

Explanatory Memorandum to The Social Services and Well-being (Wales) Act 2014 (Isles of Scilly Modification) Regulations 2018

This Explanatory Memorandum has been prepared by the Health and Social Services Group of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation 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 Social Services and Well-being (Wales) Act 2014 (Isles of Scilly Modification) Regulations 2018.

Huw Irranca-Davies
3 December 2018

1. Description

The Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”) brings together local authorities’ duties and functions in relation to improving the well-being of people who need care and support, and carers who need support in Wales.

This Explanatory Memorandum relates to The Social Services and Well-being (Wales) Act 2014 (Isles of Scilly Modification) Regulations 2018 (“the 2018 Regulations”).

The 2018 Regulations will make a modification to the 2014 Act, so that the Council of the Isles of Scilly is treated as a local authority in England for the purposes of the Act.

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

No specific matters identified.

3. Legislative background

The powers enabling the 2018 Regulations to be made are contained within section 197(7) of the 2014 Act and are subject to the National Assembly for Wales’ negative resolution procedure.

The 2018 Regulations have the effect of re-instating the position under both The Isles of Scilly (Children Act 1989) Order 2010 – which modified The Children Act 1989, in relation to children’s social services – and The Isles of Scilly (Local Authority Social Services) Order 1980 – which modified The National Assistance Act 1948, in relation to adults’ social services – that the Council of the Isles of Scilly should be treated as a local authority in England and Wales for the purposes of The Children Act 1989 and The Local Authority Social Services Act 1970.

These provisions were repealed when the 2014 Act came into force on 6 April 2016 and the 2018 Regulations now reinstate the former position.

The 2018 Regulations carry a coming into force date of 4 February 2019.

4. Purpose and intended effect of the legislation

The 2018 Regulations are being made to re-instate the pre-6 April 2016 position that the Council of the Isles of Scilly should be treated as a local authority in England for the purposes of the following provisions of the 2014 Act:

Looked after and accommodated children provisions

Section 21 – Duty to assess the needs of the child for care and support
Section 37 – Duty to meet care and support needs of a child
Section 38 – Power to meet care and support needs of a child
Section 76 – Accommodation for children without parents or who are lost or abandoned
Section 77 – Accommodation for children in police protection or detention or remand etc.
Section 104 – Young people entitled to support under sections 105 – 115
Section 119 – Use of accommodation for restricting liberty
Section 120 – Assessment of children accommodated by health authorities and education authorities and education authorities
Section 121- Assessment of children in accommodated care homes and independent hospitals
Section 186 – Children in youth detention accommodation, prison or bail accommodation etc.

Duty to share information and recovery of expenses provisions

Section 95 – Promotion and maintenance of contact between child and family
Section 118 – Information
Section 128 – Duty to report adults at risk
Section 130 – Duty to report children at risk
Section 164A – Duty of other persons to co-operate and provide information
Section 193 – Recovery of costs between local authorities
Schedule 1 – Contributions towards maintenance of looked after children, para 4 Enforcement of contributions orders etc.

5. Consultation

No formal consultation has taken place as the 2018 Regulations only serve to restore the pre-6 April 2016 position in respect of these matters.

6. Regulatory Impact Assessment

A regulatory impact assessment has not been prepared in respect of these Regulations as they only serve to reinstate the pre-6 April 2016 position. This will not impose additional costs, or reduce costs, for businesses, charities or voluntary bodies or the public sector.