
WELSH STATUTORY INSTRUMENTS

2017 No. 1264

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

PART 11

Requirements on service providers in respect of domiciliary support services

Application of regulations in this Part

40. The regulations in this Part only apply to a service provider in respect of the provision of a domiciliary support service which the provider is registered to provide.

Delineation of travel time and care time

41.—(1) A service provider to whom this regulation applies must—

- (a) prepare a schedule of visits in respect of each domiciliary care worker working at the service; and
- (b) provide a copy of the relevant schedule of visits to the domiciliary care worker to whom that schedule relates.

(2) The schedule of visits must delineate the time allocated for travel time, the time allocated for each visit and (if applicable) the time allocated for rest breaks.

(3) The time allocated for travel time must be sufficient having regard to—

- (a) the distance between the location of one scheduled visit and the next scheduled visit; and
- (b) any other factors which might reasonably be expected to affect travel time, such as traffic congestion and the availability of parking at the location of the scheduled visits.

(4) The time allocated for each visit—

- (a) must be sufficient to enable care and support to be provided to the individual in accordance with their personal plan; and
- (b) must not be less than 30 minutes unless either condition A, B or C, as described in section 8 of the Act, is met.

(5) A service provider to whom this regulation applies must ensure that a record is kept of the time spent by each domiciliary care worker on travel time, visits and rest breaks.

(6) For the purposes of this regulation—

“domiciliary care worker” (“*gweithiwr gofal cartref*”) means a person who provides care and support to individuals as part of a domiciliary support service and includes—

- (a) a person employed by the service provider as an employee or a worker; and
- (b) a person engaged by the service provider under a contract for services.

For the purposes of this definition, the terms “employed” (“*a gyflogir*”), “employee” (“*cyflogai*”) and “worker” (“*gweithiwr*”) have the same meanings as in section 230 of the Employment Rights Act 1996;

“schedule of visits” (“*amserlen ymweliadau*”) means a schedule of the visits which a domiciliary care worker is required to make during the course of a day or a week;

“travel time” (“*amser teithio*”) includes the time spent travelling between the location of one scheduled visit and the location of the next scheduled visit but does not include any time spent travelling from the home of the domiciliary care worker to the location of the first scheduled visit or any time spent travelling from the location of the last scheduled visit to the home of the domiciliary care worker;

“visit” (“*ymweliad*”) means a visit to an individual for the purpose of providing a domiciliary support service.

Offering domiciliary care workers on non-guaranteed hours contracts the choice of alternative contractual arrangements

42.—(1) If the conditions in paragraph (2) are met, a service provider to whom this regulation applies must offer a domiciliary care worker the choice of continuing to be employed under either of the following types of contractual arrangement—

- (a) a contract of employment where the number of hours required to be worked per week is at least the average number of hours worked per week during the preceding three months;
- (b) a contract of employment where the number of hours required to be worked per week is less than the average number of hours worked per week during the preceding three months.

But this requirement does not prevent the service provider employing a domiciliary care worker on any other type of contractual arrangement which has been agreed between the provider and the worker, including a further non-guaranteed hours contract.

(2) The conditions referred to in paragraph (1) are—

- (a) the domiciliary care worker has been employed by the service provider under a non-guaranteed hours contract for the qualifying period,
- (b) the domiciliary care worker has worked regular hours during the three months preceding the end of the qualifying period,
- (c) the provider has decided that there is a continuing need for the hours to be worked on an ongoing basis, and
- (d) the domiciliary care worker has performed satisfactorily during the qualifying period.

(3) For the purposes of this regulation—

“domiciliary care worker” (“*gweithiwr gofal cartref*”) means a person who provides care and support to individuals as part of a domiciliary support service and includes a person employed by the service provider as an employee or a worker but does not include a person engaged by the service provider under a contract for services;

“non-guaranteed hours contract” (“*contract oriau heb eu gwarantu*”) means a contract of employment or other worker's contract under which—

- (a) the undertaking to do work or perform services is an undertaking to do so conditionally on the employer making work or services available to the worker, and
- (b) there is no certainty that any such work or services will be made available to the worker. For the purpose of this definition, an employer makes work or services available to a worker if the employer requests or requires the worker to do the work or perform the services;

“the qualifying period” (“*y cyfnod cymhwysol*”) is—

- (a) in any case where the worker has commenced employment after the relevant date, the period of three months from the date the employment commenced;
- (b) in any case where the worker commenced employment before the relevant date, the period of three months ending with the commencement date;
- (c) in any case where the worker has previously been offered the choice of an alternative contractual arrangement in accordance with the requirements of this regulation and has chosen to remain on a non-guaranteed hours contract, the period of three months from the date any such choice was made.

For the purposes of this definition—

“the commencement date” (“*y dyddiad cychwyn*”) is the date on which this regulation comes into force;

“the relevant date” (“*y dyddiad perthnasol*”) is the date which falls three months before the commencement date.

(4) For the purposes of this regulation—

- (a) the terms “contract of employment” (“*contract cyflogaeth*”), “employer” (“*cyflogwr*”), “employee” (“*cyflogai*”), “employment” (“*cyflogaeth*”) and “employed” (“*cael ei gyflogi*”, “*wedi ei gyflogi*”, “*a gyflogir*”) have the same meanings as in section 230 of the Employment Rights Act 1996;
- (b) “worker” (“*gweithiwr*”) has the same meaning as in section 230 of the Employment Rights Act 1996, except that a person engaged under a contract for services is not a worker for the purpose of this regulation. Any reference to a worker's contract is to be construed accordingly.

Changes to legislation:

There are currently no known outstanding effects for the The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, PART 11.