

Draft Regulations laid before the National Assembly for Wales under section 187(2)(e) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2017 No. (W.)

SOCIAL CARE, WALES

**The Regulated Services
(Registration) (Wales) Regulations
2017**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and apply in relation to Wales.

Section 2 of the Act defines key terms including what is meant by a “regulated service”. Chapter 2 of Part 1 of the Act sets out the Welsh Ministers’ functions in relation to registering persons who provide regulated services, including provision about varying registrations.

These Regulations establish the requirements for registration of a care home service; a secure accommodation service; a residential family centre service; an adoption service; a fostering service; an adult placement scheme; an advocacy service and a domiciliary support service.

Section 6(1) of the Act sets out the information that must be contained in an application for registration as a service provider of a regulated service. Section 6(1)(d) is a power to the Welsh Ministers to prescribe additional information that must be contained in an application for registration. Regulation 3 and the Schedule specify the additional information and documents that are to be provided by an applicant for registration.

Section 6(2) of the Act provides that the application for registration must be in the prescribed form. Regulation 4 makes provision that requires an

application to be made by completing a form on the relevant page of the Welsh Government's website.

Section 11(1) of the Act sets out the circumstances in which a service provider must apply to vary a registration. Subsection (3) sets out the information that must be contained in an application for variation of registration. Section 11(3)(a)(iii) enables the Welsh Ministers to prescribe other information that must be contained in an application to vary registration. Regulations 5 to 8 specify the information and documents that are to be provided on an application to vary registration.

Regulation 5 and the Schedule set out the further information that is required in respect of an application to vary made pursuant to section 11(1)(a)(i) and (ii) of the Act – that is where a provider either wants to provide a regulated service which the provider is not already registered to provide or where a provider wants to provide a regulated service at, from, or in relation to a place which is not already specified in the provider's registration in relation to that service.

Regulation 6 sets out the further information that is required in respect of an application to vary made pursuant to section 11(1)(a)(iii) of the Act – that is where a service provider wants to cease to provide a regulated service.

Regulation 7 sets out the further information that is required in respect of an application to vary made pursuant to section 11(1)(b) of the Act – that is where a service provider wants a condition imposed under section 7(3)(b), 12(2) or 13(1) of the Act to be varied or removed.

Regulation 8 sets out the further information that is required in respect of an application to vary made pursuant to section 11(1)(c) of the Act – that is where a service provider wants to designate a different responsible individual in respect of a place or is required to designate a responsible individual because there is no such individual designated in respect of a place at, from or in relation to which the provider provides a regulated service.

Section 11(3)(b) of the Act provides that an application for variation of registration must be in the prescribed form. Regulation 9 makes provision that requires an application for variation to be made by completing a form on the relevant page of the Welsh Government's website.

Section 11(2) of the Act places a duty on the Welsh Ministers to prescribe in regulations a time limit within which an application for variation of a provider's registration must be made in circumstances where there is no responsible individual designated in respect of a place at, from or in relation to which the provider

provides a regulated service. Regulation 10 prescribes that time limit as being 28 days from the date upon which there is no individual designated as responsible individual in respect of the regulated service or place at, from or in relation to which the regulated service is provided.

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.

OR

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, Cardiff, CF10 3NQ.

DRAFT

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DRAFT WELSH STATUTORY
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2017 No. (W.)

SOCIAL CARE, WALES

**The Regulated Services
(Registration) (Wales) Regulations
2017**

Made ***

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred by sections 6(1)(d), 6(2), 11(2), 11(3)(a)(iii) 11(3)(b) and section 187(1)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016(1), make the following Regulations:

**PART 1
GENERAL**

Title, commencement and application

1.—(1) The title of these Regulations is the Regulated Services (Registration) (Wales) Regulations 2017 and they come into force on.....

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

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

(1) 2016 anaw 2.

“adoption service” (“*gwasanaeth mabwysiadu*”) has the same meaning as in section 2 of and Schedule 1 to the Act;

“adoption society” (“*cymdeithas fabwysiadu*”) has the same meaning as in section 2 of the Adoption and Children Act 2002(1);

“applicant” (“*ymgeisydd*”) means a person applying to the Welsh Ministers to be registered to provide a regulated service or services in accordance with section 6 of the Act;

“body corporate” (“*corff corfforaethol*”) includes a limited liability partnership established under section 1 of the Limited Liability Partnerships Act 2000(2);

“local authority” (“*awdurdod lleol*”) has the same meaning as in section 189 of the Act;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) has the same meaning as in section 189 of the Act;

“organisation” (“*sefydliad*”) means a partnership or body corporate, but in the case of an adoption society applying to be registered as an adoption service, “organisation” means a body corporate;

“partnership” (“*partneriaeth*”) means a partnership established under section 1 of the Partnership Act 1890(3);

“person” (“*person*”) means an individual or organisation;

“responsible individual” (“*unigolyn cyfrifol*”) has the meaning given by section 21(1) of the Act;

“service provider” (“*darparwr gwasanaeth*”) has the meaning given by section 3(1)(c) of the Act;

“service user” (“*defnyddiwr gwasanaeth*”) means a person who is provided with a regulated service;

(b) any reference to a section is a reference to a section of the Act.

PART 2

Application for Registration as a Service Provider

Information and documents to be provided by an applicant

3. A person who wants to provide a regulated service(4) must, in addition to the information set out

(1) 2002 c. 38.

(2) 2000 c. 12.

(3) 1890 c. 39.

(4) See section 2 of and Schedule 1 to the Act for the definition of “regulated service”.

in section 6(1)(a) to (c) provide the Welsh Ministers with the following—

- (a) the information listed in Part 1 of the Schedule; and
- (b) the documentation listed in Part 2 of the Schedule.

Form of application

4. An application for registration as a service provider must be made by completing the form that appears on the relevant page of the Welsh Government's website established for the purposes of informing applicants about the procedure for registration under Part 1 of the Act.

PART 3

Application for variation of registration as a service provider

Information and documents to be provided by a service provider for variation of registration – section 11(1)(a)(i) and (ii)

5. An application for variation of registration made pursuant to section 11(1)(a)(i) or (ii) must, in addition to the information set out in section 11(3)(a)(i) and, where appropriate, section 11(3)(a)(ii), contain the following—

- (a) the information listed in Part 1 of the Schedule; and
- (b) the documentation listed in Part 2 of the Schedule.

Information and documents to be provided by a service provider for variation – section 11(1)(a)(iii) and (iv)

6.—(1) An application for variation of registration made pursuant to section 11(1)(a)(iii) or (iv) must, in addition to the information set out in section 11(3)(a)(i), contain the following—

- (a) the proposed effective date;
- (b) the reason for making the application;
- (c) a statement as to how the service provider intends to continue to comply with the [section 27 regulations] up until the service ceases to be provided;
- (d) details of any notice given about the proposed application to vary to—
 - (i) service users;

- (ii) the local authority within whose area the regulated service is being provided;
- (iii) the Local Health Board within whose area the regulated service is being provided;
- (iv) any other person;
- (e) where the service provider is applying to vary the registration less than 3 months before the proposed effective date, a report as to whether the regulated service or place at, from, or in relation to which the regulated service is being provided has ceased or is likely to cease to be financially viable within the next 12 months.

(2) For the purpose of this regulation and regulation 7 “proposed effective date” means the date requested by the service provider as the date on which the variation applied for is to take effect.

Information and documents to be provided by a service provider for variation – section 11(1)(b)

7. An application for variation of registration made pursuant to section 11(1)(b) must, in addition to the information set out in section 11(3)(a)(i), contain the following—

- (a) the proposed effective date;
- (b) the reason for making the application;
- (c) details of any changes that the service provider proposes to make in relation to the regulated service as a consequence of the variation or removal applied for, including details of—
 - (i) any proposed structural changes to any premises used for the provision of the regulated service;
 - (ii) any additional staffing, facilities or equipment or changes to the management that are required to ensure that the proposed changes are carried into effect;
- (d) any supporting documentation which the service provider considers will assist the Welsh Ministers in making a decision whether to approve the application to vary or remove a condition.

Information and documents to be provided by a service provider for variation – section 11(1)(c)

8. An application for variation of registration made pursuant to section 11(1)(c) must, in addition to the information set out in section 11(3)(a)(i), contain the following—

- (a) the information listed in paragraphs 8 to 11 of Part 1 of the Schedule;
- (b) the documentation listed in paragraphs 23 to 29 of Part 2 of the Schedule.

Form of application

9. An application to vary registration as a service provider must be made by completing the form that appears on the relevant page of the Welsh Government’s website established for the purposes of informing service providers about the procedure for variation of registration under Part 1 of the Act.

Time limit within which application to vary must be made where there is no designated responsible individual

10. The time limit prescribed for the purposes of section 11(2) is 28 days from the date upon which there is no individual designated as responsible individual in respect of the regulated service or place at, from or in relation to which the regulated service is provided.

Name

Title of Minister, one of the Welsh Ministers

Date

SCHEDULE Regulations 3, 5 and 8

PART 1

Information required about the applicant where the applicant is an individual

1. The applicant's full name, date of birth, home address, electronic mail address and telephone number.

2. Details of the applicant's professional or technical qualifications and experience so far as such qualifications and experience are relevant to providing the regulated service or services in respect of which the applicant is applying to be registered as a service provider.

3. Details of the applicant's employment history, including the name and address of his or her present employer and of any previous employers.

4. Details of any business the applicant carries on or has carried on.

5. The name and addresses of two referees—

- (a) who are not relatives of the applicant;
- (b) each of whom is able to provide a reference as to the applicant's competence to provide the regulated service or services that the applicant has applied to provide; and
- (c) one of whom has employed the applicant for a period of at least 3 months.

Information required about the applicant where the applicant is an organisation

6. Where the organisation is a body corporate—

- (a) the name of the organisation;
- (b) the address of the registered office of the organisation;
- (c) where the organisation is a company and is a subsidiary of a holding company—
 - (i) the name and address of the registered office of the holding company;
 - (ii) the name and address of any other subsidiary of that holding company.

7. Where the organisation is a partnership—

- (a) the name of the partnership;
- (b) the address of the principal office of the partnership.

Information required in respect of each person designated by the applicant to be a responsible individual

8. Date of birth, telephone number and electronic mail address of each person designated by the applicant to be a responsible individual.

9. Details of the professional or technical qualifications of each individual designated by the applicant to be a responsible individual so far as such qualifications and experience are relevant to assist the Welsh Ministers in determining the fitness of the individual or individuals designated by the applicant.

10. Details as to whether each individual designated by the applicant to be a responsible individual—

- (a) has been made bankrupt and is undischarged from the bankruptcy order;
- (b) has been the subject of a sequestration order that has not been rescinded;
- (c) is subject to a moratorium period under a debt relief order (within the meaning of section 251A of the Insolvency Act 1986⁽¹⁾); or
- (d) has made a composition or arrangement with creditors and has not been discharged in respect of the composition or arrangement.

11. Details of how the applicant considers that each individual designated by the applicant as a responsible individual is able to comply with (refer to regulations made under section 28 NOT YET DRAFTED).

Information about the service to be provided

12. A description of the location of the place at, from or in relation to which the regulated service is intended to be provided.

13. Details of the arrangements made to support the cultural, linguistic and religious needs of service users.

14. Details of the arrangements made for consulting service users about the operation of the regulated service.

15. Details of the scale of charges that are intended to be payable by service users.

16. The date on which it is intended to begin providing the regulated service or services.

(1) 1986 c. 45.

Information about the accommodation

17. Where the applicant is seeking to provide a care home service⁽¹⁾, a secure accommodation service⁽²⁾ or a residential family centre service⁽³⁾—

- (a) the proposed name, address, telephone number of the premises at which it is intended to provide the regulated service;
- (b) a description of the premises, including a statement as to whether the premises are purpose-built or have been or are intended to be converted for use as a regulated service;
- (c) details of whether, and the extent to which the premises where it is intended that the regulated service will be provided will require planning permission, building work or conversion;
- (d) details of any other business that is or will be provided at the same premises at which it is intended that the regulated service will be provided;
- (e) details of any healthcare (including nursing) or therapy to be provided at the premises at which it is intended to provide the regulated service.

Information about staffing

18. Details of the following policies and procedures that the applicant has in place in respect of each regulated service that the applicant is applying to provide—

- (a) staff recruitment;
- (b) staff supervision;
- (c) staff training and development; and
- (d) staff discipline.

PART 2

Documents required from the applicant

19. Where the applicant is an individual—

- (a) evidence of the person's identity to include a photograph;
- (b) documentary evidence in respect of any qualifications the applicant has provided

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- (1) See section 2(1)(a) of and paragraph 1 of Schedule 1 to the Act for the definition of "care home service".
 - (2) See section 2(1)(b) of and paragraph 2 of Schedule 1 to the Act for the definition of "secure accommodation service".
 - (3) See section 2(1)(c) of and paragraph 3 of Schedule 1 to the Act for the definition of "residential family centre service".

details about in Part 1, paragraph 2 of this Schedule;

- (c) in circumstances where the purpose for which an enhanced criminal record certificate may be required falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002⁽¹⁾, an enhanced criminal record certificate issued under section 113B of the Police Act 1997⁽²⁾ which includes, where applicable, suitability information relating to—
 - (i) children (within the meaning of section 113BA(2) of the Police Act 1997);
 - (ii) vulnerable adults (within the meaning of section 113BB(2) of the Police Act 1997);
- (d) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997.

20. Where the applicant is an organisation, the last two annual reports and accounts, if any.

21. In respect of all applicants, a statement of purpose containing the following information—

- (a) the name of the individual or organisation;
- (b) where the applicant is an individual, the home address;
- (c) where the applicant is an organisation, the address of the principal or registered office;
- (d) the name of the individual designated as the responsible individual pursuant to section 6(1)(c);
- (e) a statement of the range of needs of the service users for whom it is intended to provide the regulated service or services to include the age range, number and sex of the intended service users;
- (f) details of the ethos of the service to be provided, and how the applicant intends to satisfy the requirements as to the standard of care and support in relation to each regulated service the applicant is applying to provide pursuant to [refer to regulations made under section 27];
- (g) details of the proposed management and staffing structure of the service;
- (h) a description of the policies and procedures in relation to the following—

(1) S.I. 2002/233.
(2) 1997 c. 50.

- (i) admissions (including emergency admissions);
- (ii) complaints;
- (iii) child protection or adult protection (whichever is appropriate to the service that the applicant is applying to provide);
- (iv) behaviour management (including measures of control and restraint);
- (v) unauthorised absences of service users who are children;
- (vi) monitoring and surveillance;
- (vii) security (including the safeguarding of service users' property);
- (viii) fire precautions and emergency evacuation;
- (i) details of the education provision to be made for service users who are children;
- (j) details of the facilities and services that will be available to service users including, but not limited to, the following—
 - (i) the number of single bedrooms, shared bedrooms and bedrooms with en suite facilities;
 - (ii) the number of communal lounge/dining rooms;
 - (iii) the number of specialist baths available;
 - (iv) any outside space and facilities to which the residents have access.

22. In respect of all applicants—

- (a) a business plan;
- (b) except where the applicant is a local authority, a reference from a bank expressing an opinion as to the applicant's financial standing;
- (c) a certificate of insurance in respect of liability which may be incurred in respect of death, injury, public liability, damage or other loss;
- (d) details as to projected cash flow in respect of the individual or organisation applying to be registered as a service provider.

Documents required in respect of each individual designated by the applicant as a responsible individual.

23. Evidence of the person's identity to include a photograph.

24. Documentary evidence of all qualifications the applicant has provided details about in Part 1, paragraph 9 of this Schedule.

25. In circumstances where the purpose for which an enhanced criminal record certificate may be required falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes, where applicable, suitability information relating to—

- (a) children (within the meaning of section 113BA(2) of the Police Act 1997);
- (b) vulnerable adults (within the meaning of section 113BB(2) of the Police Act 1997).

26. In any other case, a criminal record certificate issued under section 113A of the Police Act 1997.

27. A signed declaration by each person designated as responsible individual confirming that—

- (a) they have read and agree with the information provided by the applicant in accordance with paragraph 15; and
- (b) they have read and agree that they are able to comply with [refer to the section 28 regulations].

28. In relation to an applicant who is a body corporate, a signed declaration by each member of the Board to the effect that they have read and understood the [refer to the title of the section 28 regulations] and that the Board intends to support the individual designated as responsible individual in the exercise of their duties as set out in those Regulations.

29. In relation to an applicant who is a partnership, a signed declaration by each partner to the effect that they have read and understood the [refer to the title of the section 28 regulations] and that the partnership intends to support the individual designated as responsible individual in the exercise of their duties as set out in those Regulations.