

Draft Regulations laid before the National Assembly for Wales under section 196(6) of the Social Service and Well-being Act 2014, for approval by resolution of the National Assembly for Wales.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2015 No. (W.)

SOCIAL CARE, WALES

**The Social Services and Well-being
(Wales) Act 2014 (Social
Enterprise, Co-operative and Third
Sector) (Wales) Regulations 2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 16 of the Social Services and Well-being (Wales) Act 2014 (“the Act”) imposes a duty on local authorities to promote social enterprises, co-operative organisations and third sector organisations to provide care and support and preventative services in their area.

These Regulations specify which organisations are considered social enterprises, co-operative organisations and third sector organisations. These Regulations also makes provision as to what constitutes activity which benefits society, is inclusive, involves people and promotes well-being.

Regulation 3 makes provision on what constitutes an activity that benefits society. Regulation 4 defines what is meant by inclusive. Regulation 5 defines what is meant by involving people. Regulation 6 defines what is meant by promoting well-being by referring to the definition in section 5 of the Act.

Regulation 7 lists which organisations constitute a social enterprise. Regulation 8 defines what organisations can be considered by the local authority as co-operatives for the purposes of these Regulations. Regulation 9 lists organisations that are to be considered third sector organisations under these Regulations.

Regulation 10 defines what constitutes a section of society.

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(Wales) Act 2014 (Social
Enterprise, Co-operative and Third
Sector) (Wales) Regulations 2015

Laid before the National Assembly for Wales

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred on them by section 16 of the Social Services and Well-being (Wales) Act 2014(1), make the following regulations.

In accordance with section 196(6) of that Act, a draft is laid of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is The Social Services and Well-being (Wales) Act 2014 (Social Enterprise, Co-operative and Third Sector) (Wales) Regulations 2015.

(2) These Regulations come into force on xxxx and apply in relation to Wales.

Interpretation

2. In these Regulations—

(1) 2014 anaw 4.

“the Act” means the Social Services and Well-being (Wales) Act 2014;

“local authority” means a local authority exercising functions under section 16 of the Act.

Activities that benefit society

3. For the purposes of these Regulations and for the purposes of section 16 of the Act an activity is only to be considered as an activity which a person might reasonably consider to be an activity carried on for the benefit of society if—

- (a) it is inclusive (as defined in Regulation 4);
- (b) it involves people (as defined in Regulation 5); and
- (c) it promotes well-being (as defined in Regulation 6).

Inclusive

4. An activity is inclusive if the organisation that carries out the activity has, in relation to that activity had regard to the factors a public authority must have regard to in complying with the public sector equality duty set out in section 149 of the Equality Act 2010⁽¹⁾.

Involving People

5. An activity involves people if the local authority is satisfied that the organisation providing the activity promotes the involvement of persons for whom care and support or preventative services are to be provided in the design and operation of that provision.

Promoting Well-being

6. An activity promotes well-being if the local authority is satisfied that the organisation providing the activity has had due regard to the well-being duty under section 5 of the Act in the design and operation of the activity.

Social Enterprise

7.—(1) For the purposes of these Regulations and for the purposes of section 16 of the Act an organisation is a social enterprise if the local authority is satisfied that the organisation is any of the following—

- (a) a community interest company under section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004⁽²⁾;

(1) 2010 c. 15.
(2) 2004 c. 27.

- (b) a community benefit society under section 257JB of the Income Tax Act 2007⁽¹⁾;
 - (c) a registered charity under section 30 of the Charities Act 2011⁽²⁾;
 - (d) a community enterprise;
 - (e) a credit union which is registered and regulated under the Credit Unions Act 1979⁽³⁾, the Friendly and Industrial Provident Societies Act 1968⁽⁴⁾ or the Industrial and Provident Societies Acts 1965⁽⁵⁾ and 1967⁽⁶⁾;
 - (f) a housing association (under section 230 of the Housing Act 1996⁽⁷⁾).
- (2) In regulation 10(1)(e) above a “community enterprise” means a body which—
- (a) in the opinion of the authority contributes or will contribute to the economic and social development of a particular area of Wales; and
 - (b) by its written constitution admits to membership only—
 - (i) persons resident in, or employed in, that area (or both so resident and so employed); or
 - (ii) persons nominated by such persons as are mentioned in sub-paragraph (i) above.

Co-operatives

- 8.**—(1) For the purposes of these Regulations and for the purposes of section 16 of the Act an organisation is a co-operative if the local authority is satisfied that the organisation—
- (a) is an autonomous and unincorporated organisation made up of individuals whose participation is voluntary;
 - (b) is established for the purpose of achieving common—
 - (i) economic needs and aims;
 - (ii) social needs and aims; or
 - (iii) cultural needs and aims; and
 - (c) is jointly owned by the participants in the organisation.

(1) 2007 c. 3.
 (2) 2011 c. 25.
 (3) 1979 c. 34.
 (4) 1968 c. 55.
 (5) 1965 c. 12.
 (6) 1967 c. 48.
 (7) 1996 c. 52.

Third sector organisation

9. For the purposes of these Regulations and for the purposes of section 16 of the Act an organisation is a third sector organisation if the local authority is satisfied that it—

- (a) is an unincorporated organisation which exists wholly or mainly to provide benefits for society;
- (b) is a registered charity under section 30 of the Charities Act 2011;
- (c) is a community interest company under section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004; or
- (d) is an industrial and provident society under the Friendly and Industrial and Provident Societies Act 1968, Industrial and Provident Societies Acts 1965 and 1967.

Section of society

10. For the purposes of these Regulations and for the purposes of section 16 of the Act a section of society may be made up of—

- (a) those persons who need or may need care and support;
- (b) carers who need or may need support; or
- (c) children, care leavers and young persons in relation to whom a local authority have functions exercisable under Part 6 of the Act.

Mark Drakeford

Minister for Health and Social Services, one of the
Welsh Ministers

Date