

SL(5)502 – The Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020

Background and Purpose

These Regulations are made under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and make a number of amendments in relation to the oversight of regulated service provider organisations, and registration of the domiciliary support workforce.

The amendment in Part 2 allows the Welsh Ministers to take into account evidence that any person associated or formerly associated with a relevant person has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision of a regulated service in Wales or of the equivalent outside Wales, when assessing whether a relevant person is a fit and proper person to be a service provider or regulated individual.

Part 3 makes amendments to the Regulated Services (Registration) (Wales) Regulations 2017 to specify additional information that is to be provided by an applicant for registration as a service provider of a regulated service.

Part 4 amends a suite of regulated services regulations to add to the list of events of which the service provider must notify the service regulator.

Part 5 requires that persons employed or contracted to provide domiciliary support services must be registered as a social care worker with Social Care Wales within 6 months of commencing their employment/engagement.

Procedure

Draft affirmative.

Due to the different enabling powers used in making these Regulations, some of the provisions would, if made in a separate instrument, be subject to the negative procedure, whilst others would be subject to the draft affirmative procedure.

By virtue of section 40 of the Legislation (Wales) Act 2019, provisions that attract the negative procedure and provisions that attract the draft affirmative procedure can be combined in a single instrument, provided that whole instrument is subject to the draft affirmative procedure.

Technical Scrutiny

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

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument:



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

1. Whilst the name of the Regulations is consistent throughout the Regulations themselves, there are a couple of references to the Regulations in the explanatory memorandum (“EM”) that do not appear to be correct, one of which is the title on the front page. The EM includes reference to “The Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) (Wales) Regulations 2020” (emphasis added) whilst the underlined ‘Wales’ does not appear in the title in the Regulations.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

The merits scrutiny point is noted. Welsh Government has re-laid the explanatory memorandum with the error corrected.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 2 March 2020 and reports to the Assembly in line with the reporting point above.

