

Draft Regulations laid before the National Assembly for Wales under section 196(6) of the Social Services and Well-being (Wales) Act 2014 and section 187(2)(f) 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

2018 No. (W.)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Children (Secure
Accommodation) (Wales)
(Amendment) Regulations 2018**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Children (Secure Accommodation) (Wales) Regulations 2015 (“the Secure Accommodation Regulations”).

The amendment to the definition of “secure accommodation” in regulation 1 of the Secure Accommodation Regulations to include secure accommodation in Scotland has effect so that placement of a child by a Welsh local authority in secure accommodation in Scotland is subject to the same safeguards which apply to placements in England and Wales. These amendments are consequential on the amendments made to section 25 of the Children Act 1989 by section 10 of, and paragraphs 1 and 2 of Schedule 1 to, the Children and Social Work Act 2017.

The amendment to paragraph (5) of regulation 1 is consequential on the coming into force of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”). Secure accommodation services in Wales are regulated under the 2016 Act from 2 April 2018.

The amendment to regulation 4 makes clear who is able to apply for a secure accommodation order in

cases which do not involve looked after children as provided for by regulation 16.

The amendments to regulations 6 and 7 clarify that the maximum periods set in those two regulations apply to an order of the court made in relation to secure accommodation in Wales.

The amendment to regulation 8 is consequential on the amendment to the definition of “secure accommodation” in regulation 1 and clarifies that the restriction applies in relation to placement of looked after children.

Regulations 9 and 12 are made under the power conferred by section 27 of 2016 Act.

The amendment to regulation 15 clarifies how the provision works for placements by English local authorities to secure accommodation in Wales.

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.

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Made

Coming into force

2 April 2018

The Welsh Ministers, in exercise of the powers conferred by sections 87, 119(2) and (7) and 196(2) of the Social Services and Well-being (Wales) Act 2014⁽¹⁾ and by sections 27 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽²⁾, make the following Regulations.

The Welsh Ministers have carried out a consultation and published a statement about the consultation in accordance with section 27(4) of the Regulation and Inspection of Social Care (Wales) Act 2016, and have laid a copy of the statement before the National Assembly for Wales in accordance with section 27(5) of that Act.

In accordance with section 196(6) of the Social Services and Well-being (Wales) Act 2014 and section 187(2)(f) of the Regulation and Inspection of Social

(1) 2014 anaw 4.
(2) 2016 anaw 2.

Care (Wales) Act 2016, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

Title, application, interpretation and commencement

1.—(1) The title of these Regulations is the Children (Secure Accommodation) (Wales) (Amendment) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations, “the Secure Accommodation Regulations” means the Children (Secure Accommodation) (Wales) Regulations 2015⁽¹⁾.

(4) These Regulations come into force on 2 April 2018.

Amendments to the Secure Accommodation Regulations

2.—(1) The Secure Accommodation Regulations are amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (4) of regulation 1 (title, commencement, interpretation and application), for the definition of “secure accommodation” substitute—

““secure accommodation” (*“llety diogel”*), unless the wording indicates that its meaning is restricted to accommodation in Wales, means accommodation which is provided—

- (a) in Wales for the purpose of restricting the liberty of children to whom the criteria in paragraphs (a) or (b) of section 119(1) of the Act apply,
- (b) in England for the purpose of restricting the liberty of children to whom the criteria in paragraphs (a) or (b) of section 25(1) of the Children Act 1989⁽²⁾ apply, or
- (c) by a secure accommodation service in Scotland as defined in paragraph 6 of Schedule 12 to the Public Services Reform (Scotland) Act 2010⁽³⁾.”

(1) S.I. 2015/1988 (W. 298).

(2) 1989 c. 41.

(3) Paragraph 6 of Schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8) defines a “secure accommodation service” as a service which (a) provides accommodation for the purpose of restricting the liberty of children in residential premises where care services are provided; and (b) is approved by the Scottish Ministers for that purpose.

(3) For paragraph (5) of regulation 1 substitute—

“(5) In these Regulations references to the registration of a secure accommodation service in Wales, or a person who is registered in respect of such a service in regulations 8, 9 and 12 are references to registration under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾.”

(4) In regulation 4 (applications to court), for paragraph (2) substitute—

“(2) But where regulation 16(1)(a) of these Regulations applies to modify section 119 of the Act so that it applies in relation to children, other than those being looked after by a local authority, who are being provided with accommodation provided or arranged by a Local Health Board, National Health Service Trust or a local authority in the exercise of education functions, then applications to court can only be made by the Local Health Board or the National Health Service Trust which is providing or arranging the accommodation or by the local authority which is arranging the accommodation.

(3) Where regulation 16(1)(b) of these Regulations applies to modify section 119 of the Act so that it applies in relation to children, other than those being looked after by a local authority, who are being provided with accommodation in an independent hospital or a care home, then applications to court can only be made by the independent hospital or care home which is providing the accommodation.”

(5) In regulation 6 (maximum period of authorisation by the court)—

(a) in paragraph (1)—

(i) after “paragraph (2)” insert “of this regulation and regulation 7”;

(ii) after “secure accommodation” insert “in Wales”; and

(b) in paragraph (2) after “secure accommodation” insert “in Wales”.

(6) In paragraph (1) of regulation 7 (maximum period of authorisation for remanded children), after “secure accommodation” insert “in Wales”.

(7) For regulation 8 (placement in a children’s home which is registered) substitute—

“8. A local authority may only place a looked after child in secure accommodation—

(1) 2016 anaw 1.

- (a) provided in Wales by a secure accommodation service in respect of which the provider is registered,
- (b) in a home in England which is registered under Part 2 of the Care Standards Act 2000 as a children's home providing accommodation for the purpose of restricting liberty, or
- (c) provided by a secure accommodation service in Scotland.”

(8) For the heading of regulation 8 substitute “Placement in a regulated setting”.

(9) For regulation 9 (duty to give information of placement in secure accommodation) substitute—

“9.—(1) Where a child is placed in secure accommodation in premises in Wales at which a secure accommodation service is provided by a person other than the local authority which is looking after the child, the person registered in respect of that service must inform the local authority or local authority in England which is looking after the child that the child has been placed there within 12 hours of the placement beginning.

(2) The local authority or local authority in England looking after the child must then confirm to the registered person—

- (a) its authorisation for the child to be held in secure accommodation;
- (b) the period of authorisation;
- (c) details of any order made by a court authorising the placement.”

(10) For regulation 12 (records to be kept in respect of a child in secure accommodation in a children's home) substitute—

“12. When a child is placed in secure accommodation in premises in Wales at which a secure accommodation service is provided the persons who are registered to provide a secure accommodation service in respect of those premises must maintain a record for that child which includes—

- (a) the name, date of birth and sex of that child;
- (b) details of the care order or other statutory provisions by virtue of which the child is placed in the premises at which a secure accommodation service is provided;
- (c) details of the local authority or local authority in England placing the child and the name of the authorising officer;

- (d) the date and time of the start of the placement in secure accommodation;
- (e) the reason for the placement;
- (f) the address of the place where the child was living before the placement;
- (g) the names and relevant details of the persons informed by virtue of regulation 5 of the child's placement;
- (h) details of any court orders made in respect of the child under section 119 of the Act;
- (i) details of reviews undertaken under regulation 11;
- (j) the date and time of any periods when the child is locked on his own in any room other than his bedroom during normal bedtime hours, the name of the person authorising this action, the reason for it and the date on which and time at which the child ceased to be locked in that room;
- (k) the date and time of the child's discharge and the child's address following discharge from secure accommodation."

(11) In the heading of regulation 12, for "children's home" substitute "regulated setting".

(12) In paragraph (1) of regulation 15 (detained children to whom section 119 applies subject to modifications: children detained under the Police and Criminal Evidence Act 1984), after "local authority" insert "or local authority in England".

Minister for Children and Social Care under authority
of the Cabinet Secretary for Communities and
Children, one of the Welsh Ministers

Date