
EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 and the Schedule bring into force provisions of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) relating to the regulation of certain social care service providers.

Section 6 of the Act is brought into force on 1 February 2018 to allow applications for registration to be made in advance of the main coming into force date for Part 1 of the Act. 2 April 2018 is the coming into force date for the provisions of Part 1 as they apply to persons providing care home services, secure accommodation services, residential family centre services and domiciliary support services. Article 2 also commences relevant consequential amendments in Part 1 of Schedule 3 to the Act. 2 April 2018 is referred to in the Order as “the principal appointed day”.

Articles 3 to 15 make savings, transitory and transitional provisions to deal with the periods within which a person registered under Part 2 of the Care Standards Act 2000 (“the 2000 Act”) must apply to the Welsh Ministers to register and during which they will be exempt from the requirement to be registered under the Act and will continue to be regulated under Part 2 of the 2000 Act.

Article 3 provides a definition of a “transition service” to describe relevant establishments and agencies which are included in applications for registration under the Act. Relevant establishments and agencies are care homes, children’s homes, children’s homes providing accommodation for the purpose of restricting the liberty of children, residential family centres and domiciliary care agencies and which are carried on by a person registered under Part 2 of the 2000 Act immediately before the principal appointed day.

Article 4 disapplies, for a transition period, section 5 of the Act. Section 5 makes it an offence to provide a regulated service without being registered under the Act. A person carrying on a relevant establishment or agency will not be liable under section 5 until the relevant date which applies to the type of establishment or agency but, provided they have submitted an application to register under the Act before the relevant date, the transition period is extended to the time when that application is determined.

Article 5 provides that where an establishment or agency is subject to cancellation but the process is not determined on the date by which an application would normally have to be made to register under section 6 of the Act, then the date is put back to a date 6 weeks after the cancellation process is determined. The effect therefore is to extend the transition period.

Article 6 saves relevant provisions of Part 2 of the 2000 Act so that the provisions of Part 2, and regulations made under Part 2, continue to apply to those whose activity is governed by them during the transition period. The savings apply to providers, to the registration authority, to the First-tier Tribunal and to Magistrates’ Courts but not to managers. The registration of a manager registered under Part 2 of the 2000 Act ends therefore on 2 April 2018.

Article 7 makes a transitory modification to the definitions of “care home service” and “domiciliary support service” in Schedule 1 which contain references to “adult placement services” because commencement of Part 1 of the Act for “adult placement services” is not part of this phase of commencement.

Article 8 makes a transitory modification to sections 189 to 191 of the Social Services and Well-being (Wales) Act 2014 as regards business failure of services whose regulation under the Act has not yet been commenced and which continue to be regulated under the 2000 Act. The modification requires the sections to be read as if the consequential amendments made to them by the Act do not apply.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 9 allows Welsh Ministers to postpone consideration of an application to register under the Act where the service is one which is subject to one of the specified enforcement measures, until after the outcome of the process which relates to the enforcement measure.

Article 10 allows Welsh Ministers to treat an outstanding application for registration under the 2000 Act as if it were an application to register under section 6 of the Act and to request any additional information to enable them to do so.

Article 11 allows Welsh Ministers not to determine an application for variation or removal of conditions of registration made by a provider who, in the transition period, is still being regulated under the 2000 Act and instead consider it as part of the provider's application to register under the Act.

Article 12 provides that if a manager of an establishment or agency is subject to a notice of decision to cancel his or her registration and the manager has, before the expiry of the transition period, lodged an appeal to the First-Tier Tribunal, then the manager's registration will continue until the appeal is determined or abandoned.

Article 13 makes provision to deal with circumstances where a relevant establishment or agency, on the principal appointed day, is being carried on by personal representatives following the death of the person who was registered under the 2000 Act.

Article 14 makes provision for persons who have been providing domiciliary care services in Wales prior to 1 February but have not been able to register as a domiciliary care agency because their business is located outside Wales. Where these providers make an application to register under section 6 of the Act by 2 April 2018 they will be able to continue to provide services and will not be liable to prosecution under section 5 of the Act.

Article 15 makes provision for a person registered under the 2000 Act as a person who carries on a nurses agency and where an application is made under section 6 of the Act to register in respect of the undertaking as a domiciliary support service.