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WELSH STATUTORY INSTRUMENTS

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**2018 No. 195 (W. 44)**

**SOCIAL CARE, ENGLAND AND WALES**

**The Regulation and Inspection of Social Care (Wales)  
Act 2016 (Consequential Amendments) Regulations 2018**

*Made - - - - 15 February 2018*

*Coming into force in accordance with article 2*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 186 of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(1)</sup> and section 198 of the Social Services and Well-being (Wales) Act 2014<sup>(2)</sup>.

A draft of these Regulations was laid before the National Assembly for Wales under section 186(4) of the Regulation and Inspection of Social Care (Wales) Act 2016 and section 196(6) of the Social Services and Well-being (Wales) Act 2014 and has been approved by a resolution of the National Assembly for Wales.

**Title**

1. The title of these Regulations is the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018.

**Commencement**

2.—(1) These Regulations come into force on 2 April 2018 subject to paragraphs (2) to (4).

(2) Regulation 19 comes into force on the day on which section 14 of the Community Care (Delayed Discharges etc.) Act 2003<sup>(3)</sup> comes into force.

(3) Regulation 46 comes into force on the day on which paragraph 3 of Schedule 3 to the Immigration Act 2014<sup>(4)</sup> comes into force in relation to premises located in Wales.

(4) Regulation 56 comes into force on the day on which paragraph 4 of Schedule 2 to the Renting Homes (Wales) Act 2016<sup>(5)</sup> comes into force.

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(1) 2016 anaw 2.  
(2) 2014 anaw 4.  
(3) 2003 c. 5.  
(4) 2014 c. 22.  
(5) 2016 anaw 1.

*Coming into force in accordance with article 2***Mental Health Act 1983 (c. 20)**

3. The Mental Health Act 1983 is amended as follows.
4. In section 119(3)(6)—
  - (a) omit “or” at the end of paragraph (a);
  - (b) at the end of paragraph (b) insert “; or
  - “(c) premises at which—
    - (i) a care home service,
    - (ii) a secure accommodation service, or
    - (iii) a residential family centre service,
 within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided by a person registered under Part 1 of that Act.”
5. In section 120(9)(7)—
  - (a) omit “or” at the end of paragraph (a);
  - (b) at the end of paragraph (b) insert ““, or
  - (c) premises at which—
    - (i) a care home service,
    - (ii) a secure accommodation service, or
    - (iii) a residential family centre service,
 within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided by a person registered under Part 1 of that Act.”
6. In section 145(1)(8), for the definition of “care home” substitute—
 

““care home”—

  - (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 persons aged 18 or over;”.

**Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)**

- 7.—(1) Section 2(5)(9) of the Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.
  - (2) At the beginning of paragraph (d) insert “in England,”.
  - (3) After paragraph (d) insert—
    - “(da) in Wales, in premises at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided wholly or mainly to persons aged 18 or over, or”.

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(6) Section 119(3) was substituted by S.I. 2010/813, article 5(1) and (4)(b).

(7) Section 120 was substituted by the Health and Social Care Act 2008 (c. 14), section 52(5), Schedule 3, paragraphs 1 and 8.

(8) Definition of “care home” in section 145 was inserted by the Care Standards Act 2000 (c. 14), Schedule 4, paragraph 9(10)(a).

(9) In subsection (5), in paragraph (d) the words “a care home within the meaning of the Care Standards Act 2000” were inserted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 11.

## **Children Act 1989 (c. 41)**

**8.** The Children Act 1989 is amended as follows.

**9.** In section 22C(6)(c)(**10**), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

**10.** In section 59(1)(aa)(**11**), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

**11.** In section 63(12)(**12**)—

(a) for “without being treated” substitute “without being treated—  
(a)”;

(b) after “children’s home” insert “and,

(b) for the purposes of the Regulation and Inspection of Social Care (Wales) Act 2016, as providing a care home service within the meaning of Part 1 of that Act”.

**12.** In section 105(1)—

(a) for the definition of “care home”(13) substitute—

““care home”—

(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 persons aged 18 or over;”;

(b) for the definition of “children’s home”(14) substitute—

““children’s home”—

(a) has the same meaning as it has for the purposes of the Care Standards Act 2000 in respect of a children’s home in England (see section 1 of that Act); 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 children;”;

(c) in the definition of “private children’s home”(15), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

**13.** In Schedule 7 (effect of exceeding fostering limit)—

(a) at the beginning of paragraph 5(16) insert—

“(A1) This paragraph applies to a person fostering in England.”;

(b) after paragraph 5, insert—

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(10) Section 22C, together with sections 22A, 22B and 22D to 22F, were substituted for section 23 as originally enacted, by the Children and Young Persons Act 2008 (c. 23), section 8(1).

(11) Paragraph (aa) was inserted by the Care Standards Act 2000 section 116 and Schedule 4, paragraph 14 and was amended by the Children and Young Persons Act 2008, section 8(2) and Schedule 1, paragraph 2(1) and (2).

(12) In subsection (12), the words “, for the purposes of this Act and the Care Standards Act 2000,” were inserted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 14(1) and (11)(c).

(13) The definition of “care home” was inserted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 14(1) and (23)(a)(ii).

(14) The definition of “children’s home” was substituted by the Children and Young Persons Act 2008, section 8(2), Schedule 1, paragraph 3(1) and (3).

(15) The definition of “private children’s home” was inserted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 14(1) and (23)(a)(vii).

(16) (26). Paragraph 5(1) of Schedule 7 was amended by the Care Standards Act 2000, section 116, Schedule 4, paragraph 14(1) and (26).

- “**5A.**—(1) This paragraph applies to a person (P) fostering in Wales.
- (2) Sub-paragraph (3) applies where—
- (a) P exceeds the usual fostering limit and is not exempted under paragraph 4;
  - (b) P is exempted under paragraph 4 and exceeds the usual fostering limit by fostering a child not named in the exemption.
- (3) Where this paragraph applies, P is not to be treated as fostering and is to be treated for the purposes of the Regulation and Inspection of Social Care (Wales) Act 2016 as providing a care home service.
- (4) But sub-paragraph (3) does not apply if the children fostered are all siblings in respect of each other.”

**14.** In Schedule 8, in paragraph 9(1)(**17**), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

#### **National Health Service and Community Care Act 1990 (c. 19)**

**15.** In section 48(1A)(**18**) of the National Health Service and Community Care Act 1990, in paragraph (b) after “2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

#### **Water Industry Act 1991 (c. 56)**

- 16.**—(1) Schedule 4A(**19**) to the Water Industry Act 1991 is amended as follows.
- (2) In paragraph 8(2)(**20**)—
- (a) in paragraph (a), after “care home” insert “in England”;
  - (b) after paragraph (a), insert—
    - “(aa) premises 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 (anaw 2), is provided;”;
  - (c) in paragraph (d)(i) omit “; and”;
  - (d) omit paragraph (d)(ii).
- (3) In paragraph 9(**21**) after “children’s home” insert “in England”.

#### **Local Government Finance Act 1992 (c. 14)**

- 17.**—(1) In Schedule 1 to the Local Government Finance Act 1992, the definition of “care home” in paragraph 7(2)(**22**) is amended as follows.
- (2) In paragraph (a), after “care home” insert “in England”.
  - (3) After paragraph (a), insert—

(17) Paragraph 9(1) was amended by the Care Standards Act 2000, section 116, Schedule 4, paragraph 14(1) and (27)(b), and Children and Young Persons Act 2008 section 8(2), Schedule 1, paragraph 6.

(18) Subsection (1A) was inserted by S.I. 2010/813, article 8(b).

(19) Schedule 4A was inserted by the Water Industry Act 1999 (c. 9), section 1(2) and Schedule 1.

(20) Paragraph 8 was substituted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 18.

(21) Paragraph 9 was substituted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 18.

(22) Sub-paragraph (2) was substituted by the Care Standards Act 2000, section 116, Schedule 4, paragraph 20(c).

“(aa) a place in Wales at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care Act (Wales) 2016 (anaw 2), is provided wholly or mainly to adults; or”.

(4) At the end of the definition of “care home” insert as closing words—  
“and in paragraphs (aa) and (b) “adult” means a person aged 18 or over;”.

#### **Education Act 2002 (c. 32)**

18. In section 168(2) of the Education Act 2002, for paragraph (a) substitute—

- “(a) require the provision of such information as is required for the purposes of determining whether the school is—
- (i) a children’s home in England (within the meaning of the Care Standards Act 2000), or
  - (ii) a provider of a care home service (within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016);”.

#### **Community Care (Delayed Discharges etc.) Act 2003 (c. 5)**

19. In section 14(3) of the Community Care (Delayed Discharges etc.) Act 2003, for the definition of “care home” substitute—

““care home”—

- (a) has the same meaning as in the Care Standards Act 2000 (c. 14) 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 (anaw 2) is provided wholly or mainly to persons aged 18 or over; and”.

#### **Sexual Offences Act 2003 (c. 42)**

20. The Sexual Offences Act 2003 is amended as follows.

21. In section 21(4)(23), after paragraph (f) insert—

“(g) a place in Wales at which a care home service is provided.”.

22. In section 22(5)—

- (a) in the definition of “care home” after “establishment” insert “in England”;
- (b) in the appropriate place insert—  
““care home service” has the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);”;
- (c) in the definition of “children’s home” omit “and Wales”;
- (d) in the definition of “community home” after “has” insert “, in relation to England”;
- (e) in the definition of “voluntary home”, omit “and Wales”.

23. In section 42—

- (a) in subsection (2)(a) for “or children’s home” substitute “, children’s home, or premises in Wales at which a secure accommodation service is provided”;

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(23) Section 21 was amended by the Children and Young Persons Act 2008, Schedule 1, paragraph 15 and by S.I. 2008/1779. There are other amendments which are not relevant.

- (b) in subsection (2)(b)—
  - (i) omit “in the home”;
  - (ii) after “of employment” insert “in the home or the premises”;
- (c) in subsection (5)—
  - (i) for the definition of “care home” substitute—
    - ““care home” means—
      - (a) an establishment in England which is a care home for the purposes of the Care Standards Act 2000 (c. 14); and
      - (b) 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 persons aged 18 or over;”;
    - (ii) for the definition of “children’s home”, substitute—
      - ““children’s home”—
        - (a) has the meaning given by section 1 of the Care Standards Act 2000 in relation to a children’s 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 persons under the age of 18;”;
    - (iii) in the appropriate place insert—
      - ““secure accommodation service” has the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;”.

#### **Criminal Justice Act 2003 (c. 44)**

- 24.**—(1) Section 207 of the Criminal Justice Act 2003 is amended as follows.
- (2) In subsection (2)(a)(**24**) omit “within the meaning of the Care Standards Act 2000 (c. 14)”.
  - (3) After subsection (4A)(**25**) insert—
    - “(4B) In subsection (2), “care home” means—
      - (a) a care home in England within the meaning of the Care Standards Act 2000 (c. 14);
      - (b) 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 (anaw 2) is provided.”

#### **Age-Related Payments Act 2004 (c. 10)**

- 25.**—(1) Section 8(1) of the Age-Related Payments Act 2004 is amended as follows.
- (2) In the definition of “care home”—
    - (a) in paragraph (a)—
      - (i) omit “and Wales”;
      - (ii) after “Care Standards Act 2000 (c. 14),” omit “and”;
    - (b) after paragraph (a) insert—

(24) Subsection (2)(a) was amended by the Health and Social Care Act 2008 (Consequential Amendments No. 2) Order 2010/813, article 14(a)(i).

(25) Subsection (4A) was inserted by S.I. 2010/813, article 14(b).

“(aa) in relation to Wales, means a place at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided wholly or mainly to persons aged 18 or over, and”.

### **Income Tax (Trading and Other Income) Act 2005 (c. 5)**

**26.** In section 726 of the Income Tax (Trading and Other Income) Act 2005, for subsection (2A)(26) substitute—

“(2A) A person meets the care registration requirement in relation to care provided in Wales if the person is registered under—

- (a) Part 2 of the Care Standards Act 2000, or
- (b) Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), in respect of the provision of the care.”

### **Mental Capacity Act 2005 (c. 9)**

**27.** The Mental Capacity Act 2005 is amended as follows.

**28.** In section 35(6)(b)(iii)(27), for “or Chapter 2 of Part 1 of the Health and Social Care Act 2008” substitute “, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

**29.** In section 38, for subsection (6) substitute—

“(6) “Care home” means—

- (a) a care home in England within the meaning given in section 3 of the Care Standards Act 2000 (c. 14), and
- (b) 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 persons aged 18 or over.”

**30.** In section 49(7)(c)(28), for “or Chapter 2 of Part 1 of the Health and Social Care Act 2008” substitute “, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

**31.** In section 58(5)(c)(29), for “or Chapter 2 of Part 1 of the Health and Social Care Act 2008” substitute “, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

**32.** In section 61(5)(c)(30), for “or Chapter 2 of Part 1 of the Health and Social Care Act 2008” substitute “, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

**33.** In Schedule A1(31)—

- (a) in paragraph 131(c)(32), for “or Chapter 2 of Part 1 of the Health and Social Care Act 2008” substitute “, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”;

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(26) Subsection (2A) was inserted by S.I. 2010/813, article 16.

(27) Section 35(6)(b)(iii) was amended by S.I. 2010/813, article 17(1) and (2).

(28) Section 49(7)(c) was amended by S.I. 2010/813, article 17(1) and (4).

(29) Section 58(5)(c) was amended by S.I. 2010/813, article 17(1) and (5).

(30) Section 61(5)(c) was amended by S.I. 2010/813, article 17(1) and (6).

(31) Schedule A1 was inserted by section 50(5) and Schedule 7 of the Mental Health Act 2007 (c. 12).

(32) Paragraph 131(c) of Schedule A1 was amended by S.I. 2010/813, article 17(1) and (7)(a).

- (b) for paragraph 178 substitute—
- “178. “Care home” means—
- (a) a care home in England within the meaning given by section 3 of the Care Standards Act 2000, and
- (b) 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 persons aged 18 or over.”;
- (c) in paragraph 179(b)(33), for “Part 2 of the Care Standards Act 2000 in respect of the care home” substitute “under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 in respect of the care home”.

### **Safeguarding Vulnerable Groups Act 2006 (c. 47)**

34. The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
35. In section 45(7)—
- (a) after paragraph (c) insert—
- “(ca) the Welsh Ministers in respect of their functions under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);”;
- (b) for paragraph (e)(34) substitute—
- “(e) the Welsh Ministers in respect of their functions under Chapter 4 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 and Part 8 of the Social Services and Well-being (Wales) Act 2014 (anaw 4);”.
36. In Part 1 of Schedule 4, in paragraph 1—
- (a) in sub-paragraph (11)(a)(35), after “agency” insert “, service provider”;
- (b) in sub-paragraph (12)—
- (i) in the opening line, after “agency” insert “, service provider”;
- (ii) at the end of paragraph (b) omit “or”;
- (iii) after paragraph (b) insert—
- “(ba) a service provider within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;”.
37. In Part 1 of Schedule 4, in paragraph 3(1)—
- (a) after paragraph (d) insert—
- “(da) premises in Wales at which a secure accommodation service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided;”;
- (b) in paragraph (e), after “children’s home” insert “in England”;
- (c) after paragraph (e) insert—
- “(ea) premises 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 children;”.

(33) Paragraph 179 of Schedule A1 was substituted by S.I. 2010/813, article 17(7)(b)(iii).

(34) Paragraph (e) was amended by S.I. 2009/2610, articles 1(1) and 30(b) and Health and Social Care Act 2008 (c. 14), section 95, Schedule 5, paragraph 91(c).

(35) Sub-paragraph (11) was substituted by S.I. 2010/1154, articles 2 and 3(1) and (4).



**38.** In Part 2 of Schedule 4, in paragraph 7(7)(36), after paragraph (d) insert—

“(da) a service provider within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

#### **Commissioner for Older People (Wales) Act 2006 (c. 30)**

**39.**—(1) Section 26 of the Commissioner for Older People (Wales) Act 2006 is amended as follows.

(2) For subsection (2) substitute—

“(2) “Regulated services in Wales” means—

- (a) regulated services within the meaning of section 2 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);
- (b) services provided in Wales by an establishment or agency required to register under Part 2 of the Care Standards Act 2000 (c. 14) to provide the service.”

(3) Omit subsections (3) and (4).

#### **Criminal Justice and Immigration Act 2008 (c. 4)**

**40.** In Schedule 1 to the Criminal Justice and Immigration Act 2008, in paragraph 20(2), for paragraph (a)(37) substitute—

“(a) treatment as a resident patient in—

- (i) a care home in England within the meaning of the Care Standards Act 2000 (c. 14),
- (ii) 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 (anaw 2)) is provided,
- (iii) an independent hospital, or
- (iv) a hospital within the meaning of the Mental Health Act 1983 (c. 20), but not in hospital premises where high security psychiatric services within the meaning of that Act are provided.”

#### **Health and Social Care Act 2008 (c. 14)**

**41.**—(1) Section 17(3) of the Health and Social Care Act 2008 is amended as follows.

(2) At the end of paragraph (c) omit “and”.

(3) After paragraph (c) insert—

“(ca) an offence under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) or specified in regulations made under section 45 or 46 of that Act, and”.

#### **Learner Travel (Wales) Measure 2008 (nawm 2)**

**42.** In section 19(7) of the Learner Travel (Wales) Measure 2008, for paragraph (a) substitute—

“(a) “children’s home” means premises at which—

- (i) a care home service is provided wholly or mainly to children or young persons;
- or

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(36) Paragraph 7 of Schedule 4 was amended by S.I. 2010/1154, articles 6 and 7(1) and (3).

(37) Paragraph 20(2)(a) of Schedule 1 was amended by S.I. 2010/813, article 20(a)(i) and (ii).

- (ii) a secure accommodation service is provided;
- and in this paragraph “care home service” and “secure accommodation service” have the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);”.

### **Welsh Language (Wales) Measure 2011 (nawm 1)**

**43.** In Schedule 6 to the Welsh Language (Wales) Measure 2011, in Column 1, for “The Care Council for Wales (“*Cyngor Gofal Cymru*”)” substitute “Social Care Wales (“*Gofal Cymdeithasol Cymru*”)”.

### **Domestic Fire Safety (Wales) Measure 2011 (nawm 3)**

**44.**—(1) Section 6 of the Domestic Fire Safety (Wales) Measure 2011 is amended as follows.

(2) In subsection (1), in the definition of “residence”—

(a) for paragraph (c) substitute—

“(c) place in Wales at which a care home service within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to persons aged 18 or over;”;

(b) in paragraph (e), in sub-paragraph (vi) omit “or”;

(c) after paragraph (e) insert—

“(ea) premises at which a secure accommodation service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided, or;”;

(d) for paragraph (f)(38), substitute—

“(f) place 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 children, but not—

(i) an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992;

(ii) a place at which accommodation is provided for the purposes of—

(aa) a holiday;

(bb) a leisure, recreational, sporting, cultural or educational activity;

unless a child is accommodated there for more than 28 days in any 12 month period; and”.

(3) After subsection (1) insert—

“(1A) In subsection (1), “child” means a person under the age of 18.”

### **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**

**45.** In section 102 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, for subsection (11) substitute—

“(11) In this Chapter “secure children’s home” means—

(a) accommodation which is provided in a children’s home in England, within the meaning of the Care Standards Act 2000—

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(38) Paragraph (f) was inserted by S.I. 2013/2723, article 2(1) and (3)(b).

- (i) which provides accommodation for the purposes of restricting liberty, and
- (ii) in respect of which a person is registered under Part 2 of that Act;
- (b) accommodation in Wales in respect of which a person is registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) to provide a secure accommodation service within the meaning of Part 1 of that Act.”

**Immigration Act 2014 (c. 22)**

- 46.** In Schedule 3 to the Immigration Act 2014, paragraph 3(2) is amended as follows—
- (a) in paragraph (a)—
    - (i) omit “in relation to England and Wales”;
    - (ii) after “an establishment” insert “in England”;
  - (b) after paragraph (a) insert—
    - “(aa) premises 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 (anaw 2) is provided wholly or mainly to persons aged 18 or over;”.

**Care Act 2014 (c. 23)**

- 47.** The Care Act 2014 is amended as follows.
- 48.** For section 8(3) substitute—
- “(3) “Care home”—
    - (a) has the meaning given by section 3 of 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 016 (anaw 2) is provided wholly or mainly to persons aged 18 or over.”
- 49.** In section 50—
- (a) in subsection (1)—
    - (i) in the opening words of the subsection, after “establishment or agency” insert “or registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 in respect of a regulated service”;
    - (ii) in paragraph (a), after “agency” insert “or regulated service”;
  - (b) in subsection (2)—
    - (i) in the opening words of the subsection, after “establishment or agency” insert “or registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 in respect of a regulated service”;
    - (ii) in paragraph (a), after “agency” insert “or regulated service”;
  - (c) after subsection (7) insert—
    - “(8) In this section “regulated service” has the meaning given by section 2 of the Regulation and Inspection of Social Care (Wales) Act 2016.”
- 50.** In section 67(9)(c), for “or Chapter 2 of Part 1 of the Health and Social Care Act 2008” substitute “, Chapter 2 of Part 1 of the Health and Social Care Act 2008 or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

**51.** In section 73(1)(b), after “Care Standards Act 2000” insert “or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

#### **Social Services and Well-being (Wales) Act 2014 (anaw 4)**

**52.** In section 86(39) of the Social Services and Well-being (Wales) Act 2014, and in the heading of that section, omit “children’s”.

#### **Housing (Wales) Act 2014 (anaw 7)**

**53.** In section 70(3) of the Housing (Wales) Act 2014, 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 (anaw 2) is provided;”.

#### **Criminal Justice and Courts Act 2015 (c. 2)**

**54.**—(1) Schedule 4 to the Criminal Justice and Courts Act 2015 is amended as follows.

(2) In paragraph 1(1), after paragraph (c) insert—

- “(ca) health care provided at a place in respect of which a person is registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 to provide—
  - (i) a care home service wholly or mainly to children, or
  - (ii) a residential family centre service;”.

(3) In paragraph 4, at the appropriate place insert—

““care home service” has the meaning given in paragraph 1 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016;” and

““residential family centre service” has the meaning given in paragraph 3 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016.”

#### **Counter-Terrorism and Security Act 2015 (c. 6)**

**55.**—(1) Part 1 of Schedule 7 to the Counter-Terrorism and Security Act 2015 is amended as follows.

(2) Under the heading “Education, child care etc.”, after “Registered Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394).” insert—

“A person registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) in respect of—

- (a) a care home service provided wholly or mainly to persons under the age of 18, or
- (b) a residential family centre service,

each of which have the same meaning as in Schedule 1 to that Act.”

### **Renting Homes (Wales) Act 2016 (anaw 1)**

56. In Part 2 of Schedule 2 to the Renting Homes (Wales) Act 2016, for paragraph 4(b) and (c) substitute—

- “(b) an independent hospital within the meaning of the Care Standards Act 2000 (c. 14) (see section 2 of that Act),
- (c) a place at which a care home service within the meaning of paragraph 1 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided wholly or mainly to persons aged 18 or over,
- (d) a place at which a residential family centre service within the meaning of paragraph 3 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 is provided, or
- (e) a place in respect of which a person is registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 to provide—
  - (i) a secure accommodation service within the meaning of paragraph 2 of Schedule 1 to that Act, or
  - (ii) a care home service within the meaning of paragraph 1 of Schedule 1 to that Act to persons wholly or mainly under the age of 18.”

### **Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)**

57. The Regulation and Inspection of Social Care (Wales) Act 2016 is amended as follows.

58. In Schedule 1—

- (a) in paragraph 1(4), after “care home service” insert “unless paragraph 5A of Schedule 7 to the Children Act 1989 applies (fostering treated as care home service where fostering limit exceeded)”;
- (b) in paragraph 4(a) after “that Act” insert—

“(but see section 2(4) of the Adoption and Children Act 2002 (c. 38) (no application for registration to be made under Part 1 of this Act if an adoption society is an unincorporated body))”.

59. In Part 1 of Schedule 3, for paragraph 36 substitute—

“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 Inspection of Social Care

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

*Huw Irranca-Davies*

Minister for Children and Social Care, under  
authority of the Cabinet Secretary for Health and  
Social Services, one of the Welsh Ministers

15 February 2018

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 186 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) which enables Welsh Ministers to make consequential amendments to primary legislation where it is appropriate for the purposes of the Act.

The Regulations deal with consequential amendments to primary legislation arising from the commencement of the provisions in Part 1 of the Act which relate to the regulation of care homes, secure accommodation services, residential family centre services and domiciliary support services in Wales. These are examples of what the Act refers to as “regulated services”.

All these are services which have been regulated under Part 2 of the Care Standards Act 2000 (“the 2000 Act”). Many of the amendments therefore replace references to one of the sorts of establishment or agency which were regulated under the 2000 Act and replace them with references to the appropriate sort of “regulated service” under the Act.

The Regulations also contain one amendment which is made under section 198 of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”). Regulation 52 amends section 86 of the 2014 Act to remove wording which implies that accommodation provided, equipped or maintained by the Welsh Ministers for looked after children need necessarily be a children’s home.

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.