
WELSH STATUTORY INSTRUMENTS

2017 No. 1264

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

PART 2

Exceptions

Care home services

2.—(1) The following things are not to be treated as a care home service, despite paragraph 1 of Schedule 1 to the Act (regulated services: definitions, care home services)—

- (a) the provision of accommodation, together with nursing or care, to an adult—
 - (i) in the course of a family or personal relationship, and
 - (ii) for no commercial consideration;
- (b) the provision of accommodation, together with nursing or care, to adults for a period of less than 28 days in any 12 month period or for a number of periods which in total are less than 28 days in any 12 month period;
- (c) the provision of accommodation, together with nursing, where the accommodation is vested—
 - (i) in the Welsh Ministers for the purposes of their functions under the National Health Service (Wales) Act 2006;
 - (ii) in an NHS trust;
 - (iii) in a Local Health Board.
- (d) the provision of accommodation, together with care, where the accommodation is provided—
 - (i) by an institution within the further education sector; or
 - (ii) by a university.

But this exception does not apply if the number of persons to whom such accommodation is provided is more than one tenth of the number of students to whom it provides both education and accommodation.

For the purposes of this paragraph, “further education sector” (“*sector addysg bellach*”) has the same meaning as in section 91(3) of the Further and Higher Education Act 1992⁽¹⁾;

- (e) the provision of accommodation, together with care, where the accommodation provided constitutes day care for children, within the meaning of section 19(3) of the Children and Families (Wales) Measure 2010⁽²⁾.

But this exception does not apply if—

(1) 1992 c. 13.
(2) 2010 nawm 1.

- (i) in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of day care are provided in relation to any one child (whether or not the child is aged under 12);
 - (ii) the accommodation is provided to a disabled child.
- (f) the provision of accommodation, together with care, where the accommodation is provided for children aged 16 and over only for the purposes of enabling the children to undergo training or an apprenticeship.
- But this exception does not apply if the accommodation is provided to a disabled child;
- (g) the provision of accommodation, together with care, where the accommodation is provided to children at an approved bail hostel or approved probation hostel;
- (h) the provision of accommodation, together with care, where the accommodation is an institution for young offenders provided under or by virtue of section 43(1) of the Prison Act 1952⁽³⁾;
- (i) the provision of accommodation, together with care, where the accommodation is provided to children because of their vulnerability or need for the purposes of—
- (i) a holiday;
 - (ii) a leisure, recreational, sporting, cultural or educational activity;
- But this exception does not apply—
- (i) in any case where the accommodation is provided to a disabled child;
 - (ii) if the accommodation is provided to any one child for more than 28 days in any 12 month period, unless the accommodation is only provided to children over the age of 16.
- (2) For the purposes of paragraph (1)(e), (f) and (i) of this regulation, a child is “disabled” if the child has a disability for the purposes of the Equality Act 2010.
- (3) See regulation 5 for the meaning of family or personal relationship.

Domiciliary support services

- 3.—(1) The following things are not to be treated as a domiciliary support service, despite paragraph 8 of Schedule 1 to the Act (regulated services: definitions, domiciliary support services)—
- (a) the provision of support only;
 - (b) the provision of care and support to four or fewer individuals at any one time;
 - (c) the provision of care and support for an adult—
 - (i) in the course of a family or personal relationship, and
 - (ii) for no commercial consideration;
 - (d) the provision of care and support for a child by a parent, relative or foster parent;
 - (e) the provision of care and support by a carer where such care and support is provided without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973⁽⁴⁾), and where the carer works wholly under the direction and control of a related third party;

(3) 1952 c. 52.

(4) 1973 c. 35.

- (f) arrangements for the supply of carers to a service provider by an undertaking acting as an employment agency or employment business for the purpose of the provision of a regulated service by the service provider;
 - (g) the provision of care and support where the care and support is provided by a person managing a prison or other similar custodial establishment.
- (2) In paragraph (1)(e) and (f), “carer” means an individual who provides care to a person referred to in paragraph 8(1) of Schedule 1 to the Act.
- (3) In paragraph (1)(e), “related third party” means—
- (a) an individual with parental responsibility (within the meaning of section 3 of the Children Act 1989⁽⁵⁾) for a child to whom care and support is to be provided;
 - (b) an individual with power of attorney or other lawful authority to make arrangements on behalf of the individual to whom care and support is to be provided;
 - (c) a group of individuals mentioned in either of sub-paragraphs (a) or (b) making arrangements on behalf of no more than four named individuals to whom care and support is to be provided;
 - (d) a trust established for the purpose of providing services to meet the care and support needs of a named individual.
- (4) See regulation 5 for the meaning of family or personal relationship.

Residential family centre services

4. The following things are not to be treated as a residential family centre service, despite paragraph 3 of Schedule 1 to the Act (regulated services: definitions, residential family centre services)—

- (a) the provision of accommodation for children and their parents where the accommodation is provided in a hospital⁽⁶⁾;
- (b) the provision of accommodation for children and their parents where the accommodation is provided in a hostel or a domestic violence refuge;
- (c) in any other case, the provision of accommodation for children and their parents the main purpose of which is the provision of accommodation together with other services and facilities to adult individuals and the fact that those individuals may be parents, or may be accompanied by their children, is incidental to the main purpose of the provision of the accommodation.

Meaning of family or personal relationship

5. For the purposes of this Part—

- (a) a family relationship includes a relationship between two persons who—
 - (i) live in the same household, and
 - (ii) treat each other as though they were members of the same family;
- (b) a personal relationship is a relationship between or among friends;
- (c) a friend of a person (A) includes a person who is a friend of a member of A’s family.

⁽⁵⁾ 1989 c. 41.

⁽⁶⁾ “Hospital” is defined in paragraph 9 of Schedule 1 to the Act and includes an independent clinic.