
WELSH STATUTORY INSTRUMENTS

2024 No. 407 (W. 73)

SOCIAL CARE, WALES

The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2024

Made - - - - 20 March 2024

Coming into force - - 31 March 2024

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 2(3), 27(1) and 187(1)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”)(1).

The Welsh Ministers have consulted such persons as they think appropriate as required by sections 2(4) and 27(4)(a) of the Act and have published a statement about the consultation as required by section 27(4)(b) of the Act. The Welsh Ministers have laid a copy of the statement before Senedd Cymru as required by section 27(5) of the Act.

A draft of these Regulations was laid before Senedd Cymru under section 187(2)(b) and (f) of the Act and has been approved by a resolution of Senedd Cymru(2).

Title, coming into force and interpretation

1.—(1) The title of these Regulations is the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2024.

(2) These Regulations come into force on 31 March 2024.

(3) In these Regulations—

“the Act” (*“y Ddeddf”*) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the Regulated Services Regulations” (*“y Rheoliadau Gwasanaethau Rheoleiddiedig”*) means the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017(3).

Amendments to the Regulated Services Regulations

2. The Regulated Services Regulations are amended in accordance with regulations 3 to 8.

(1) 2016 anaw 2; see the definition of “prescribed” in section 189 of the Act.

(2) The references in sections 27(5) and 187(2) of the Act to the National Assembly for Wales now have effect as references to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(3) S.I. 2017/1264 (W. 295); relevant amending instruments are S.I. 2019/757 (W. 142), S.I. 2020/389 (W. 87), S.I. 2020/570 (W. 131) (revoked), S.I. 2022/32 (W. 184) and S.I. 2022/1074 (W. 226).

Local authority intermediate care service: exception from scope of care home services

3. In regulation 2(1) (care home services)—
- (a) at the end of sub-paragraph (j), for the full-stop substitute “;”;
 - (b) after sub-paragraph (j) insert—
 - “(l) the provision of accommodation, together with nursing or care, to adults in a local authority intermediate care service.

But this exception does not apply unless—

 - (i) the local authority is solely responsible for providing the intermediate care, and
 - (ii) the intermediate care is provided for no more than sixteen weeks at a time to any one adult.”;
4. In regulation 2 (care home services), after paragraph (4) insert—
- “(5) For the purposes of paragraph (1)(l) of this regulation—
- “intermediate care” (*“gofal canolraddol”*) means the provision of accommodation, together with nursing or care, to an adult for a limited period for the purpose of promoting the adult’s ability to live independently in their own home by—
- (a) avoiding unnecessary admission to hospital,
 - (b) minimising the duration of any admission to hospital by enabling timely discharge,
 - (c) enabling recovery following discharge from hospital, or
 - (d) preventing or delaying admission to a care home service;
- “local authority intermediate care service” (*“gwasanaeth gofal canolraddol awdurdod lleol”*) means a service providing intermediate care—
- (a) which is provided by a local authority to an adult in accordance with its duties in Part 2 or 4 of the 2014 Act⁽⁴⁾,
 - (b) where the accommodation used for the purposes of the intermediate care is vested in the local authority, and
 - (c) where any care and support is provided by a domiciliary support service the local authority is registered to provide.”

Amendment of regulation 49

5. In regulation 49 (application of Part 13), for paragraph (1) substitute—
- “(1) This Part applies to service providers who are registered to provide an accommodation-based service where—
- (a) (i) the service involves the provision of accommodation to five or more individuals, and
 - (ii) the premises used for the provision of the service fall within one of the categories in paragraph (2), or
 - (b) the service providers are persons to whom regulation 49A(1) or regulation 49B(1) applies.”
6. After regulation 49 (application of Part 13) insert—

(4) 2014 anaw 4.

“Reconfiguration of premises

49A.—(1) This regulation applies to a service provider—

- (a) who is registered to provide an accommodation-based service at a place specified as a condition to the service provider’s registration, and
- (b) to whom Part 13 did not apply in relation to that place during a period when the service involved the provision of accommodation to four or fewer individuals.

(2) Subject to paragraph (3), where a service provider to whom this regulation applies has been granted a variation to their conditions of registration on or after 31 March 2024 as a result of the reconfiguration of premises used in relation to the place, and the effect of the variation is that accommodation can be provided at that place to five or more individuals, the service provider must comply with the requirements of regulations 50 to 54 in respect of that place.

(3) The requirement to comply with regulations 50 and 51 in relation to that place only applies to any additional bedrooms for individuals.

(4) In this regulation and regulation 49B—

“reconfiguration of premises” (“*ailgyflunio mangre*”) means rearranging or altering the existing physical layout of the premises to increase the number of individuals who can be accommodated at the service.

49B.—(1) This regulation applies to a service provider—

- (a) who is registered to provide an accommodation-based service at a place specified as a condition to the service provider’s registration, and
- (b) to whom Part 13 did not apply in relation to that place during a period when the premises used by the service did not fall within Category A, B or C and involved the provision of accommodation to five or more individuals.

(2) Subject to paragraph (3), where a service provider to whom this regulation applies has been granted a variation to their conditions of registration on or after 31 March 2024 as a result of the reconfiguration of premises used in relation to the place, and the effect of the variation is that the number of individuals for which accommodation can be provided at that place is increased, the service provider must comply with the requirements of regulations 50 to 54 in respect of that place.

(3) The requirement to comply with regulations 50 and 51 in relation to that place only applies to any additional bedrooms for individuals.”

Miscellaneous amendments

7. In regulation 16(2) (review of personal plan), for “looked after child” substitute “child who is looked after by a local authority”.

8. In regulation 51(2) (additional requirements – room sizes), after “basis” insert a full-stop and omit “because of the nature of their disability.”

Transitional provision

9. Regulation 49 of the Regulated Services Regulations continues to have effect without the amendments made by regulation 6 in relation to a place at which an accommodation-based service is provided and which is the subject of an application for variation of registration by the service provider under section 11 of the Act where the application was made to the Welsh Ministers on or before 30 March 2024 but—

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- (a) has not been determined by the Welsh Ministers by that date, or
- (b) has been determined by the Welsh Ministers but is the subject of an appeal by the service provider under section 26 of the Act and the appeal has not been determined by that date.

20 March 2024

Julie Morgan
Deputy Minister for 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 are made under powers given to the Welsh Ministers by the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) (“the Act”).

Part 1 of the Act sets out the social care services to which the Act applies, and defines them as “regulated services”. The types of “regulated services” set out in the Act include “care home services”. Section 2(3) gives the Welsh Ministers the power to prescribe in regulations that particular services are not “regulated services”.

Section 27 of the Act gives the Welsh Ministers the power to impose, in regulations, requirements on providers of regulated services in relation to the services they provide. The Welsh Ministers have exercised this power to make the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (S.I. 2017/1264 (W. 295)) (“the Regulated Services Regulations”).

These Regulations provide that a local authority intermediate care service is not a “care home service” under the Act. These Regulations also change the extent to which Part 13 of the Regulated Services Regulations applies to accommodation-based services and make various other amendments to the Regulated Services Regulations.

The purpose of intermediate care is to avoid unnecessary or premature admission of an adult to hospital or a care home service, and to enable an adult’s timely discharge from hospital. A local authority intermediate care service is provided to adults in accommodation vested in the local authority, where the care and support is provided by a regulated local authority domiciliary support service.

Regulations 3 and 4 are made under section 2(3) of the Act and amends regulation 2 of the Regulated Services Regulations (care home services). The effect of the amendment is that the provision of accommodation together with nursing or care, where the accommodation and nursing or care are provided to adults for the purposes of a local authority intermediate care service, does not constitute a “care home service” under the Act.

This exception only applies where the local authority is responsible for providing intermediate care, and the care is provided to each adult for a maximum of 16 weeks at a time.

Part 13 of the Regulated Services Regulations deals with the circumstances where additional requirements about the standard of premises apply to new accommodation-based services. Part 13 does not apply to services accommodating four or fewer individuals. Regulations 5 and 6 change the extent to which the Part 13 requirements apply to registered accommodation-based services that reconfigure their premises in order to accommodate five or more individuals.

Accommodation-based services which were previously exempt from the requirements of Part 13 because they provided accommodation to fewer than five individuals, or because they provided accommodation to more than five individuals in non-Category A, B or C premises will be required to comply with the requirements of Part 13 if reconfiguration of the premises results in an increased capacity of five or more individuals at the service. The Part 13 requirements will apply to any additional bedrooms created because of the reconfiguration and to all communal and outdoor areas. The increased capacity at the service will be reflected in a variation of the conditions of registration for the service.

Regulations 7 and 8 make minor, miscellaneous amendments.

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Regulation 9 makes transitional arrangements in respect of the amendment made by regulation 6.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, CF10 3NQ and is published on www.gov.wales.