

Explanatory Memorandum to the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2018

This Explanatory Memorandum has been prepared by the Welsh Government's Health and Social Services department and is laid before the National Assembly for Wales in conjunction with the above Regulations and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2018.

Huw Irranca-Davies
Minister for Children and Social Care
19 January 2018

1. Description

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) reforms the regulation and inspection regime for social care in Wales, replacing that established under the Care Standards Act 2000 (“the 2000 Act”).

The 2016 Act provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It also enables the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, the publication of guidance and the issuing of codes of practice.

This Explanatory Memorandum relates to the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2018.

These Regulations make amendments to secondary legislation consequential upon the commencement of provisions within Part 1 of the 2016 Act, on 2 April 2018, through the Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 5, Savings, Transitory and Transitional Provisions) Order 2017¹.

These Regulations also revoke Wales-only secondary legislation made under certain provisions of the 2000 Act which will be repealed as a consequence of this commencement.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

No specific matters identified.

3. Legislative background

These Regulations are made under section 186 of the 2016 Act and are subject to the National Assembly for Wales’ Negative procedure, as described within Standing Order 27.2. They will come into force on 2 April 2018.

4. Purpose & intended effect of the legislation

The amendments to secondary legislation contained within Regulation 2 and Schedule 1 of these Regulations are necessary to provide clarity, to update and to ensure consistency of the law. Principally, they amend or replace terminology or specific provisions within existing Regulations and Orders to reflect the wording used within, and the requirements of, Part 1 of the 2016 Act.

¹ <http://www.legislation.gov.uk/wsi/2017/1326/contents/made>

In many cases they remove, for example, references to care homes regulated under Part 2 of the Care Standards Act 2000 and replace them with appropriate references to care home services regulated under Part 1 of the 2016 Act. There is a need for similar amendments to cover domiciliary support services, secure accommodation services and residential family centres.

The revocation of statutory instruments listed within Schedule 2 of these Regulations is necessary as their enabling provisions within the 2000 Act will be repealed on commencement of provisions within Part 1 of the 2016 Act, on 2 April 2018. In practical terms, the regulations listed will be replaced by new regulations in respect of care homes (including children's homes); secure accommodation; residential family centres and domiciliary support services made under the 2016 Act, namely the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017² which will come into force on 2 April 2018.

5. Consultation

No formal consultation has taken place as these Regulations make only consequential technical amendments.

6. Regulatory Impact Assessment (RIA)

A regulatory impact assessment has not been prepared in respect of these consequential amendment regulations as they simply make amendments to statute and do not impose or reduce costs for businesses, charities or voluntary bodies or the public sector.

² <http://www.legislation.gov.uk/wsi/2017/1264/contents/made>