

SCHEDULE 3

(as introduced by section 185)

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

REGULATION OF SERVICES

Care Standards Act 2000

- 1 The [Care Standards Act 2000 \(c.14\)](#) is amended as follows.
- 2 In section 1—
 - (a) in subsection (1), at the end insert “as it applies in relation to England”;
 - (b) in subsection (2), after “establishment” insert “in England”;
 - (c) subsection (4) is repealed;
 - (d) in subsection (4A), the words “in England” are repealed;
 - (e) the section heading becomes “Children’s homes in England”.
- 3 In section 3—
 - (a) in subsection (1), after “establishment” insert “in England”;
 - (b) subsection (3) is repealed;
 - (c) in subsection (4), the words “in England” are repealed;
 - (d) the section heading becomes “Care homes in England”.
- 4 In section 4—
 - (a) in subsection (2), after “establishment” insert “in England”;
 - (b) in subsection (3), after “persons” insert “in England”;
 - (c) in subsection (4)—
 - (i) in paragraph (a), after “authorities” insert “in England”;
 - (ii) in paragraph (b), after “organisation” insert “in England”;
 - (d) subsection (5) is repealed;
 - (e) in subsection (7), at the end insert “whose principal office is in England”;
 - (f) in subsection (7A), for “has” substitute “means an undertaking in England which is an adoption support agency within”;
 - (g) in subsection (8)(a)—
 - (i) in sub-paragraph (i), at the end insert “in England”;
 - (ii) in sub-paragraph (ii), after “home” insert “in England”;
 - (iii) sub-paragraph (vi) is repealed;
 - (iv) in sub-paragraph (vii), at the end insert “in England”;
 - (h) in subsection (9)(a), sub-paragraphs (ii) and (iii) are repealed;
 - (i) in subsection (10), after “services” where it first occurs insert “in England”.
- 5 In section 5—
 - (a) in subsection (1)(b), for “in any other case” substitute “in the case of establishments mentioned in subsection (1B)”;
 - (b) in subsection (1A), after “agencies” insert “mentioned in subsection (1)(a)”;
 - (c) after subsection (1A), insert—

Status: This is the original version (as it was originally enacted).

- “(1B) The establishments mentioned in subsection (1)(b) are—
- (a) independent hospitals in Wales;
 - (b) independent clinics in Wales.”;
- (d) subsection (2) is repealed.
- 6 In section 8(6)—
- (a) in paragraph (a), for “section 5(b)” substitute “section 5(1)(b)”;
 - (b) in paragraph (b) for sub-paragraphs (i) and (ii) substitute “by the Care Quality Commission—
- (i) under Chapters 2 and 3 of Part 1 of the Health and Social Care Act 2008 in relation to health care in England, or
 - (ii) under the Mental Health Act 1983 in relation to England.”
- 7 In section 14(2), after paragraph (f) insert—
- “(g) an offence under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”
- 8 In section 22—
- (a) in subsection (1), for paragraph (b) substitute—
- “(b) regulations made by the Welsh Ministers—
- (i) may make provision only in relation to establishments for which the Welsh Ministers are the registration authority, and
 - (ii) may in particular make any provision such as is mentioned in subsection (2), (7) or (8) in so far as relevant to those establishments.”;
- (b) subsections (3) and (4) are repealed.
- 9 In section 22B—
- (a) in subsection (1), for “registration authority” substitute “CIECSS”;
 - (b) in subsection (3)(c), for “registration authority’s” substitute “CIECSS’s”;
 - (c) in subsection (4)(b), for “registration authority” substitute “CIECSS”;
 - (d) in subsection (5)(a), for “registration authority” substitute “CIECSS”;
 - (e) in subsection (6), for “registration authority” substitute “CIECSS”;
 - (f) in subsection (8)—
- (i) in paragraph (a), at the end insert “in England”;
 - (ii) in paragraph (b), at the end insert “in England”.
- 10 In section 23, after subsection (1) insert—
- “(1ZA) But the Welsh Ministers may prepare and publish such a statement only in relation to establishments for which the Welsh Ministers are the registration authority.”
- 11 In section 30A—
- (a) in subsection (1), after “agency” insert “in England”;
 - (b) in subsection (2), for “registration authority” substitute “CIECSS”;
 - (c) in subsection (3), for “registration authority” substitute “CIECSS”;

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- (d) in subsection (7), in the definition of “prescribed”, paragraph (b) is repealed.
- 12 Section 36A is repealed.
- 13 In section 42—
 - (a) for subsection (2) substitute—
 - “(2) This subsection applies to persons who provide services which are similar to services which may or must be provided by Welsh NHS bodies.”;
 - (b) in subsection (7), the definition of “Welsh local authorities” is repealed.
- 14 In section 43, after subsection (1) insert—
 - “(1A) “Local authority” means a local authority in England.”
- 15 In section 50(1), for “registration authority” substitute “CIECSS”.
- 16 Section 79(3) is repealed.

Health and Social Care (Community Health and Standards) Act 2003

- 17 The [Health and Social Care \(Community Health and Standards\) Act 2003 \(c.43\)](#) is amended as follows.
- 18 Chapter 6 of Part 2 (social services: functions of the National Assembly for Wales) is repealed.
- 19 In section 142, in paragraph (a)—
 - (a) in sub-paragraph (i), omit “and 6”;
 - (b) in sub-paragraph (ii), for “section 5(b)” substitute “section 5(1)(b)”.
- 20 In section 143(2), paragraph (b) is repealed.

Public Audit (Wales) Act 2004

- 21 The [Public Audit \(Wales\) Act 2004 \(c.23\)](#) is amended as follows.
- 22 In section 41(6) (co-operation between the Auditor General for Wales and the Welsh Ministers in studies for improving economy etc. in services), for the words from “sections 94 and 95” to the end substitute “sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers).”
- 23 In section 42(4) (co-operation between the Auditor General for Wales and the Welsh Ministers in studies about the impact of statutory provisions), for the words from “section 95(2)” to the end substitute “sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers).”

Children Act 2004

- 24 In section 30 of the [Children Act 2004 \(c.31\)](#) (inspection of functions under Part 3), for subsection (1) substitute—

Status: This is the original version (as it was originally enacted).

“(1) The Welsh Ministers’ functions under Part 8 of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#) may be exercised as if anything done by a local authority in Wales in the exercise of functions to which this section applies was in the exercise of a social services function of the local authority (within the meaning of that Act).”

Public Services Ombudsman (Wales) Act 2005

- 25 The [Public Services Ombudsman \(Wales\) Act 2005 \(c.10\)](#) is amended as follows.
- 26 In section 34R (meaning of “care home” and “care home provider”)—
- (a) in subsection (2), for the words from “has” to the end substitute “means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over;”
 - (b) in subsection (3), for “carries on a care home” substitute “is a service provider of a care home service within the meaning of Part 1 of that Act where the service is provided wholly or mainly to persons aged 18 or over;”
 - (c) in subsection (5), for the words from “personal” to the end of paragraph (a) substitute “care in a care home in Wales for an individual because of the individual’s vulnerability or need;”
 - (d) after subsection (5), insert—

“(6) “Care” has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”
- 27 In section 42(4A) (meaning of “former care home provider”), for the words from “personal” to the end of paragraph (a) substitute “care of a particular description at a care home in Wales (see section 32R),”.

Safeguarding Vulnerable Groups Act 2006

- 28 In paragraph 1 of Schedule 4 to the [Safeguarding Vulnerable Groups Act 2006 \(c.47\)](#) (regulated activity relating to children), in sub-paragraph (9B)—
- (a) for sub-sub-paragraph (h) substitute—

“(h) an inspection in Wales under section 33 of the Regulation and Inspection of Social Care (Wales) Act 2016 (inspections of regulated care and support services) of a residential family centre service, a fostering service, or an adoption service (each of which has the meaning given in Schedule 1 to that Act);”
 - (b) for sub-sub-paragraph (j) substitute—

“(j) a review under section 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of local authority social services functions in Wales);”
 - (c) in sub-sub-paragraph (k) for “or investigation under section 94” substitute “under section 149B”.

Social Services and Well-being (Wales) Act 2014

- 29 The 2014 Act is amended as follows.

- 30 In section 1 (overview)—
- (a) in subsection (9)—
- (i) after paragraph (b) insert—
- “(ba) requires local authorities to produce—
- (i) annual reports about the exercise of social services functions, and
- (ii) reports about the stability of local markets for providing care and support,
- (sections 144A and 144B);”
- (ii) after paragraph (c) insert—
- “(ca) provides powers for the Welsh Ministers to conduct reviews relating to the exercise of social services functions of local authorities (sections 149A and 149B);”
- (iii) in paragraph (d), for “161.” substitute “160);
- (da) allows for the inspection of premises in connection with reviews of local authority social services functions conducted by the Welsh Ministers or the exercise of the Welsh Ministers’ powers of intervention in relation to those functions, and for the Welsh Ministers to request information in connection with such reviews and makes related provision (sections 161 to 161C).”;”;
- (b) in subsection (15)(c), for “an establishment or agency (within the meaning of the Care Standards Act 2000)” substitute “a service provider (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016)”.
- 31 Section 183 (publicising advocacy services in care homes) is repealed.
- 32 In section 188(1) (definitions for the purposes of sections 185 to 187), in the definition of “youth detention accommodation”, for paragraph (a) substitute—
- “(a) a secure accommodation service (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016);”.
- 33 In section 189 (provider failure: temporary duty on local authority)—
- (a) for subsection (1) substitute—
- “(1) This section applies where a service provider becomes unable to provide a regulated service because of business failure.”;
- (b) in subsection (2), for the words from “registered” to “agency” where it second occurs substitute “service provider became unable to provide the regulated service, being met in the authority’s area by the service provider”;
- (c) in subsection (5)(a), for “registered person became unable to carry on or manage the establishment or agency” substitute “service provider became unable to provide the regulated service”;
- (d) in subsection (9)—
- (i) the definition of “registered person” is repealed;
- (ii) before the definition of “relevant carer” insert—

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““regulated service” (“*gwasanaeth rheoleiddiedig*”) has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;”

(iii) at the end insert—

““service provider” (“*darparwr gwasanaeth*”) has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

34 In section 190(1) (provider failure: exception to temporary duty), for “registered person became unable to carry on or manage the establishment or agency” substitute “service provider became unable to provide the regulated service”.

35 In section 191 (provider failure: supplementary)—

- (a) in subsection (6), for “registered person, or such other person involved in the establishment or agency’s” substitute “service provider, or such other person involved in the service provider’s”;
- (b) in subsection (7), for “carry on or manage an establishment or agency” substitute “provide a regulated service”.

36 In section 197(1) (definitions)—

- (a) in the definition of “care home”, for the words from “has” to the end substitute “means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to adults;”
- (b) in the definition of “children’s home”, for the words from “a children’s” to the end substitute “premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to children;”.

PART 2

SOCIAL CARE WALES

Mental Health Act 1983

37 The [Mental Health Act 1983 \(c.20\)](#) is amended as follows.

38 In section 114A (approval of courses for mental health professionals: Wales)—

- (a) in subsection (1), for “Care Council for Wales” substitute “Social Care Wales”;
- (b) for subsection (2) substitute—

“(2) For that purpose—

- (a) subsections (2), (3), (4)(a) and (7) of section 114 of the Regulation and Inspection of Social Care (Wales) Act 2016 apply as they apply to approvals given, rules made and courses approved under that section, and
- (b) sections 73 to 75 and section 115 of that Act apply accordingly.”;
- (c) in subsection (4), for the words from “for” to the end substitute “for the purposes of Parts 3 to 8 of the Regulation and Inspection of Social Care (Wales) Act 2016”;

- (d) in subsection (5), for “Care Council for Wales” substitute “Social Care Wales”.

39 In section 130H(7)(b) (independent mental health advocates for Wales: supplementary powers and duties), for the words from “principal” to the end substitute “social worker part or the visiting European part of the register kept under section 80(1) of the Regulation and Inspection of Social Care (Wales) Act 2016.”

Care Standards Act 2000

40 The [Care Standards Act 2000 \(c.14\)](#) is amended as follows.

41 The following provisions are repealed—

- (a) sections 56 (the register) to 66 (visitors for certain social work courses);
- (b) sections 68 (appeals to the tribunal), 69 (publication etc. of register) and 71 (rules);
- (c) section 113 (default powers of appropriate Minister);
- (d) the entry for the Welsh Council in the table in section 121(13) (general interpretation etc.);
- (e) Schedule 1 (the Welsh Council).

42 In section 55 (interpretation)—

- (a) for subsections (2), (3) and (4) substitute—

“(2) “Social care worker” means a person (other than a person excepted by regulations) who—

- (a) engages in social work which is required in connection with any health, education or social services provided in England (referred to in this Part as a “social worker”),
- (b) is employed at a children’s home in England, a care home in England or a residential family centre in England,
- (c) manages a home or centre of a kind mentioned in paragraph (b),
- (d) is employed for the purposes of a domiciliary care agency, a fostering agency, a voluntary adoption agency or an adoption support agency, in so far as the agency provides services to persons in England,
- (e) manages an agency of the kind mentioned in paragraph (d), or
- (f) is supplied by a domiciliary care agency to provide personal care in their own homes for persons in England who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.

(3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers—

- (a) a person engaged in work for the purposes of a local authority in England’s social services functions;
- (b) a person engaged in work in England comprising the provision of services similar to services which may or must be provided by a local authority in England in the exercise of its social services functions;

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- (c) a person engaged in the provision of personal care for any person in England;
- (d) a person who is employed in an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care to persons in England;
- (e) a person who manages an undertaking of the kind mentioned in paragraph (d);
- (f) a person who is employed in connection with the discharge of the functions of the Secretary of State under section 80 of the 1989 Act (inspection of children's homes etc.);
- (g) a person who is employed as a member of staff of the Office for Standards in Education, Children's Services and Skills who inspects premises under—
 - (i) section 87 of the 1989 Act (welfare of children accommodated in independent schools and colleges),
 - (ii) section 31 of this Act (inspection of establishments and agencies by persons authorised by registration authority), or
 - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector);
- (h) a person who is employed as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part);
- (i) a person who manages employees mentioned in paragraph (g) or (h);
- (j) a person employed in a day centre in England;
- (k) a person participating in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to become social workers.”, and

(b) omit subsections (6), (7) and (8).

43 In section 67 (functions of the appropriate Minister)—

- (a) in subsection (1), for “appropriate Minister” substitute “Secretary of State”,
- (b) for subsection (2) substitute—

“(2) The Secretary of State shall encourage persons to take part in—

- (a) courses approved by the Health and Social Care Professions Council under article 15 or by virtue of article 19(4) of the Health and Social Care Work Professions Order 2001 for persons who are or wish to become social workers, and
- (b) other courses relevant to the training of persons who are or wish to become social care workers.”;

(c) in subsection (3)—

Status: This is the original version (as it was originally enacted).

- (i) for “appropriate Minister” at the first place it appears substitute “Secretary of State”, and
 - (ii) for “appropriate Minister” at the second place it appears substitute “Secretary of State”;
 - (d) in subsection (4)—
 - (i) for “appropriate Minister” at the first place it appears substitute “Secretary of State”,
 - (ii) for “the Minister” substitute “he or she”, and
 - (iii) in paragraph (a), omit “and Wales,”;
 - (e) omit subsection (6);
 - (f) in subsection (7)—
 - (i) in paragraph (a), omit “or (6)(b)”,
 - (ii) in paragraph (b), for “appropriate Minister” substitute “Secretary of State”, and
 - (iii) in the words after paragraph (b), for “and, in respect of an authorisation given by the Assembly, references to a Minister included the Assembly; and in subsection (5)(b) and (6)(b)” substitute “and in subsection (5)(b)”;
 - (g) for the heading, substitute “Functions of the Secretary of State”.
- 44 In Schedule 2A (persons subject to review by the Children’s Commissioner for Wales), in paragraph 14, for “The Care Council for Wales” substitute “Social Care Wales”.

Adoption and Children Act 2002

- 45 The [Adoption and Children Act 2002 \(c.38\)](#) is amended as follows.
- 46 In section 10(2) (management etc. of agencies), for “section 56(1) of the [Care Standards Act 2000 \(c. 14\)](#)” substitute “section 80 of the [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#)”.

Public Audit (Wales) Act 2004

- 47 The [Public Audit \(Wales\) Act 2004 \(c.23\)](#) is amended as follows.
- 48 In section 41 (studies for improving economy etc. in services), after subsection (6) insert—
- “(7) Subsection (8) applies in respect of the discharge of social services functions by local authorities in Wales.
 - (8) The Auditor General and the Social Care Wales must co-operate with each other with respect to the exercise of their respective functions under this section and section 70 of the Regulation and Inspection of Social Care (Wales) Act 2016 (studies by SCW as to economy etc.).
 - (9) In subsection (7) “social services functions” has the same meaning as in the Social Services and Well-being (Wales) Act 2014.”

Public Services Ombudsman (Wales) Act 2005

- 49 The [Public Services Ombudsman \(Wales\) Act 2005 \(c.10\)](#) is amended as follows.

Status: This is the original version (as it was originally enacted).

- 50 In Schedule 3 (listed authorities), for “The Care Council for Wales” substitute “Social Care Wales”.

Commissioner for Older People (Wales) Act 2006

- 51 The [Commissioner for Older People \(Wales\) Act 2006 \(c.30\)](#) is amended as follows.
- 52 In Schedule 2 (persons whose functions are subject to review by the Commissioner), for “The Care Council for Wales” substitute “Social Care Wales”.

Safeguarding Vulnerable Groups Act 2006

- 53 The [Safeguarding Vulnerable Groups Act 2006 \(c.47\)](#) is amended as follows.
- 54 In section 41 (registers: power to refer information to the Disclosure and Barring Service), in entry number 8 in the table in subsection (7)—
- (a) in column 1, for “under section 56 of the [Care Standards Act 2000 \(c. 14\)](#)” substitute “under section 80 of the [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#)”, and
 - (b) in column 2, for “The Care Council for Wales” substitute “the registrar appointed under section 81 of that Act”.
- 55 In Part 3 of Schedule 3 (barred lists: supplementary provision)—
- (a) in paragraph 16(4)(l), for “the Care Council for Wales” substitute “Social Care Wales”, and
 - (b) after paragraph 16(4) insert—

“(4A) The reference in sub-paragraph (4) to “any of its committees” is, in respect of Social Care Wales, to be read as if it were a reference to “any panel established under Part 8 of the Regulation and Inspection of Social Care (Wales) Act 2016”.”
- 56 In Part 2 of Schedule 4 (regulated activity in relation to vulnerable adults)—
- (a) at the beginning of paragraph 7(3C) insert “In relation to a vulnerable adult in in England,”, and
 - (b) after paragraph 7(3C) insert—

“(3CA) In relation to a vulnerable adult in Wales, relevant social work has the meaning given by section 79(4) of the Regulation and Inspection of Social Care (Wales) Act 2016, and social care worker means a person who is a social care worker by virtue of section 79(1)(a) of that Act.”

Health and Social Care Act 2008

- 57 The [Health and Social Care Act 2008 \(c.14\)](#) is amended as follows.
- 58 The following provisions are repealed—
- (a) section 124 (regulation of social care workers);
 - (b) section 125 (standard of proof in proceedings relating to registration of social care workers);
 - (c) section 126 (education and training of approved mental health professionals);

- (d) subsection (3)(b) (and the “or” immediately before it) of section 163 (orders and regulations: control by National Assembly for Wales);
- (e) subsection (4)(za) of section 171 (the appropriate authority by whom commencement order is made);
- (f) Schedule 9 (regulation of social care workers: Wales).

PART 3

MISCELLANEOUS

Public Services Ombudsman (Wales) Act 2005

- 59 In section 33 of the [Public Services Ombudsman \(Wales\) Act 2005 \(c.10\)](#) (publicity for complaints procedures), after subsection (7) insert—
- “(8) This section applies to a care home provider (see section 34R), a domiciliary care provider (see section 34S) or an independent palliative care provider (see section 34T) as it applies to a listed authority.
- (9) But in its application in accordance with subsection (8), the reference to “relevant services” in subsection (2)(a)(i) is to be read as a reference to the matters to which Part 2A applies (see section 34A).”

Social Services and Well-being (Wales) Act 2014

- 60 The 2014 Act is amended as follows.
- 61 In the Welsh text of section 21(3)(b) (duty to assess the needs of a child for care and support), for “, rhieni’r plentyn neu unrhyw berson arall a chanddo gyfrifoldeb rhiant dros y plentyn” substitute “neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn”.
- 62 In section 42 (duty to meet support needs of a child carer)—
- (a) in subsection (4)(a)(i), for “41(5)” substitute “43(5)”;
 - (b) in subsection (4)(a)(ii), for “41(1)” substitute “43(1)”;
 - (c) in subsection (4)(b)(i), for “41(5)” substitute “43(5)”;
 - (d) in subsection (4)(b)(ii), for “41(3)” substitute “43(3)”;
 - (e) in subsection (4)(c)(i), for “41(10)” substitute “43(10)”;
 - (f) in subsection (4)(c)(ii), for “41(3)” substitute “43(3)”.
- 63 In the Welsh text of section 46(3) (exception for persons subject to immigration control), for the words from “For” to “question” substitute “At ddibenion is-adran (1), mae adran 95(3) a (5) i (8) o Ddeddf 1999, a pharagraff 2 o Atodlen 8 iddi, yn gymwys ond mae’r cyfeiriadau yn adran 95(5) a (7) a’r paragraff hwnnw at yr Ysgrifennydd Gwladol i’w darllen fel cyfeiriadau at yr awdurdod lleol dan sylw”.
- 64 In the Welsh text of section 147(3) (departure from requirements in codes), after “gategori” insert “penodol”.
- 65 In section 197(1) (general interpretation), in the definition of “voluntary organisation”, for “private body” substitute “local authority”.