
WELSH STATUTORY INSTRUMENTS

2017 No. 1264

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

PART 2

Exceptions

Care home services

2.—(1) The following things are not to be treated as a care home service, despite paragraph 1 of Schedule 1 to the Act (regulated services: definitions, care home services)—

- (a) the provision of accommodation, together with nursing or care, to an adult—
 - (i) in the course of a family or personal relationship, and
 - (ii) for no commercial consideration;
- (b) the provision of accommodation, together with nursing or care, to adults for a period of less than 28 days in any 12 month period or for a number of periods which in total are less than 28 days in any 12 month period;
- (c) the provision of accommodation, together with nursing, where the accommodation is vested—
 - (i) in the Welsh Ministers for the purposes of their functions under the National Health Service (Wales) Act 2006;
 - (ii) in an NHS trust;
 - (iii) in a Local Health Board.
- (d) the provision of accommodation, together with care, where the accommodation is provided—
 - (i) by an institution within the further education sector; or
 - (ii) by a university.

But this exception does not apply if the number of persons to whom such accommodation is provided is more than one tenth of the number of students to whom it provides both education and accommodation.

For the purposes of this paragraph, “further education sector” (“*sector addysg bellach*”) has the same meaning as in section 91(3) of the Further and Higher Education Act 1992^{M1};

- [^{F1}(e) the provision of accommodation, together with care, where the care provided constitutes child minding within the meaning of section 19(2), or day care within the meaning of section 19(3) of the Children and Families (Wales) Measure 2010 but this exception does not apply if—

- (i) in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of child minding or day care are provided in relation to any one child;
 - or

- (ii) the care is provided wholly or mainly for disabled children;]
- (f) the provision of accommodation, together with care, where the accommodation is provided for children aged 16 and over only for the purposes of enabling the children to undergo training or an apprenticeship.

But this exception does not apply if [^{F2}care is provided wholly or mainly for disabled children];

- (g) the provision of accommodation, together with care, where the accommodation is provided to children at an approved bail hostel or approved probation hostel;
- (h) the provision of accommodation, together with care, where the accommodation is an institution for young offenders provided under or by virtue of section 43(1) of the Prison Act 1952 ^{M2};
- (i) the provision of accommodation, together with care, where the accommodation is provided to children ^{F3}... for the purposes of—

- (i) a holiday;
- (ii) a leisure, recreational, sporting, cultural or educational activity;

But this exception does not apply—

- (i) in any case where [^{F4}care is provided wholly or mainly for disabled children unless the service provider has first notified the Welsh Ministers of the arrangements in writing];
- (ii) if the accommodation is provided to any one child for more than 28 days in any 12 month period, unless the accommodation is only provided to children over the age of 16 [^{F5}];

[^{F6}(j) the provision of accommodation, together with care, to a single child or to a sibling group by a person in that person’s own home and where care and accommodation are not provided by that person for a total of more than 28 days in any 12 month period][^{F7}];

[^{F8}(l) the provision of accommodation, together with nursing or care, to adults in a local authority intermediate care service.

But this exception does not apply unless—

- (i) the local authority is solely responsible for providing the intermediate care, and
- (ii) the intermediate care is provided for no more than sixteen weeks at a time to any one adult.]

^{F9}(k)
^{F9}

(2) For the purposes of paragraph (1)(e), (f) and (i) of this regulation, a child is “disabled” if the child has a disability for the purposes of the Equality Act 2010.

(3) See regulation 5 for the meaning of family or personal relationship.

[^{F10}(4) In subparagraph (1)(j) of this regulation, “sibling group” includes both brothers and sisters, and half-brothers and half-sisters.]

[^{F11}(5) For the purposes of paragraph (1)(l) of this regulation—

“intermediate care” (“*gofal canolraddol*”) means the provision of accommodation, together with nursing or care, to an adult for a limited period for the purpose of promoting the adult’s ability to live independently in their own home by—

- (a) avoiding unnecessary admission to hospital,
- (b) minimising the duration of any admission to hospital by enabling timely discharge,

- (c) enabling recovery following discharge from hospital, or
 - (d) preventing or delaying admission to a care home service;
- “local authority intermediate care service” (“*gwasanaeth gofal canolraddol awdurdod lleol*”) means a service providing intermediate care—
- (a) which is provided by a local authority to an adult in accordance with its duties in Part 2 or 4 of the 2014 Act,
 - (b) where the accommodation used for the purposes of the intermediate care is vested in the local authority, and
 - (c) where any care and support is provided by a domiciliary support service the local authority is registered to provide.]

Textual Amendments

- F1** Reg. 2(1)(e) substituted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(a)**
- F2** Words in reg. 2(1)(f) substituted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(b)**
- F3** Words in reg. 2(1)(i) omitted (1.4.2019) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(c)(i)**
- F4** Words in reg. 2(1)(i) substituted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(c)(ii)**
- F5** Punctuation in reg. 2(1)(i) substituted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(d)**
- F6** Reg. 2(1)(j) inserted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(e)**
- F7** Reg. 2(1)(j): semicolon substituted for full stop (31.3.2024) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2024 (S.I. 2024/407), regs. 1(2), **3(a)**
- F8** Reg. 2(1)(l) inserted (31.3.2024) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2024 (S.I. 2024/407), regs. 1(2), **3(b)**
- F9** Words in reg. 2(1) omitted (1.11.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) and (Coronavirus) (Revocation) Regulations 2022 (S.I. 2022/1074), regs. 1(2), **4(b)**
- F10** Reg. 2(4) inserted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **4(f)**
- F11** Reg. 2(5) inserted (31.3.2024) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2024 (S.I. 2024/407), regs. 1(2), **4**

Marginal Citations

- M1** 1992 c. 13.
- M2** 1952 c. 52.

Changes to legislation:

There are currently no known outstanding effects for the The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, Section 2.