

SL(5)546 – The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) (Coronavirus) Regulations

Background and Purpose

These Regulations are made under powers given to the Welsh Ministers by the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”). They amend particular requirements placed on registered providers of social care under the Act, and are made in response to the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

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

Section 27 of the Act gives the Welsh Ministers power to impose, in regulations, requirements on service providers 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 (“the Regulated Services Regulations”).

Regulations 2 to 7 amend the Regulated Services Regulations.

Regulation 4 is made under section 2(3) of the Act and amends regulation 2 (care home services) of the Regulated Services Regulations. 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 and are needed as a result of the spread of coronavirus, is not a “care home service” and is not, therefore, a “regulated service” under the Act. This exception only applies where the service is provided by a local authority or a Local Health Board, or is commissioned by a local authority or a Local Health Board and is provided either by a service provider already registered under the Act and who provides a care home service wholly or mainly to adults, or by providers of care homes in England who are already registered with the Care Quality Commission. In all cases, the Welsh Ministers must be notified in advance of the arrangements.

Regulation 5 is also made under section 2(3) of the Act. It makes a similar amendment to regulation 4, but in relation to the provision of care and support for adults.

Regulation 6 is made under section 27(1) of the Act and amends regulation 35 of the Regulated Services Regulations (fitness of staff). Regulation 35(2)(d) of those Regulations requires a person who works for the provider of a regulated service to give the provider full and satisfactory information in respect of particular matters. The effect of the amendment is that in some circumstances, the regulation 35(2)(d) requirement is treated as being met even if a person who works for a provider of a care home service wholly or mainly for adults or a domiciliary support service to adults does not provide full and satisfactory information about some of those matters. If the person cannot reasonably provide full and satisfactory information as a result of the spread of coronavirus, the requirement will be treated as being met if the person provides as full and satisfactory information as is reasonably practicable and the information is available for inspection by the service regulator.



Regulation 7 is also made under section 27(1) of the Act. It amends regulation 45 of the Regulated Services Regulations (single occupancy and shared rooms – adults). Regulation 45 provides that, subject to limited exceptions, the provider of a care home service must ensure that all adults are accommodated in single rooms. The amendment broadens the exceptions to allow, in limited circumstances, adults to be accommodated in shared rooms where the accommodation needs to be provided as a result of the spread of coronavirus.

Procedure

Draft Affirmative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note that the Welsh Government has not formally consulted on these Regulations, but that there has been a short consultation with key stakeholders (listed in section 5 of the Explanatory Memorandum).

We also note that, in accordance with section 27(5) of the Act, the Welsh Ministers have laid before the Senedd a [statement about the consultation](#).

2. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the changes that these Regulations make to social care in Wales, and that the Explanatory Memorandum says that these changes “will be revoked as soon as they are no longer required”.

Implications arising from exiting the European Union

None.

Government Response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

11 May 2020

