

REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016 - REGULATION-MAKING POWERS BY PHASE

First phase – Workforce regulations coming into force April 2017. Service regulations coming into force April 2018.			Second phase – Coming into force April 2018			No intent to make regulations at present/make regulations as needed		
Section	Subject	Procedure	Section	Subject	Procedure	Section	Subject	Procedure
6(1)(d) & 6(2) – Application for Registration as a service provider	Form and content of application for registration to provide a regulated service.	Negative	21(5) – Responsible Individuals	The specific circumstances in which an individual may be designated as a responsible individual by the Welsh Ministers.	Affirmative	2(1)(i) 2(3) - Regulated Services	Regulation of additional services	Affirmative
10(2), 10(3) & 10(4) – Annual returns	Form, content (including information about training & workforce planning) and time limit for annual return by service providers.	Negative (First set to follow affirmative process)	27(1) – Regulations about regulated services	Standards & requirements to be placed upon on service providers.	Affirmative	3(3) – Other key terms	Things not to be treated as ‘care’ and ‘support’ for purposes of Act.	Affirmative
11(2); 11(3)(a)(iii); 11(3)(b) – Application for variation of registration as a service provider	Form, content and time limit for application to vary registration as a service provider.	11(2) Affirmative. Remainder Negative.	28(1) - Regulations about responsible individuals	Duties of responsible individuals	Affirmative	9(9) – Fit and proper person	Power to vary evidence to which the Welsh Minister must have regard.	Affirmative
39(2) – Notifying local authorities	Prescribe information to be included in notifications to local authorities.	Negative	29 - Guidance	Guidance about regulations under sections 27 & 28	To be developed by CSSIW concurrent with second phase regulations.	19(8) – Variation of time limits applying to notices of decisions	Variation of 28 day and 56 day time limits in sub-section 5(b) to be amended.	Negative

First phase – Workforce regulations coming into force April 2017. Service regulations coming into force April 2018.			Second phase – Coming into force April 2018			No intent to make regulations at present/make regulations as needed		
56 – 144A(2)(b) & 144A(4) of Act - Annual report by local authorities	Form and content of annual reports by local authorities.	Negative (Draft regs to be approved by NAW)	30(1) – Service providers who are liquidated.	Requirement for an appointed person to notify the Welsh Ministers of their appointment	Negative	33(3)/57(2) Inspectors	Qualifications and other requirements of inspectors	Negative
79(2)(a)&(b) – Meaning of “social care worker”.	Provide that persons are to be treated as social care workers.	Affirmative	31(1) – Service providers who have died.	Provision relating to a service provider who has died.	Negative	37(1)/57(1) – Inspection ratings	Ratings as to the quality of care and support provided by a service provider.	Affirmative (Requirement to consult)
80(1)(b) – The register.	Register maintained by SCW to include managers, children’s home workers, social work students	Affirmative	33/57(2) - Service Inspections	Code of practice about manner in which inspections are carried out, including the frequency of inspections.	To be developed by CSSIW concurrent with second phase regulations	38(2) – Register of service providers	Further information to be shown in an entry in the register.	Negative
91(1)(c) and (d) – Content of register.	Information required in an entry in the register.	Negative	45 – Failure by service provider to comply with requirements in regulations	Offence of failing to comply with provisions of regulations made under section 26.	Affirmative	38(5) – Provision of information	Information to be omitted from register & circumstances under which regulator may refuse to comply with request for copy of or extract from the register.	Negative

First phase – Workforce regulations coming into force April 2017. Service regulations coming into force April 2018.			Second phase – Coming into force April 2018			No intent to make regulations at present/make regulations as needed		
110(6)(a)-(c) – persons removed from the register.	Form and content of the list; publication of the list; and circumstances in which a person's entry may be removed from the list.	Negative	46 – Failure by responsible individual to comply with requirements in regulations	Offence of failing to comply with regulations made under section 27	Affirmative	39(1)(g) – Notifying local authorities	Events which would trigger a requirement to notify local authorities.	Negative
174(5)(b) – Duty to establish panels etc.	Adding to list of persons who may not be a panel member.	Negative	52(1) & 52(6) – Penalty Notices	Detail of fixed penalty notice scheme.	Negative	40(1) – fees	This power will allow Welsh Ministers to make provision requiring fees to be paid.	Affirmative
175(1) – Proceedings before panels	Proceedings before (a) registration appeals panels; (b) interim orders panels; and (c) fitness to practise panels.	Negative	56 – 144B(1) 144B(2)(a)(i); 144B(2)(a)(iii); 144B(2)(a)(iv); & 144B(3) of Act – Local Market Stability Reports.	Form, timing, content and period of local market stability reports	Negative (requirement to consult).	111(2) – Use of title 'social worker' etc	Add other descriptions of social care workers whose title might require protection	Affirmative
			58 – 94A(1) of Act – ways in which looked after children are accommodated /maintained. 94B(1) – related offence.	Requirements to be placed on local authorities and establishing an offence of contravening or failing to comply with specified provision.	Negative	117(4)(f) – Fitness to practise -	Providing for additional further bodies to be added to the list in sub-section (4)	Affirmative

First phase – Workforce regulations coming into force April 2017. Service regulations coming into force April 2018.			Second phase – Coming into force April 2018			No intent to make regulations at present/make regulations as needed		
			59(1) & (4) – Specifying criteria for application of market oversight regime.	Criteria for determining whether, and extent to which, s60 applies to a service provider.	Affirmative (Requirement to consult)	117(6) – Fitness to practise - grounds of impairment	Flexibility to update and change the grounds of impairment in light of case law or wider changes to the social care workforce.	Affirmative
			61(6) & (7) – Assessment of financial sustainability of service provider.	Obtaining appropriate information and the making of assessments.	Affirmative	123(2)(e) – Notice: onward referral	Adding to the list of persons to whom notice must be given.	Negative
			63(1), 63(3)(a)(i) & 63(3)(a)(iv) – National Market Stability Report.	Timing, publication and content of the national market stability report.	Negative (Requirement to consult)	130(1) - Mediation	Power to introduce system of mediation.	Affirmative
			111(5) – Use of title ‘social worker’ etc.	Organisations who may maintain a ‘relevant register’	Negative	136(2)(d) – consensual disposals by fitness to practise panel.	Additional persons to whom Social Care Wales must disclose details of undertakings.	Affirmative
			1194)(d) – Preliminary consideration	Persons who may not carry out preliminary consideration - <i>subject to changes</i>	Negative	142(1) – Regulations about disposals by fitness to practise panels	Allows sections 134 to 137 of the Bill to be amended by regulations to revise ways in	Affirmative

First phase – Workforce regulations coming into force April 2017. Service regulations coming into force April 2018.			Second phase – Coming into force April 2018			No intent to make regulations at present/make regulations as needed		
				<i>elsewhere in the UK.</i>			which a panel may dispose of a fitness to practise matter.	
			125(5)(d) – Duty to investigate	Persons who may not carry out investigations.	Negative	150(4)(d) – Review proceedings	Adding to list of persons to whom Social Care Wales must disclose details of undertakings agreed by a fitness to practise panel.	Negative
			Schedule 1 - Advocacy	Specifying Advocacy Services for purposes of Act.	Affirmative - Proposals to be developed for first phase consultation to inform development of regulations in second phase.	162(1) – Guidance about fitness to practise	Social Care Wales may publish guidance about fitness to practise.	N/A
						Part 7 – Prohibition Orders 165(1)&(2); 166(2)(a)&(b); 168; 170(1); 171(3); 172(2); & 173(1)	Introduction of 'negative registration' system through use of prohibition orders.	N/A

