

*Draft Order laid before Parliament under section 95(5) of the Government of Wales Act 2006, for approval by resolution of both Houses of Parliament*

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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**CONSTITUTIONAL LAW  
DEVOLUTION, WALES**

The National Assembly for Wales (Legislative Competence)  
(Health and Health Services and Social Welfare) Order 2010

Made - - - - 2010

*Coming into force in accordance with Article 1*

At the Court at Buckingham Palace, the day of 2010

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(1), a draft of this order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of section 95(1) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows:-

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010.

(2) This Order shall come into force on the day after the day on which it is made.

(3) In this Order “the 2006 Act” means the Government of Wales Act 2006.

**Amendments relating to the field of health and health services**

2.—(1) Field 9 (health and health services) of Part 1 of Schedule 5 to the 2006 Act is amended in accordance with this article.

(2) After matter 9.1(2) insert —

*“Matter 9.2*

Assessment of mental health and treatment of mental disorder.

This matter does not include any of the following—

- (a) subjecting patients to—
  - (i) compulsory attendance at any place for the purposes of assessment or treatment,
  - (ii) compulsory supervision, or
  - (iii) guardianship;
- (b) consent to assessment or treatment;
- (c) restraint;
- (d) detention.

For the purposes of this matter, “treatment of mental disorder” means treatment to alleviate, or prevent a worsening of, a mental disorder or one or more of its symptoms or manifestations; and it includes (but is not limited to) nursing, psychological intervention, habilitation, rehabilitation and care.”

(3) Under the heading “*Interpretation of this field*”, after the definition of “illness” insert—

““mental disorder” means any disorder or disability of the mind, apart from dependence on alcohol or drugs;”.

### **Amendments relating to the field of social welfare**

**3.—(1)** Field 15 (social welfare)(3) of Part 1 of Schedule 5 to the 2006 Act is amended in accordance with this article.

(2) After matter 15.9 insert—

*“Matter 15.10*

Social care services connected to mental health.

This matter does not include the independent mental capacity advocacy services established by Part 1 of the Mental Capacity Act 2005(4).”.

(3) Under the heading “*Interpretation of this field*”, before the definition of “children” insert—

““advocacy services” means services providing assistance (by way of representation or otherwise) in connection with the well-being of any person;”.

*Name*  
Clerk of the Privy Council

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(2) Matter 9.1 was inserted by the National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (SI 2007/910).

(3) Matter 15.1 was inserted into field 15 by the National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2008 (SI 2008/1785). Matters 15.2 to 15.8 were inserted into field 15 by article 3(b) of the National Assembly for Wales (Legislative Competence) (Social Welfare and other Fields) Order 2008 (SI 2008/3132). Matter 15.9 was inserted by the National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (SI 2009/3010).

(4) 2005 c.9.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Government of Wales Act 2006 (“the 2006 Act”). The Order extends the legislative competence of the National Assembly for Wales to make laws known as Measures of the National Assembly for Wales (referred to in the 2006 Act as “Assembly Measures”). The legislative competence conferred by this Order is subject to general limitations on the exercise of that legislative competence, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act.

Article 2 inserts matter 9.2 and interpretation provisions into field 9 (health and health services) of Part 1 of Schedule 5 to the 2006 Act.

Matter 9.2 is about the assessment of mental health and treatment of mental disorder, excluding compulsory attendance for assessment or treatment, compulsory supervision, guardianship, consent to treatment or assessment, restraint and detention.

Article 3 inserts matter 15.10 and interpretation provisions into field 15 (social welfare) of Part 1 of Schedule 5 to the 2006 Act.

Matter 15.10 is about social care services connected to mental health, apart from the independent mental capacity advocacy services established by Part 1 of the Mental Capacity Act 2005.

A full regulatory impact assessment has not been produced for this instrument since the effect of this Order is only to confer competence on the National Assembly for Wales to legislate.