - (c) responsibilities for the economy, efficiency and effectiveness with which SCW uses its resources;
  - (d) responsibilities owed to the Welsh Ministers, the National Assembly for Wales or the Public Accounts Committee of the National Assembly;
  - (e) responsibilities owed to the House of Commons or the Committee of Public Accounts of that House.

**Commencement Information**

**I17** Sch. 2 para. 15 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

*Accounts and audit*

- 16 (1) SCW must for each financial year—
- (a) keep proper accounts and proper records in relation to them, and
  - (b) prepare a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Welsh Ministers as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information is to be presented, and
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) No later than 31 August after the end of each financial year SCW must submit its statement of accounts to—
- (a) the Welsh Ministers, and
  - (b) the Auditor General for Wales.
- (4) The Auditor General for Wales must—
- (a) examine, certify and report on the statement of accounts, and
  - (b) no later than 4 months after the statement was submitted, lay before the National Assembly for Wales a copy of the certified statement and report.

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#### Commencement Information

**I18** Sch. 2 para. 16 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

#### *Annual reports etc.*

- 17 (1) No later than 30 November after the end of each financial year SCW must publish a report on the exercise of its functions during that year (an “annual report”).
- (2) As soon as possible after an annual report is published SCW must send a copy of it to the Welsh Ministers.
- (3) SCW must provide the Welsh Ministers with such other reports and information relating to the exercise of its functions as they may from time to time require.

#### Commencement Information

**I19** Sch. 2 para. 17 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

### SCHEDULE 3

(as introduced by section 185)

### MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 02/04/2018

#### PART 1

#### REGULATION OF SERVICES

##### *Care Standards Act 2000*

- 1 The Care Standards Act 2000 (c.14) is amended as follows.
- 2 In section 1—
- (a) in subsection (1), at the end insert “ as it applies in relation to England ”;
  - (b) in subsection (2), after “establishment” insert “ in England ”;
  - (c) subsection (4) is repealed;
  - (d) in subsection (4A), the words “in England” are repealed;
  - (e) the section heading becomes “ Children's homes in England ”.
- 3 In section 3—
- (a) in subsection (1), after “establishment” insert “ in England ”;
  - (b) subsection (3) is repealed;
  - (c) in subsection (4), the words “in England” are repealed;
  - (d) the section heading becomes “ Care homes in England ”.
- 4 In section 4—

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- (a) in subsection (2), after “establishment” insert “ in England ”;
- (b) in subsection (3), after “persons” insert “ in England ”;
- (c) in subsection (4)—
  - (i) in paragraph (a), after “authorities” insert “ in England ”;
  - (ii) in paragraph (b), after “organisation” insert “ in England ”;
- (d) subsection (5) is repealed;
- (e) in subsection (7), at the end insert “ whose principal office is in England ”;
- (f) in subsection (7A), for “has” substitute “ means an undertaking in England which is an adoption support agency within ”;
- (g) in subsection (8)(a)—
  - (i) in sub-paragraph (i), at the end insert “ in England ”;
  - (ii) in sub-paragraph (ii), after “home” insert “ in England ”;
  - (iii) sub-paragraph (vi) is repealed;
  - (iv) in sub-paragraph (vii), at the end insert “ in England ”;
- (h) in subsection (9)(a), sub-paragraphs (ii) and (iii) are repealed;
- (i) in subsection (10), after “services” where it first occurs insert “ in England ”.

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5

In section 5—

- (a) in subsection (1)(b), for “in any other case” substitute “ in the case of establishments mentioned in subsection (1B) ”;
- (b) in subsection (1A), after “agencies” insert “ mentioned in subsection (1)(a) ”;
- (c) after subsection (1A), insert—
  - “(1B) The establishments mentioned in subsection (1)(b) are—
    - (a) independent hospitals in Wales;
    - (b) independent clinics in Wales.”;
- (d) subsection (2) is repealed.

6

In section 8(6)—

- (a) in paragraph (a), for “section 5(b)” substitute “ section 5(1)(b) ”;
- (b) in paragraph (b) for sub-paragraphs (i) and (ii) substitute “by the Care Quality Commission—
  - (i) under Chapters 2 and 3 of Part 1 of the Health and Social Care Act 2008 in relation to health care in England, or
  - (ii) under the Mental Health Act 1983 in relation to England.”

7

In section 14(2), after paragraph (f) insert—

- “(g) an offence under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

8

In section 22—

- (a) in subsection (1), for paragraph (b) substitute—



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	<p>“(b) regulations made by the Welsh Ministers—</p> <p>(i) may make provision only in relation to establishments for which the Welsh Ministers are the registration authority, and</p> <p>(ii) may in particular make any provision such as is mentioned in subsection (2), (7) or (8) in so far as relevant to those establishments.”;</p> <p>(b) subsections (3) and (4) are repealed.</p>
9	<p>In section 22B—</p> <p>(a) in subsection (1), for “registration authority” substitute “ CIECSS ”;</p> <p>(b) in subsection (3)(c), for “registration authority's” substitute “CIECSS's”;</p> <p>(c) in subsection (4)(b), for “registration authority” substitute “ CIECSS ”;</p> <p>(d) in subsection (5)(a), for “registration authority” substitute “ CIECSS ”;</p> <p>(e) in subsection (6), for “registration authority” substitute “ CIECSS ”;</p> <p>(f) in subsection (8)—</p> <p>(i) in paragraph (a), at the end insert “ in England ”;</p> <p>(ii) in paragraph (b), at the end insert “ in England ”.</p>
10	<p>In section 23, after subsection (1) insert—</p> <p>“(1ZA) But the Welsh Ministers may prepare and publish such a statement only in relation to establishments for which the Welsh Ministers are the registration authority.”</p>
11	<p>In section 30A—</p> <p>(a) in subsection (1), after “agency” insert “ in England ”;</p> <p>(b) in subsection (2), for “registration authority” substitute “ CIECSS ”;</p> <p>(c) in subsection (3), for “registration authority” substitute “ CIECSS ”;</p> <p>(d) in subsection (7), in the definition of “prescribed”, paragraph (b) is repealed.</p>
	<p>VALID FROM 29/04/2019</p>
12	<p>Section 36A is repealed.</p>
	<p>VALID FROM 29/04/2019</p>
13	<p>In section 42—</p> <p>(a) for subsection (2) substitute—</p> <p>“(2) This subsection applies to persons who provide services which are similar to services which may or must be provided by Welsh NHS bodies.”;</p> <p>(b) in subsection (7), the definition of “Welsh local authorities” is repealed.</p>

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- 14 In section 43, after subsection (1) insert—  
“(1A) “Local authority” means a local authority in England.”

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- 15 In section 50(1), for “registration authority” substitute “ CIECSS ”.

- 16 Section 79(3) is repealed.

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*Health and Social Care (Community Health and Standards) Act 2003*

- 17 The Health and Social Care (Community Health and Standards) Act 2003 (c.43) is amended as follows.
- 18 Chapter 6 of Part 2 (social services: functions of the National Assembly for Wales) is repealed.
- 19 In section 142, in paragraph (a)—  
(a) in sub-paragraph (i), omit “and 6”;  
(b) in sub-paragraph (ii), for “section 5(b)” substitute “ section 5(1)(b) ”.
- 20 In section 143(2), paragraph (b) is repealed.

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*Public Audit (Wales) Act 2004*

- 21 The Public Audit (Wales) Act 2004 (c.23) is amended as follows.
- 22 In section 41(6) (co-operation between the Auditor General for Wales and the Welsh Ministers in studies for improving economy etc. in services), for the words from “sections 94 and 95” to the end substitute “ sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers). ”
- 23 In section 42(4) (co-operation between the Auditor General for Wales and the Welsh Ministers in studies about the impact of statutory provisions), for the words from “section 95(2)” to the end substitute “ sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers). ”

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*Children Act 2004*

24 In section 30 of the Children Act 2004 (c.31) (inspection of functions under Part 3), for subsection (1) substitute—

“(1) The Welsh Ministers' functions under Part 8 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) may be exercised as if anything done by a local authority in Wales in the exercise of functions to which this section applies was in the exercise of a social services function of the local authority (within the meaning of that Act).”

*Public Services Ombudsman (Wales) Act 2005*

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

26 In section 34R (meaning of “care home” and “care home provider”)—

- (a) in subsection (2), for the words from “has” to the end substitute “ means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over; ”
- (b) in subsection (3), for “carries on a care home” substitute “ is a service provider of a care home service within the meaning of Part 1 of that Act where the service is provided wholly or mainly to persons aged 18 or over ”;
- (c) in subsection (5), for the words from “personal” to the end of paragraph (a) substitute “ care in a care home in Wales for an individual because of the individual's vulnerability or need, ”;
- (d) after subsection (5), insert—

“(6) “Care” has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

27 In section 42(4A) (meaning of “former care home provider”), for the words from “personal” to the end of paragraph (a) substitute “ care of a particular description at a care home in Wales (see section 32R), ”.

*Safeguarding Vulnerable Groups Act 2006*

28 In paragraph 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (c.47) (regulated activity relating to children), in sub-paragraph (9B)—

- (a) for sub-sub-paragraph (h) substitute—
  - “(h) an inspection in Wales under section 33 of the Regulation and Inspection of Social Care (Wales) Act 2016 (inspections of regulated care and support services) of a residential family centre service, a fostering service, or an adoption service (each of which has the meaning given in Schedule 1 to that Act);”
- (b) for sub-sub-paragraph (j) substitute—

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- “(j) a review under section 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of local authority social services functions in Wales);”
- (c) in sub-sub-paragraph (k) for “or investigation under section 94” substitute “ under section 149B ”.

*Social Services and Well-being (Wales) Act 2014*

29 The 2014 Act is amended as follows.

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- 30 In section 1 (overview)—
- (a) in subsection (9)—
- (i) after paragraph (b) insert—
- “(ba) requires local authorities to produce—
- (i) annual reports about the exercise of social services functions, and
- (ii) reports about the stability of local markets for providing care and support,
- (sections 144A and 144B);”
- (ii) after paragraph (c) insert—
- “(ca) provides powers for the Welsh Ministers to conduct reviews relating to the exercise of social services functions of local authorities (sections 149A and 149B);”
- (iii) in paragraph (d), for “161.” substitute “160);
- (da) allows for the inspection of premises in connection with reviews of local authority social services functions conducted by the Welsh Ministers or the exercise of the Welsh Ministers' powers of intervention in relation to those functions, and for the Welsh Ministers to request information in connection with such reviews and makes related provision (sections 161 to 161C).”;”;
- (b) in subsection (15)(c), for “an establishment or agency (within the meaning of the Care Standards Act 2000)” substitute “ a service provider (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016) ”.

31 Section 183 (publicising advocacy services in care homes) is repealed.

32 In section 188(1) (definitions for the purposes of sections 185 to 187), in the definition of “youth detention accommodation”, for paragraph (a) substitute—

- “(a) a secure accommodation service (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016);”.

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- 33 In section 189 (provider failure: temporary duty on local authority)—
- (a) for subsection (1) substitute—
- “(1) This section applies where a service provider becomes unable to provide a regulated service because of business failure.”;
- (b) in subsection (2), for the words from “registered” to “agency” where it second occurs substitute “ service provider became unable to provide the regulated service, being met in the authority's area by the service provider ”;
- (c) in subsection (5)(a), for “registered person became unable to carry on or manage the establishment or agency” substitute “ service provider became unable to provide the regulated service ”;
- (d) in subsection (9)—
- (i) the definition of “registered person” is repealed;
- (ii) before the definition of “relevant carer” insert—
- ““regulated service” (*“gwasanaeth rheoleiddiedig”*) has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;”
- (iii) at the end insert—
- ““service provider” (*“darparwr gwasanaeth”*) has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”
- 34 In section 190(1) (provider failure: exception to temporary duty), for “registered person became unable to carry on or manage the establishment or agency” substitute “ service provider became unable to provide the regulated service ”.
- 35 In section 191 (provider failure: supplementary)—
- (a) in subsection (6), for “registered person, or such other person involved in the establishment or agency's” substitute “service provider, or such other person involved in the service provider's”;
- (b) in subsection (7), for “carry on or manage an establishment or agency” substitute “ provide a regulated service ”.
- [<sup>F3</sup>36. In section 197(1) (definitions)—
- (a) for the definition of “care home”, substitute—
- ““care home” (*“cartref gofal”*)—
- (a) has the same meaning as in the Care Standards Act 2000 in respect of a care home in England; and
- (b) means a place in Wales at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to adults;”;
- (b) for the definition of “children’s home”, substitute—
- ““children’s home” (*“cartref plant”*) means—
- (a) a children’s home in England within the meaning of the Care Standards Act 2000 in respect of which a person is registered under Part 2 of that Act; and
- (b) means premises in Wales at which a care home service within the meaning of Part 1 of the Regulation and

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Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to children by a person registered under Part 1 of that Act;”.]

**Textual Amendments**

**F3** Sch. 3 para. 36 substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1), 59**

**PART 2**

SOCIAL CARE WALES

*Mental Health Act 1983*

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

**Commencement Information**

**I20** [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**

**I21** [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 [<sup>F4</sup>social worker] part of the register kept under section 80(1) of the Regulation and Inspection of Social Care (Wales) Act 2016. ”

*Status: Point in time view as at 03/04/2017.*

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

#### Textual Amendments

- F4** Words in Sch. 3 para. 39 inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **144(2)** (with reg. 155)

#### Commencement Information

- I22** 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.

#### Commencement Information

- I23** 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

- I24** 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 [<sup>F5</sup>(4A),] (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

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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;
  - (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).



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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. (See end of Document for details)*

### Textual Amendments

**F5** Word in Sch. 3 para. 39 inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **144(3)** (with reg. 155)

### Commencement Information

**I25** 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
    - (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

**I26** 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 ”.

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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. (See end of Document for details)*

**Commencement Information**

**I27** 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**

**I28** 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)”.

**Commencement Information**

**I29** 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**

**I30** 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**

**I31** 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.

*Status: Point in time view as at 03/04/2017.*

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

**Commencement Information**

**I32** 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**

**I33** 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.

**Commencement Information**

**I34** 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**

**I35** 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**

**I36** 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**

**I37** 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

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(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**

**I38** 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—

“(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**

**I39** 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**

**I40** 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**

**I41** Sch. 3 para. 58 in force at 3.4.2017 by S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

*Status: Point in time view as at 03/04/2017.*

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

### PART 3

#### MISCELLANEOUS

##### *Public Services Ombudsman (Wales) Act 2005*

59 In section 33 of the Public Services Ombudsman (Wales) Act 2005 (c.10) (publicity for complaints procedures), after subsection (7) insert—

“(8) This section applies to a care home provider (see section 34R), a domiciliary care provider (see section 34S) or an independent palliative care provider (see section 34T) as it applies to a listed authority.

(9) But in its application in accordance with subsection (8), the reference to “relevant services” in subsection (2)(a)(i) is to be read as a reference to the matters to which Part 2A applies (see section 34A).”

#### Commencement Information

I42 Sch. 3 para. 59 in force at 6.4.2016 by S.I. 2016/467, art. 2

##### *Social Services and Well-being (Wales) Act 2014*

60 The 2014 Act is amended as follows.

#### Commencement Information

I43 Sch. 3 para. 60 in force at 6.4.2016 by S.I. 2016/467, art. 3

61 In the Welsh text of section 21(3)(b) (duty to assess the needs of a child for care and support), for “, rhieni'r plentyn neu unrhyw berson arall a chanddo gyfrifoldeb rhiant dros y plentyn” substitute “ neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn ”.

#### Commencement Information

I44 Sch. 3 para. 61 in force at 6.4.2016 by S.I. 2016/467, art. 3

62 In section 42 (duty to meet support needs of a child carer)—

- (a) in subsection (4)(a)(i), for “41(5)” substitute “ 43(5) ”;
- (b) in subsection (4)(a)(ii), for “41(1)” substitute “ 43(1) ”;
- (c) in subsection (4)(b)(i), for “41(5)” substitute “ 43(5) ”;
- (d) in subsection (4)(b)(ii), for “41(3)” substitute “ 43(3) ”;
- (e) in subsection (4)(c)(i), for “41(10)” substitute “ 43(10) ”;
- (f) in subsection (4)(c)(ii), for “41(3)” substitute “ 43(3) ”.

#### Commencement Information

I45 Sch. 3 para. 62 in force at 6.4.2016 by S.I. 2016/467, art. 3

*Status: Point in time view as at 03/04/2017.*

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

- 63 In the Welsh text of section 46(3) (exception for persons subject to immigration control), for the words from “For” to “question” substitute “At ddibenion is-adran (1), mae adran 95(3) a (5) i (8) o Ddeddf 1999, a pharagraff 2 o Atodlen 8 iddi, yn gymwys ond mae'r cyfeiriadau yn adran 95(5) a (7) a'r paragraff hwnnw at yr Ysgrifennydd Gwladol i'w darllen fel cyfeiriadau at yr awdurdod lleol dan sylw”.

**Commencement Information**

**I46** Sch. 3 para. 63 in force at 6.4.2016 by S.I. 2016/467, art. 3

- 64 In the Welsh text of section 147(3) (departure from requirements in codes), after “gategori” insert “ penodol ”.

**Commencement Information**

**I47** Sch. 3 para. 64 in force at 6.4.2016 by S.I. 2016/467, art. 3

- 65 In section 197(1) (general interpretation), in the definition of “voluntary organisation”, for “private body” substitute “ local authority ”.

**Commencement Information**

**I48** Sch. 3 para. 65 in force at 6.4.2016 by S.I. 2016/467, art. 3

**Status:**

Point in time view as at 03/04/2017.

**Changes to legislation:**

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