



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 11

MISCELLANEOUS AND GENERAL

VALID FROM 06/04/2016

Miscellaneous

184 Research and provision of information

- (1) The Welsh Ministers may conduct, commission, or assist in the conduct of, research into any matter connected with—
 - (a) their functions under this Act,
 - (b) the functions mentioned in subsection (12),
 - (c) the functions of Local Health Boards under this Act, or
 - (d) the functions of Safeguarding Boards.
- (2) A local authority may conduct, commission, or assist in the conduct of, research into any matter connected with—
 - (a) any of its functions that are mentioned in subsection (12), or
 - (b) the functions of Safeguarding Boards.
- (3) A Local Health Board may conduct, commission, or assist in the conduct of, research into any matter connected with its functions under this Act.
- (4) The Welsh Ministers may require a local authority to provide them with information in connection with—
 - (a) the performance by the authority of any of its functions that are mentioned in subsection (12), and

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- (b) the persons in relation to whom the authority has exercised those functions.
- (5) The Welsh Ministers may require a Local Health Board to provide them with information in connection with—
 - (a) the performance of its functions under this Act, and
 - (b) the persons in relation to whom it has exercised those functions.
- (6) The Welsh Ministers may require the lead partner of a Safeguarding Board to provide them with information in connection with the performance by that Board of its functions.
- (7) The Welsh Ministers may require a voluntary organisation to provide them with information in connection with adults accommodated by the organisation or on its behalf.
- (8) A requirement under subsection (4), (5), (6) or (7) must be complied with by providing the information in such form and at such time as the Welsh Ministers may require.
- (9) Information required to be provided under subsection (4) may include information relating to and identifying individual children, but only if that information is needed to inform—
 - (a) the review and development of policy and practice relating to the well-being of children, or
 - (b) the conduct of research relating to the well-being of children.
- (10) The Welsh Ministers must in each year lay before the National Assembly for Wales a summary of the information provided to them under subsections (4), (5), (6) and (7), but the summary must not include information that identifies an individual child or allows an individual child to be identified.
- (11) In this section—
 - “the lead partner of a Safeguarding Board” (*“partner arweiniol Bwrdd Diogelu”*) is the Safeguarding Board partner specified as the lead partner in regulations under section 134, and
 - “Safeguarding Board” (*“Bwrdd Diogelu”*) means a Safeguarding Children Board or a Safeguarding Adults Board established under section 134.
- (12) The functions referred to in subsections (1), (2) and (4) are—
 - (a) any function of a local authority under this Act;
 - (b) any function of a local authority as a local mental health partner under the Mental Health (Wales) Measure 2010.

185 Adults in prison, youth detention accommodation or bail accommodation etc

- (1) In its application to an adult who is detained in prison or youth detention accommodation in Wales, this Act has effect as if references to being ordinarily resident in an area were references to being detained in prison or youth detention accommodation in that area.
- (2) In its application to an adult who is residing in approved premises in Wales, this Act has effect as if references to being ordinarily resident in an area were references to being resident in approved premises in that area.

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- (3) In its application to an adult who is residing in any other premises in Wales because a requirement to do so has been imposed on the adult as a condition of the grant of bail in criminal proceedings, this Act has effect as if references to being ordinarily resident in an area were references to being resident in premises in that area for that reason.
- (4) The provisions set out in subsection (5) do not apply in the case of an adult who is—
 - (a) detained in prison or youth detention accommodation, or
 - (b) residing in approved premises.
- (5) The provisions are—
 - (a) section 110 (support for category 3 young people);
 - (b) section 112 (support for category 4 young people);
 - (c) section 114 (support for category 5 young people and former category 5 young people);
 - (d) section 115 (support for category 6 young people and former category 6 young people).
- (6) Section 127 (adult protection and support orders) does not apply in the case of an adult who is detained in prison or youth detention accommodation.
- (7) See also section 187 for further modifications of this Act's provisions in relation to—
 - (a) adults who are detained in prison or in youth detention accommodation, and
 - (b) adults who are residing in approved premises.

186 Children in youth detention accommodation, prison or bail accommodation etc

- (1) In subsection (2), a “relevant child” means a child who, having been convicted of an offence—
 - (a) is detained in youth detention accommodation or in prison,
 - (b) is residing in approved premises, or
 - (c) is residing in any other premises because a requirement to do so has been imposed on the child as a condition of the grant of bail in criminal proceedings.
- (2) Where a relevant child, immediately before being convicted of an offence—
 - (a) has needs for care and support that are being met by a local authority under Part 4,
 - (b) is looked after by a local authority by virtue of being provided with accommodation by the authority, or
 - (c) is ordinarily resident in the area of a local authority, but does not come within paragraph (a) or (b),the child is to be treated for the purposes of this Act as being within that local authority's area while he or she is a relevant child (and is not to be treated as being ordinarily resident or within any other local authority's area).
- (3) The provisions set out in subsection (4) do not apply in relation to a child who, having been convicted of an offence—
 - (a) is detained in youth detention accommodation or in prison, or
 - (b) is residing in approved premises.

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- (4) The provisions are—
- (a) section 79 (provision of accommodation for children in care);
 - (b) section 80 (maintenance of looked after children);
 - (c) section 81 (ways in which looked after children are to be accommodated and maintained);
 - (d) section 82 (review of child's case before making alternative arrangements for accommodation);
 - (e) section 109 (support for category 2 young people);
 - (f) section 114 (support for category 5 young people and former category 5 young people);
 - (g) section 115 (support for category 6 young people and former category 6 young people);
 - (h) paragraph 1 of Schedule 1 (liability to contribute towards maintenance of looked after children).
- (5) Section 119 (use of accommodation for restricting liberty) does not apply in relation to—
- (a) a child who, having been convicted of an offence—
 - (i) is detained in youth detention accommodation or in prison, or
 - (ii) is residing in approved premises, or
 - (b) a child who is remanded to youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- (6) The provisions set out in subsection (7) do not apply in relation to a child who—
- (a) having been convicted of an offence—
 - (i) is detained in youth detention accommodation or in prison, or
 - (ii) is residing in approved premises, and
 - (b) immediately before being convicted, was provided with accommodation by a local authority in England under section 20 of the Children Act 1989.
- (7) The provisions are—
- (a) section 21 (duty to assess the needs of a child for care and support);
 - (b) section 37 (duty to meet care and support needs of a child);
 - (c) section 38 (power to meet care and support needs of a child).
- (8) See also section 187 for further modifications of this Act's provisions in relation to—
- (a) children who are detained in youth detention accommodation or in prison, and
 - (b) children who are residing in approved premises.

187 Persons in prison, youth detention accommodation or bail accommodation etc

- (1) A person is not a carer for the purposes of this Act if the person—
- (a) is detained in prison or youth detention accommodation, or
 - (b) having been convicted of an offence, is residing in approved premises.
- (2) Regulations under section 50 or 51 (direct payments) may not require or allow payments to be made towards the cost of meeting a person's needs for care and support if that person, having been convicted of an offence, is—
- (a) detained in prison or in youth detention accommodation, or

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(b) residing in approved premises.

(3) The power under section 57 (preference for particular accommodation) may not be exercised in the case of a person who is—

(a) detained in prison or in youth detention accommodation, or

(b) residing in approved premises,

except for the purpose of making provision with respect to accommodation for the person on the person's release from prison or youth detention accommodation (including temporary release), or on the person's ceasing to reside in the approved premises.

(4) Section 58 (protecting property of persons being cared for away from home) does not apply in the case of a person who is—

(a) detained in prison or in youth detention accommodation, or

(b) residing in approved premises.

188 Interpretation of sections 185 to 187

(1) In sections 185 to 187—

“approved premises” (“*mangre a gymeradwywyd*”) has the meaning given by section 13 of the Offender Management Act 2007;

“bail in criminal proceedings” (“*mechniaeth mewn achos troseddol*”) has the meaning given by section 1 of the Bail Act 1976;

“prison” (“*carchar*”) has the same meaning as in the Prison Act 1952 (see section 53(1) of that Act);

“youth detention accommodation” (“*llety cadw ieuenctid*”) means—

(a) a secure children's home;

(b) a secure training centre;

(ba) [^{F1}a secure college]

(c) a young offender institution;

(d) accommodation provided, equipped and maintained by the Welsh Ministers under section 82(5) of the Children Act 1989 for the purpose of restricting the liberty of children;

(e) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for purposes of detention and training orders).

(2) For the purposes of sections 185 to 187—

(a) a person who is temporarily absent from prison or youth detention accommodation is to be treated as detained in prison or youth detention accommodation for the period of absence;

(b) a person who is temporarily absent from approved premises is to be treated as residing in approved premises for the period of absence;

(c) a person who is temporarily absent from other premises in which the person is required to reside as a condition of the grant of bail in criminal proceedings is to be treated as residing in the premises for the period of absence.

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Textual Amendments

- F1** Words in s. 188(1) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 9 para. 32\(4\)](#); S.I. 2015/778, art. 2(1)(c); S.I. 2015/778, art. 2(1)(c); S.I. 2015/778, art. 2(1)(c)

189 Provider failure: temporary duty on local authority

- (1) This section applies where a person registered under Part 2 of the Care Standards Act 2000 in respect of an establishment or agency (within the meaning of that Act) becomes unable to carry on or manage the establishment or agency because of business failure.
- (2) A local authority must for so long as it considers necessary (and in so far as it is not already required to do so) meet—
 - (a) those of an adult's needs for care and support, and
 - (b) those of a relevant carer's needs for support,
 which were, immediately before the registered person became unable to carry on or manage the establishment or agency, being met in the authority's area by the establishment or agency (but this is subject to section 190).
- (3) A local authority is required to meet needs under subsection (2) regardless of—
 - (a) whether the relevant person is ordinarily resident in its area;
 - (b) whether the authority has carried out a needs assessment or a financial assessment;
 - (c) whether the authority would otherwise have a duty to meet those needs under this Act.
- (4) A local authority may impose a charge for meeting needs under subsection (2) (except in so far as those needs are met by the provision of information or advice).
- (5) A charge under subsection (4)—
 - (a) may be imposed only in respect of needs which were not, immediately before the registered person became unable to carry on or manage the establishment or agency, being met—
 - (i) under arrangements made by a local authority discharging its duty under section 35 or 40, or exercising its power under section 36 or 45, or
 - (ii) by the provision of accommodation or services all or part of the cost of which was paid for by direct payments made by virtue of section 50 or 52;
 - (b) may cover only the cost that the local authority incurs in meeting those needs.
- (6) Sections 60 to 67, 70, 71 and 73 apply to charging under subsection (4) as they apply to charging under section 59, and accordingly a local authority's power to impose a charge under that subsection is subject to—
 - (a) the provision made in regulations under section 61 or 62 (if any), and
 - (b) the authority's duties under sections 63, 66 and 67 (if applicable).
- (7) If the relevant person is not ordinarily resident in the area of the local authority which is required to meet needs under subsection (2), the authority—

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- (a) must, in meeting needs under that subsection which were being met under arrangements made by another local authority discharging its duty under section 35 or 40 or exercising its power under section 36 or 45, co-operate with that authority;
 - (b) must, in meeting needs under that subsection which were being met under arrangements all or part of the cost of which was paid for by another local authority by means of direct payments made by virtue of section 50 or 52, co-operate with that authority;
 - (c) may recover from the other local authority mentioned in paragraph (a) or (b) the cost it incurs in meeting those of the adult's needs or the relevant carer's needs referred to in the paragraph in question.
- (8) Any dispute between local authorities about the application of this section is to be determined under section 195 as if it were a dispute of the type mentioned in subsection (1) of that section.
- (9) In this section and (where relevant) in section 190 and 191—
- “registered person” (“*person cofrestredig*”), in relation to an establishment or agency, means the person registered under Part 2 of the Care Standards Act 2000 in respect of that establishment or agency;
 - “relevant carer” (“*gofalwr perthnasol*”) means a carer who—
 - (a) is an adult, and
 - (b) provides or intends to provide care for another adult;
 - “relevant person” (“*person perthnasol*”) means—
 - (a) in a case involving an adult's needs for care and support, that adult;
 - (b) in a case involving a relevant carer's needs for support, the adult needing care.

190 Provider failure: exception to temporary duty

- (1) A local authority is not required to meet needs which were, immediately before the registered person became unable to carry on or manage the establishment or agency, being met—
- (a) under arrangements made by a local authority in England under Part 1 of the Care Act 2014;
 - (b) under arrangements made by a local authority in Scotland discharging its duty under section 12 or 13A of the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003;
 - (c) under arrangements made by a Health and Social Care trust under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) or section 2 of the Carers and Direct Payments Act (Northern Ireland) 2002;
 - (d) by the provision of accommodation or services all or part of the cost of which was paid for by direct payments made—
 - (i) by virtue of section 57 of the Health and Social Care Act 2001,
 - [^{F2}(ia) by virtue of sections 31 to 33 of the Care Act 2014,]
 - (ii) as a result of the choice made by the adult pursuant to section 5 of the Social Care (Self-directed Support) (Scotland) Act 2013, or
 - (iii) by virtue of section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.

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(2) Pending the commencement of Part 1 of the Care Act 2014, subsection (1)(a) is to be read as if there were substituted for it—

“(a) under arrangements made by or by means of services provided by a local authority in England under—

- (i) Part 3 of the National Assistance Act 1948,
- (ii) section 45 of the Health Services and Public Health Act 1968,
- (iii) section 117 of the Mental Health Act 1983,
- (iv) Schedule 20 to the National Health Service Act 2006, or
- (v) section 2 of the Carers and Disabled Children Act 2000;”.

(3) Pending the commencement of section 5 of the Social Care (Self-directed Support) (Scotland) Act 2013, subsection (1)(d)(ii) is to be read as if there were substituted for it—

“(ii) under section 12B of the Social Work (Scotland) Act 1968, or”.

Textual Amendments

- F2** S. 190(1)(d)(ia) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), [Sch. para. 98](#) (with arts. 1(3), 3)

191 Provider failure: supplementary

- (1) A local authority becomes subject to the duty under section 189(2) as soon as it becomes aware of the business failure.
- (2) Section 34 (how to meet needs) and sections 46 to 49 (meeting needs: exceptions and restrictions) apply to meeting needs under section 189 as they apply to meeting needs under sections 35 to 45.
- (3) Regulations may make provision about the persons whom the local authority must involve in connection with meeting needs under section 189(2).
- (4) Where a person whose needs are being met by a local authority under section 189(2) is also being provided with continuing NHS care under arrangements made by a Local Health Board no part of whose area is in the local authority's area, the Local Health Board is to be treated as a relevant partner of the authority for the purposes of sections 162 and 164.
- (5) In subsection (4) “continuing NHS care” means services or facilities provided by virtue of sections 3(1)(e) and 12 of the National Health Service (Wales) Act 2006.
- (6) Where a local authority considers it necessary to do so for the purpose of carrying out its duty under section 189(2), it may request the registered person, or such other person involved in the establishment or agency's business as it considers appropriate, to provide it with information.
- (7) Regulations must make provision for the purposes of section 189 and this section as to the interpretation of references to business failure or to being unable to do something because of business failure; and the regulations may, in particular, specify

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circumstances in which a person is to be treated as unable to carry on or manage an establishment or agency because of business failure.

192 Amendment of the National Assistance Act 1948

In section 49 of the National Assistance Act 1948 (expenses of council officers acting as receivers), after “Act” insert “, other than one in Wales,”.

VALID FROM 06/04/2016

Supplementary

193 Recovery of costs between local authorities

- (1) Subsection (2) applies where—
 - (a) a local authority (“authority A”) provides or arranges care and support to a person who is ordinarily resident in the area of another local authority (“authority B”), and
 - (b) the care and support was provided either—
 - (i) to meet urgent needs in order to safeguard the person's well-being, or
 - (ii) with the consent of authority B.
- (2) Authority A may recover from authority B any reasonable expenses incurred by it in providing or arranging the care and support.
- (3) Where a local authority provides accommodation under section 76(1) for a child who was (immediately before it began to look after the child) ordinarily resident within the area of another local authority, it may recover from that other authority any reasonable expenses incurred by it in providing the accommodation and maintaining the child.
- (4) Subsection (5) applies where a local authority (“authority A”) provides accommodation under section 77(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority (“authority B”) and it is not maintaining the child in—
 - (a) a community home provided by authority A,
 - (b) a controlled community home, or
 - (c) a hospital vested in the Welsh Ministers, an NHS Trust, an NHS Foundation Trust or the Secretary of State, or any other hospital made available pursuant to arrangements made by a Local Health Board, an NHS Trust, an NHS Foundation Trust, the Welsh Ministers, the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group.
- (5) Authority A may recover from authority B any reasonable expenses incurred by it in providing the accommodation and maintaining the child.
- (6) Except where subsection (7) applies, where a local authority complies with any request under section 164(1) or (2) in relation to a person who is not ordinarily resident within its area, it may recover from the local authority in whose area the person is ordinarily resident any reasonable expenses incurred by it in respect of that person.

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- (7) Where a local authority (“authority A”) complies with any request under section 164(1) or (2) from another local authority (“authority B”) in relation to a person for whom authority B is the responsible local authority within the meaning of section 104, authority A may recover from authority B any reasonable expenses incurred by it in exercising its functions under sections 105 to 115 in respect of that person.

194 Ordinary residence

- (1) Where an adult has needs for care and support which can be met only if the adult is living in accommodation of a type specified in regulations and the adult is living in accommodation in Wales of a type so specified, the adult is to be treated for the purposes of this Act as ordinarily resident—
- (a) in the area in which the adult was ordinarily resident immediately before the adult began to live in accommodation of a type specified in the regulations, or
 - (b) if the adult was of no settled residence immediately before the adult began to live in accommodation of a type so specified, in the area in which the adult was present at that time.
- (2) Where, before beginning to live in his or her current accommodation, the adult was living in accommodation of a type so specified (whether or not of the same type as the current accommodation), the reference in subsection (1)(a) to when the adult began to live in accommodation of a type so specified is a reference to the beginning of the period during which the adult has been living in accommodation of one or more of the specified types for consecutive periods.
- (3) The regulations may make provision for determining for the purposes of subsection (1) whether an adult has needs for care and support which can be met only if the adult is living in accommodation of a type specified in regulations.
- (4) A person who is being provided with accommodation under a health enactment is to be treated for the purposes of this Act as ordinarily resident—
- (a) in the area in which the person was ordinarily resident immediately before the accommodation was provided, or
 - (b) if the person was of no settled residence immediately before the accommodation was provided, in the area in which the person was present at that time.
- (5) In subsection (4) “health enactment” means—
- (a) the National Health Service (Wales) Act 2006;
 - (b) the National Health Service Act 2006;
 - (c) the National Health Service (Scotland) Act 1978;
 - (d) the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14));
 - (e) the Health and Social Care (Reform) Act (Northern Ireland) 2009.
- (6) In determining the ordinary residence of a child for the purposes of this Act, the child's residence in the following places is to be disregarded—
- (a) a school or other institution;
 - (b) a place in which the child is placed in accordance with the requirements of a supervision order under the Children Act 1989;

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- (c) a place in which the child is placed in accordance with the requirements of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008;
 - (d) accommodation provided by or on behalf of a local authority or a local authority in England;
 - (e) a place specified in regulations.
- (7) See also sections 185(1) to (3) and 186(2) for provision as to the ordinary residence of persons in prison, youth detention accommodation or bail accommodation etc.

195 Disputes about ordinary residence and portability of care and support

- (1) A dispute between local authorities about where a person is ordinarily resident in Wales for the purposes of this Act, or a dispute between a sending and receiving authority under section 56 about the application of that section in relation to a person, is to be determined by—
- (a) the Welsh Ministers, or
 - (b) a person appointed by the Welsh Ministers for that purpose (“an appointed person”).
- (2) Regulations may make further provision about the resolution of disputes of the type mentioned in subsection (1); the regulations may, for example, make—
- (a) provision for ensuring that care and support is provided to a person while a dispute is unresolved;
 - (b) provision requiring local authorities in dispute to take specified steps before referring a dispute to the Welsh Ministers or an appointed person;
 - (c) provision about the procedure for referring a dispute to the Welsh Ministers or an appointed person;
 - (d) provision about the review of a determination made under subsection (1).

General

196 Orders and regulations

- (1) A power to make an order or regulations under this Act is to be exercised by statutory instrument.
- (2) A power to make an order or regulations under this Act includes power—
- (a) to make different provision for different cases or classes of case, different areas or different purposes;
 - (b) to make different provision generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case;
 - (c) to make incidental, supplementary, consequential, transitory, transitional or saving provision.
- (3) Subsections (1) and (2) do not apply to an order which may be made by a court or a justice of the peace.
- (4) A statutory instrument containing regulations made by the Welsh Ministers under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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- (5) Subsection (4) does not apply to regulations to which subsection (6) applies.
- (6) A statutory instrument containing the following regulations or orders (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales—
- (a) regulations under section 3(6), 16(3), 18(3), 32, 37(1), 40(1), 42(1), 119, 127(9), 135(4), 166, 167(3), 168 or 181;
 - (b) an order under section 140 or 143(2);
 - (c) regulations under section 198 which amend or repeal any provision of an Act of Parliament or a Measure or Act of the National Assembly for Wales;
- (see sections 33 and 141 for further requirements in relation to the making of regulations under section 32 and orders under section 140).
- (7) A statutory instrument containing regulations made by the Lord Chancellor under section 101 is subject to annulment in pursuance of a resolution of either House of Parliament.

197 General interpretation and index of defined expressions

(1) In this Act—

“abuse” (*“camdriniaeth”, “cam-drin”*) means physical, sexual, psychological, emotional or financial abuse (and includes abuse taking place in any setting, whether in a private dwelling, an institution or any other place), and “financial abuse” (*“camdriniaeth ariannol”*) includes—

- (a) having money or other property stolen;
- (b) being defrauded;
- (c) being put under pressure in relation to money or other property;
- (d) having money or other property misused;

“adult” (*“oedolyn”*) has the meaning given by section 3;

“approved premises” (*“mangre a gymeradwywyd”*) is defined for the purposes of sections 185 to 187 by section 188(1);

“bail in criminal proceedings” (*“mechniaeth mewn achos troseddol”*) is defined for the purposes of sections 185 to 187 by section 188(1);

“care and support” (*“gofal a chymorth”*) has the meaning given by section 4;

“care home” (*“cartref gofal”*) has the same meaning as in the Care Standards Act 2000;

“carer” (*“gofalwr”*) has the meaning given by section 3;

“child” (*“plentyn”*) has the meaning given by section 3;

“children's home” (*“cartref plant”*) means, except in section 86, a children's home within the meaning of the Care Standards Act 2000 in respect of which a person is registered under Part 2 of that Act;

“clinical commissioning group” (*“grŵp comisiynu clinigol”*) means a body established under section 14D of the National Health Service Act 2006;

“community home” (*“cartref cymunedol”*) and “controlled community home” (*“cartref cymunedol a reolir”*) have the meanings given by section 53 of the Children Act 1989;

“disabled” (*“anabl”*) has the meaning given by section 3;

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“education functions” (“*swyddogaethau addysg*”) has the meaning given by section 579(1) of the Education Act 1996;

“eligibility criteria” (“*meini prawf cymhwysra*”) means criteria set under section 32;

“enactment” (“*deddfiad*”) means—

(a) except in sections 140(2)(b), 172(7) and 198(2)(b), a provision contained in any of the following (whenever enacted or made)—

- (i) an Act of Parliament;
- (ii) an Act or Measure of the National Assembly for Wales;
- (iii) an Act of the Scottish Parliament;
- (iv) Northern Ireland legislation (within the meaning of the Interpretation Act 1978);
- (v) subordinate legislation made under an enactment falling within sub-paragraphs (i) to (iv);

(b) in sections 140(2)(b), 172(7) and 198(2)(b), a provision contained in any of the following (whenever enacted or made)—

- (i) an Act of Parliament;
- (ii) an Act or Measure of the National Assembly for Wales;
- (iii) subordinate legislation made under an enactment falling within sub-paragraph (i) or (ii);

“family” (“*teulu*”), in relation to a child, includes (but is not limited to) any person who has parental responsibility for the child and any other person with whom the child has been living;

“financial assessment” (“*asesiad ariannol*”) has the meaning given by section 63;

“financial limit” (“*terfyn ariannol*”) has the meaning given by section 66(5);

“function” (“*swyddogaeth*”) means power or duty;

“harm” (“*niwed*”), in relation to a child, means abuse or the impairment of—

- (a) physical or mental health, or
- (b) physical, intellectual, emotional, social or behavioural development,

and where the question of whether harm is significant turns on the child's health or development, the child's health or development is to be compared with that which could reasonably be expected of a similar child;

“Health and Social Care trust” (“*ymddiriedolaeth Iechyd a Gofal Cymdeithasol*”) means a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1));

“hospital” (“*ysbyty*”) has the meaning given by section 206 of the National Health Service (Wales) Act 2006;

“independent hospital” (“*ysbyty annibynnol*”)—

- (a) in relation to Wales, has the meaning given by section 2 of the Care Standards Act 2000, and
- (b) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;

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“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales;

“local authority foster parent” (“*rhiant maeth awdurdod lleol*”) means a person who is approved as a local authority foster parent in accordance with regulations made by virtue of section 93;

“local authority in England” (“*awdurdod lleol yn Lloegr*”) means—

- (a) a county council in England,
- (b) a district council for an area in England for which there is no county council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“local authority in Scotland” (“*awdurdod lleol yn yr Alban*”) means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

“National Board” (“*Bwrdd Cenedlaethol*”) is defined for the purposes of Part 7 by section 142;

“National Health Service Commissioning Board” (“*Bwrdd Comisiynu'r Gwasanaeth Iechyd Gwladol*”) means the body established under section 1H of the National Health Service Act 2006;

“needs assessment” (“*asesiad o anghenion*”) means an assessment under Part 3;

“neglect” (“*esgeulustod*”) means a failure to meet a person's basic physical, emotional, social or psychological needs, which is likely to result in an impairment of the person's well-being (for example, an impairment of the person's health or, in the case of a child, an impairment of the child's development);

“NHS Foundation Trust” (“*Ymddiriedolaeth Sefydledig GIG*”) has the meaning given by section 30 of the National Health Service Act 2006;

“NHS Trust” (“*Ymddiriedolaeth GIG*”) means a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;

“parental responsibility” (“*cyfrifoldeb rhiant*”) has meaning given by section 3 of the Children Act 1989;

“prison” (“*carchar*”) is defined—

- (a) for the purposes of sections 185 to 187 by section 188(1),
- (b) for the purposes of section 134, by section 134(11), and
- (c) for the purposes of section 162, by section 162(11);

“private children's home” (“*cartref plant preifat*”) means a children's home which is not—

- (a) a community home, or
- (b) a voluntary home (within the meaning given by section 60 of the Children Act 1989);

“regulations” (“*rheoliadau*”), other than in relation to section 101, means regulations made by the Welsh Ministers;

“relative” (“*perthynas*”), in relation to a child, means a step-parent, grandparent, brother, sister, uncle or aunt (including any person who is in that

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relationship by virtue of a marriage or civil partnership or an enduring family relationship);

“Safeguarding Board” (“*Bwrdd Diogelu*”) is defined for the purposes of Part 7 by section 142;

“Safeguarding Board area” (“*ardal Bwrdd Diogelu*”) is defined for the purposes of Part 7 by section 142;

“Safeguarding Board partner” (“*partner Bwrdd Diogelu*”) is defined for the purposes of Part 7 by section 142;

“services” (“*gwasanaethau*”) includes facilities;

“special guardian” (“*gwarcheidwad arbennig*”) and “special guardianship order” (“*gorchymyn gwarcheidiaeth arbennig*”) have the meaning given by section 14A of the Children Act 1989;

“Special Health Authority” (“*Awdurdod Iechyd Arbennig*”) means a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006 or section 28 of the National Health Service Act 2006;

“specified” (“*penodedig*”, “*a bennir*”, “*a bennwyd*”) and related expressions, unless the context otherwise requires, means specified in regulations;

“standard charge” (“*ffi safonol*”) is defined for the purposes of Part 5 by section 63(3);

“upbringing” (“*magwraeth*”), in relation to a child, includes the care of the child but not the child's maintenance;

“voluntary organisation” (“*sefydliad gwirfoddol*”) means a body (other than a public or private body) whose activities are not carried on for profit;

“well-being” (“*llesiant*”) has the meaning given by section 2;

“Welsh family proceedings officer” (“*swyddog achosion teuluol Cymru*”) has the meaning given by section 35 of the Children Act 2004;

“youth detention accommodation” (“*llety cadw ieuenctid*”) is defined for the purposes of sections 185 to 187 by section 188(1);

“youth offending team” (“*tîm troseddwyd ifanc*”) means a team established under section 39 of the Crime and Disorder Act 1998.

(2) In this Act—

- (a) a reference to a child looked after by a local authority has the meaning given by section 74;
- (b) a reference to a child looked after by a local authority in England has the meaning given to a reference in the Children Act 1989 to a child who is looked after by a local authority for an area in England (see section 22 of that Act);
- (c) a reference to a child looked after by a local authority in Scotland has the same meaning as a reference in Chapter 1 of Part 2 of the Children (Scotland) Act 1995 to a child who is “looked after” by a local authority (see section 17(6) of that Act);
- (d) a reference to a child looked after by a Health and Social Care trust has the same meaning as a reference in the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) to a child who is looked after by an authority (see article 25 of that Order).

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- (3) A reference in this Act to a child who is in the care of a local authority is a reference to a child who is in its care by virtue of a care order (within the meaning given by the Children Act 1989).
- (4) A reference in this Act to accommodation provided by or on behalf of a local authority is a reference to accommodation so provided in the exercise of functions of that authority or any other local authority which are social services functions.
- (5) A reference in this Act to a person having, or lacking, capacity in relation to a matter is to be interpreted as a reference to a person having, or lacking, capacity within the meaning of the Mental Capacity Act 2005 in relation to that matter.
- (6) A reference in this Act to being authorised under the Mental Capacity Act 2005 is a reference to being authorised as—
 - (a) a donee of a lasting power of attorney created under that Act, or
 - (b) a deputy appointed by the Court of Protection under section 16(2)(b) of that Act.
- (7) The Welsh Ministers may by regulations provide that the Council of the Isles of Scilly is to be treated as a local authority in England for the purposes of this Act, or for the purposes of specified provisions of this Act, with such modifications as may be specified.

198 Power to make consequential and transitional provision etc

- (1) If the Welsh Ministers consider it necessary or expedient for the purposes of giving full effect to any provision of this Act, or in consequence of any such provision, they may by regulations make—
 - (a) any supplementary, incidental or consequential provision, and
 - (b) any transitional or saving provision.
- (2) Regulations under this section may (among other things)—
 - (a) provide for any provision of this Act which comes into force before another provision has come into force to have effect, until that other provision has come into force, with specified modifications;
 - (b) amend, repeal or revoke any enactment (including a provision of this Act) passed or made on or before the day on which this Act is passed.
- (3) Nothing in this section limits the power by virtue of section 196(2) to include transitional or saving provision in an order under section 199(2).

199 Commencement

- (1) The following provisions come into force on the day after the day on which this Act receives Royal Assent—
 - Part 1;
 - section 196;
 - section 197;
 - section 198;
 - this section;
 - section 200.

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- (2) The remaining provisions of this Act come into force on a day appointed by the Welsh Ministers by order.
- (3) An order made under subsection (2) may appoint different days for different purposes.
- (4) An order made under subsection (2) may not commence the provision in subsections (1) and (2) of section 32 before regulations made under subsections (3) and (4) of that section have come into force.

200 Short title

The short title of this Act is the Social Services and Well-being (Wales) Act 2014.

Status:

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Changes to legislation:

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