
WELSH STATUTORY INSTRUMENTS

2019 No. 757 (W. 142)

SOCIAL CARE, WALES

The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019

Made - - - - 29 March 2019

Coming into force - - 1 April 2019

The Welsh Ministers, in exercise of the powers conferred by sections 2(3) and 27 of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾, and having consulted such persons as they think appropriate, having published a statement about the consultation and having laid a copy of the statement before the National Assembly for Wales in accordance with section 27(4) and (5) make the following Regulations.

A draft of these Regulations was laid before the National Assembly for Wales under section 187(2) (b) and (f) and has been approved by a resolution of the National Assembly for Wales.

Title and commencement

1.—(1) The title of these Regulations is the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019.

(2) These Regulations come into force on 1 April 2019.

Amendments to the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

2. The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017⁽²⁾ are amended in accordance with the following regulations.

Interpretation

3. In regulation 1(3), in the appropriate alphabetical order, insert the following definition—
“regulated services” (“*gwasanaethau rheoleiddiedig*”) means care home services, domiciliary support services, secure accommodation services or residential family centre services;.

(1) 2016 anaw 2.

(2) S.I. 2017/1264 (W. 295)

Exception from scope of care home service

4. In regulation 2—

- (a) for subparagraph (1)(e), substitute—
 - “(e) the provision of accommodation, together with care, where the care provided constitutes child minding within the meaning of section 19(2), or day care within the meaning of section 19(3) of the Children and Families (Wales) Measure 2010(3) but this exception does not apply if—
 - (i) in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of child minding or day care are provided in relation to any one child; or
 - (ii) the care is provided wholly or mainly for disabled children;”;
- (b) in subparagraph (1)(f), for “the accommodation is provided to a disabled child”, substitute “care is provided wholly or mainly for disabled children”;
- (c) in subparagraph (1)(i)—
 - (i) in the introductory words omit “because of their vulnerability or need”;
 - (ii) in subparagraph (i) of the part of the clause setting out when the exception does not apply, for “the accommodation is provided to a disabled child”, substitute “care is provided wholly or mainly for disabled children unless the service provider has first notified the Welsh Ministers of the arrangements in writing”;
- (d) at the end of subparagraph (1)(i), for “.” substitute “;”;
- (e) after subparagraph (1)(i) insert the following subparagraph—
 - “(j) the provision of accommodation, together with care, to a single child or to a sibling group by a person in that person’s own home and where care and accommodation are not provided by that person for a total of more than 28 days in any 12 month period.”;
- (f) after paragraph (3) insert—
 - “(4) In subparagraph (1)(j) of this regulation, “sibling group” includes both brothers and sisters, and half-brothers and half-sisters.”

Exceptions from the scope of domiciliary support service

5. In regulation 3(1)—

- (a) in subparagraph (g), for “.” substitute “;”;
- (b) after subparagraph (g) insert—
 - “(h) the provision of nursing care by a registered nurse;
 - (i) the provision of care and support by a Local Health Board to meet needs which are related to the needs of individuals for nursing care.”

Minor amendment to regulation 12

- 6. In regulation 12(1), in the parentheses after “Admissions and commencement of the service”, for “Part 5” substitute “Part 4”.

Policy and procedures for children's savings

7. In regulation 28 (supporting individuals to manage their money), after paragraph (2) add the following paragraph—

“(2A) Where a service provides accommodation for children, the policy and procedures required by this regulation must set out the steps which the service provider will take to ensure adequate oversight and monitoring of savings made by or on behalf of children including arrangements for keeping records of savings (and expenditure from savings) and passing on these records when a placement comes to an end.”

Minor amendment to regulation 34

8. In regulation 34(5), in the English text, remove the word “as” in the second place where it appears.

Amendment to requirement about fitness of managers of domiciliary support services in certain circumstances

9. In regulation 35—

- (a) in subparagraph (2)(e), at the beginning, insert “subject to paragraph (10) of this regulation”;
- (b) in paragraph (9), for the words from “section 1” to the end, substitute “section 87(1) of the Protection of Freedoms Act 2012(4)”;
- (c) after paragraph (9) insert—

“(10) Until 1 April 2020, the requirement under paragraph (2)(e) for a manager to be registered with Social Care Wales does not apply to a manager who is appointed to manage an undertaking—

- (a) in respect of which a person is registered, or has applied to register, as the provider of a domiciliary support service, and
- (b) in respect of which a person was registered as carrying on a nurses agency under Part 2 of the Care Standards Act 2000(5) immediately before 2 April 2018 but was not also registered as carrying on a domiciliary care agency.”

Amendment of regulation 49 – Application of Part 13

10. In regulation 49 —

- (a) in paragraph (2), in the text describing Category B premises, omit from “an extension” to “which” and substitute “a building or buildings to which an extension is added and the extension”;
- (b) in paragraph (3) after “with” insert “but in the case of Category B premises, the requirements only apply to the part of the premises comprising the extension (or in the case of regulation 53, to any parts of the external grounds developed in conjunction with the extension)”.

Amendment of regulation 52 – additional requirements – communal space

11. In regulation 52—

- (a) at the beginning, for “The” substitute “(1) Subject to paragraph (2), the”;

(4) 2012 c. 9.

(5) 2000 c. 14.

(b) at the end, add the following paragraph —

“(2) For Category B premises, this regulation applies so that the space requirement must be met in relation to any additional rooms for individuals.”

Amendment of regulation 53 – additional requirements – outdoor space

12. In regulation 53, after “grounds”, insert “(or, in the case of Category B premises, any part of the external grounds developed in conjunction with the building of the extension)”.

Minor amendment to regulation 67

13. In regulation 67(4), for “regulation 34(2)” substitute “regulation 35(2)”.

Minor amendment to regulation 73

14. In regulation 73(2), for “any other regulated services” substitute “a domiciliary support service”.

Minor amendment to regulation 85

15. In regulation 85(4), in the list of regulations, for “33(1)” substitute “33(2)”.

Amendments to Schedule 2

16. In paragraph 5 of Schedule 2—

- (a) in subparagraph (a) omit “, injury or illness” and substitute “or injury”;
- (b) in subparagraph (f) omit “ulcers” and substitute “damage”.

Amendments to Schedule 3

17. In Schedule 3—

- (a) in paragraph 13, after “staff” add “and/or a volunteer”;
- (b) in paragraph 16, omit from “a category 3 or 4” to the end and substitute “category 3 or 4 pressure damage or unstageable pressure damage”;
- (c) in paragraph 17, for “, injury to or illness of” substitute “or injury to”;
- (d) in paragraph 30, for “Incident of child sexual exploitation or suspected child sexual exploitation” substitute “Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation”;
- (e) in paragraph 33, for “, injury to or illness of” substitute “or injury to”;
- (f) in paragraph 34 omit from “a category 3 or 4” to the end and substitute “category 3 or 4 pressure damage or unstageable pressure damage.”;
- (g) in each of paragraphs 42, 44 and 46, for “Any incident of child sexual exploitation or suspected child exploitation”, substitute “Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation”.

29 March 2019

Julie Morgan
Deputy Minister for Health and Social Services
under authority of the Minister for Health and
Social Services, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (“the 2017 Regulations”). The 2017 Regulations set out the regulatory requirements which apply to providers of certain services regulated under the Regulation and Inspection of Social Care (Wales) Act 2016. These are care home services, secure accommodation services, residential family centre services and domiciliary support services.

Regulation 3 amends the 2017 Regulations to identify the types of regulated services to which those Regulations apply. Regulation 4 makes a number of amendments to regulation 2 of the 2017 Regulations dealing with circumstances when a person is exempted from the requirement to register as the provider of a care home service. Some of these amendments are adjustments to avoid the exceptions in regulation 2(1)(e), (f) and (i) ceasing to apply if the children for whom care and accommodation are provided include a child who is disabled. In the case of a service providing accommodation and care to children for one of the purposes specified in regulation 2(1)(i) of the 2017 Regulations, the effect of the amendment is to exempt from the requirement to register services provided for up to 28 days wholly or mainly for disabled children where prior notification has been given to Welsh Ministers.

The amendment in regulation 4(c) creates a further exception to the definition of care home service in circumstances where care and accommodation are provided to children. The new exception will exempt a person who provides care and accommodation in their own home to a single child (or sibling group) for 28 days or fewer per year from being required to register.

Regulation 5 amends regulation 3 of the 2017 Regulations to stipulate that nursing care provided by a registered nurse does not come within the scope of activity of a domiciliary support service. It creates a separate exception for care and support services provided by a Local Health Board where this is related to a need for nursing care.

Regulation 8 adds a requirement to regulation 28 of the 2017 Regulations concerning a service provider’s policy and procedures for children’s savings.

Regulation 9 amends regulation 35 of the 2017 Regulations to postpone until 1 April 2020 the requirement that the manager of a regulated service must be registered with Social Care Wales in the case of managers of agencies which were registered as nurses agencies under Part 2 of the Care Standards Act 2000 prior to 2 April 2018 but were not also registered as domiciliary care agencies.

Regulations 10 to 12 make amendments to Part 13 of the 2017 Regulations which deals with the circumstances where additional requirements about the standard of premises apply to new services. The amendments clarify how the additional requirements apply in the case of extensions built on to existing premises of an accommodation-based service.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these regulations.