



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

2016 anaw 2

## PART 11

### FINAL PROVISIONS

#### 185 Minor and consequential amendments

Schedule 3 makes minor and consequential amendments.

#### Commencement Information

- I1** S. 185 in force at 6.4.2016 for specified purposes by [S.I. 2016/467](#), arts. 2, 3
- I2** S. 185 in force at 3.4.2017 for specified purposes by [S.I. 2017/309](#), **art. 2(j)** (with arts. 3, 4, Sch.)
- I3** [S. 185](#) in force at 2.4.2018 for specified purposes by [S.I. 2017/1326](#), art. 2(3)(h), **Sch.**
- I4** [S. 185](#) in force at 29.4.2019 for specified purposes by [S.I. 2019/864](#), art. 2(3)(d), **Sch.**

#### 186 Power to make consequential etc. provision

- (1) The Welsh Ministers may by regulations make such consequential, incidental, transitional, transitory or saving provision as they think appropriate for the purposes of or in connection with this Act.
- (2) Regulations under this section may amend, revoke or repeal any enactment contained in, or made under, primary legislation.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for 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, PART 11. (See end of Document for details)*

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- (5) A statutory instrument containing regulations under this section to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) In this section, “primary legislation” means—
- (a) an Act of Parliament;
  - (b) an Act or Measure of the National Assembly for Wales (including this Act).

## **187 Regulations under this Act**

- (1) A power to make regulations under this Act—
- (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes, for different cases and for different areas.
- (2) A statutory instrument containing regulations made under any of the following provisions of this Act may not be made unless a draft of the instrument containing the regulations has been laid before and approved by resolution of the National Assembly for Wales—
- (a) section 2(1)(i) (regulations specifying other care and support services as regulated services);
  - (b) section 2(3) (regulations prescribing things not to be treated as regulated services);
  - (c) section 3(3) (regulations prescribing things not to be treated as care and support);
  - (d) section 9(9) (regulations varying the evidence to be taken into account when determining whether a person is fit and proper);
  - (e) section 11(2) (regulations prescribing a time limit within which an application to designate a replacement responsible individual must be made);
  - (f) section 27(1) (regulations imposing requirements on service providers);
  - (g) section 28(1) (regulations imposing requirements on responsible individuals);
  - (h) section 37(1) (regulations about inspection ratings);
  - (i) section 40(1) (regulations about charging fees);
  - (j) section 45 (regulations creating offences for failure to comply with requirements imposed on service providers);
  - (k) section 46 (regulations creating offences for failure to comply with requirements imposed on responsible individuals);
  - (l) sections 59(1) and (4) and 61(6) and (9) (regulations about the market oversight regime);
  - (m) section 79(2) (regulations prescribing descriptions of persons to be treated as social care workers);
  - (n) section 80(1)(b) (regulations prescribing descriptions of social care worker in respect of whom SCW must keep a register);
  - (o) section 111(2) (regulations prescribing protected titles for social care workers other than social workers);
  - (p) section 117 (amending the grounds on which a registered person's fitness to practise may be regarded as impaired);
  - (q) section 130 (arrangements for mediation);
  - (r) section 136(2)(d) (persons to whom undertakings may be disclosed by SCW);

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- (s) section 142 (amending the ways in which a fitness to practise panel may dispose of matters);
  - (t) section 165 (designation of regulated activities etc. for the purposes of prohibition orders under Part 7);
  - (u) section 171(3) (creation of offences in relation to employment or appointment of persons subject to prohibition orders etc.);
  - (v) section 177(1)(h) (regulations prescribing other persons as relevant authorities for the purposes of Part 9);
  - (w) paragraph 7 of Schedule 1 (regulations specifying certain services as regulated advocacy services).
- (3) Any other statutory instrument containing regulations made under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) This section does not apply to regulations made under section 186.

### **188 Coming into force**

- (1) The provisions of this Act (except this section and sections 186, 187, 189 and 190) come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (2) This section and sections 186, 187, 189 and 190 come into force on the day after the day on which this Act receives Royal Assent.
- (3) An order under this section may—
- (a) appoint different days for different purposes or areas;
  - (b) include such transitory, transitional or saving provision as the Welsh Ministers think appropriate.

### **189 General interpretation**

In this Act—

“caution” (*“rhybuddiad”*), in relation to an offence, means—

- (a) a conditional caution given under section 22 of the Criminal Justice Act 2003 (c.44) (conditional cautions for adults) or under section 66A of the Crime and Disorder Act 1998 (c.37) (conditional cautions for children and young persons);
- (b) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, that person has admitted;
- (c) anything corresponding to a caution falling within paragraph (a) or (b) (however described) which—
  - (i) is given to a person in respect of an offence committed outside England and Wales which, if committed in England and Wales, would constitute a criminal offence, and
  - (ii) is not an alternative to prosecution (within the meaning of section 8AA of the Rehabilitation of Offenders Act 1974 (c.53));

“financial year” (*“blwyddyn ariannol”*) means the period of one year beginning on 1 April and ending on 31 March;

“local authority” (*“awdurdod lleol”*) means the council of a county or county borough in Wales;

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“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

“prescribed” (“*a ragnodir*” and “*rhagnodedig*”) means prescribed by regulations made by the Welsh Ministers;

“SCW” (“*GCC*”) has the meaning given by section 67;

“the tribunal” (“*y tribiwnlys*”) means the First-tier tribunal;

“well-being” (“*llesiant*”) has the same meaning as in section 2 of the 2014 Act;

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-Being (Wales) Act 2014 (anaw 4).

## **190 Short title**

The short title of this Act is the Regulation and Inspection of Social Care (Wales) Act 2016.

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 11.