

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

DRAFT WELSH STATUTORY
INSTRUMENTS

2017 No. (W.)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

The Children (Secure
Accommodation) (Wales)
(Amendment) Regulations 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of 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 if a Welsh local authority places a child in secure accommodation in Scotland, it will be 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 and paragraphs 1 to 3 of Schedule 1 to the Children and Social Work Act 2017.

Amendments made to regulations 6, 7 and 8 of the Secure Accommodation Regulations are made as a consequence of the change to the definition in regulation 1.

The amendments to regulations 2, 9 and 15 are amendments to which clarify how the Secure Accommodation Regulations apply in cases of cross-border placements whether by a Welsh local authority

to secure accommodation in England or by an English local authority to secure accommodation in Wales.

The amendment to regulations 4 makes clear that the restriction placed on the persons able to apply for a secure accommodation order for a child accommodated in a care home or independent hospital is the person providing the accommodation.

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.

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

DRAFT WELSH STATUTORY
INSTRUMENTS

2017 No. (W.)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

The Children (Secure
Accommodation) (Wales)
(Amendment) Regulations 2017

Made ***

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred by sections 22(8)(b) and 118(7) of the Care Standards Act 2000⁽¹⁾, and sections 87, 119(2) and (7) and 196(2) of the Social Services and Well-being (Wales) Act 2014⁽²⁾ make the following Regulations.

In accordance with section 196(6) of the Social Services and Well-being (Wales) Act 2014, 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 2017.

(2) These Regulations apply in relation to Wales.

(1) 2000 c. 14.
(2) 2014 anaw 4.

(3) In these Regulations—

“the Secure Accommodation Regulations” means the Children (Secure Accommodation) (Wales) Regulations 2015⁽¹⁾.

(4) These Regulations come into force on XXXXX.

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 contrary is indicated, means accommodation—

(a) (i) which is provided 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, and

(ii) which is situated in either Wales or England; or

(b) provided by a secure accommodation service in Scotland as defined in paragraph 6 of Schedule 12 to the Public Services Reform (Scotland) Act 2010⁽²⁾.”

(3) In regulation 2 (maximum period in secure accommodation without court authorisation), in paragraph (3), after “secure accommodation”, in the first place where it appears, add “in Wales”.

(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

⁽¹⁾ S.I. 2015/1988 (W. 298).

⁽²⁾ 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.

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 the words “paragraph (2)” add “of this regulation and in regulation 7”;

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

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

(6) In paragraph (1) of regulation 7 (maximum period of authorisation for remanded children), after “secure accommodation” add “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—

(a) in a home which is registered as a children’s home providing accommodation for the purpose of restricting liberty, or

(b) provided by a secure accommodation service in Scotland.”

(8) In regulation 9 (duty to give information of placement in secure accommodation)—

(a) in paragraph (1), after “local authority”, in the second place where it appears, add “or local authority in England”, and

(b) in paragraph (2), after “local authority” add “or local authority in England”.

(9) 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” add “or local authority in England”.

Rebecca Evans

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

Date