



# Mental Health (Wales) Measure 2010

2010 nawm 7

## PART 6

### MISCELLANEOUS AND SUPPLEMENTAL

#### **49 Meaning of secondary mental health services**

- (1) Subject to the following provisions of this section, for the purposes of this Measure, a secondary mental health service is—
  - (a) a service in the form of treatment for an individual's mental disorder which is provided under Part 1 of the National Health Service (Wales) Act 2006;
  - (b) a service provided under section 117 of the Mental Health Act 1983;
  - (c) a community care service the main purpose of which is to meet a need related to an adult's mental health;
  - (d) a service provided for a child under Part III of the Children Act 1989 the main purpose of which is to meet a need related to that child's mental health.
- (2) For the purposes of subsection (1), a service is not to be taken as provided under Part 1 of the National Health Service (Wales) Act 2006 if it is provided under—
  - (a) section 41 of that Act;
  - (b) a general medical services contract entered into by a Local Health Board under section 42 of that Act;
  - (c) arrangements for the provision of primary medical services entered into by a Local Health Board under section 50 of that Act;
  - (d) Schedule 1 to that Act.
- (3) A service in the form of treatment for an individual's mental disorder includes a service that, in the opinion of the person providing or making arrangements for the provision of the service, is intended to treat a mental disorder that the individual receiving the service is suspected to have.
- (4) The Welsh Ministers may, by order —
  - (a) specify other services that are to be regarded as secondary mental health services for the purpose of any provision of this Measure;

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- (b) provide that services that would otherwise be regarded as secondary mental health services for the purpose of any provision of this Measure are not to be so regarded.

## 50 Meaning of housing or well-being services

- (1) For the purposes of this Measure, “housing or well-being services” means–
  - (a) the allocation of accommodation by a local housing authority under Part 6 of the Housing Act 1996 (allocation of housing accommodation) or the securing of accommodation by such an authority under Part 7 of that Act (homelessness);
  - (b) any services related to well-being (including housing) which are specified in regulations made by the Welsh Ministers (whether or not provided by or under arrangements made with a public authority);
  - (c) the provision of information or advice about any service falling within paragraph (a) or (b) above (whether or not provided by or under arrangements made with a public authority).
- (2) The reference to services in subsection (1)(b) includes payments, grants and loans.

## 51 General interpretation

- (1) In this Measure–
  - “adult” (“*oedolyn*”) means a person aged 18 or above;
  - “child” (“*plentyn*”) means a person who has not attained the age of 18;
  - “community care services” (“*gwasanaethau gofal cymunedol*”) has the same meaning as in section 46 of the National Health Service and Community Care Act 1990;
  - “functions” (“*swyddogaethau*”) includes powers and duties;
  - “housing or well-being services” (“*gwasanaethau tai neu wasanaethau llesiant*”) must be construed in accordance with section 50;
  - “local authority” (“*awdurdod lleol*”) means a county council or a county borough council;
  - “local authority area” (“*ardal awdurdod lleol*”) means a principal area in Wales within the meaning of section 20 of the Local Government Act 1972;
  - “Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Board established under section 11 of the National Health Service (Wales) Act 2006;
  - “local mental health partners” (“*partneriaid iechyd meddwl lleol*”), and related expressions, must be construed in accordance with section 1;
  - “local primary mental health treatment” (“*triniaeth iechyd meddwl sylfaenol leol*”), in relation to a local authority area, means the treatment referred to in the scheme for the area agreed under section 2 or determined by the Welsh Ministers under section 4(1)(c) or, where there is no scheme, the treatment which a Local Health Board has decided to make available for the area under section 4(1)(a);
  - “primary care provider” (“*darparnydd gofal sylfaenol*”) means a contractor under a general medical services contract entered into under section 42 of the National Health Service (Wales) Act 2006, a person with whom arrangements have been made under section 50 of that Act, a registered medical practitioner employed by a Local Health Board for the purposes of section 41 of that Act,

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and a registered medical practitioner providing services to prisoners under arrangements made between the registered medical practitioner and a person responsible for the provision or running of a contracted out prison (within the meaning of section 84(4) of the Criminal Justice Act 1991) in Wales;

“primary mental health assessment” (“*asesiad iechyd meddwl sylfaenol*”) is an assessment under section 9;

“registered patient” (“*claf cofrestredig*”) means—

- (a) in relation to a contractor under a general medical services contract entered into under section 42 of the National Health Service (Wales) Act 2006, an individual—
  - (i) whom the contractor has accepted as a patient under regulations made under section 47(3)(a) of that Act, and
  - (ii) in respect of whom the contractor has not terminated responsibility under regulations made under section 47(3)(c) of that Act;
- (b) in relation to a person with whom arrangements have been made under section 50 of that Act, an individual—
  - (i) whom the person has accepted as a patient under regulations made under section 52(8)(a) of that Act, and
  - (ii) in respect of whom the person has not terminated responsibility under regulations made under section 52(8)(c) of that Act;
- (c) in relation to a registered medical practitioner employed by a Local Health Board for the purposes of section 41 of that Act, an individual falling within a category specified in regulations made by the Welsh Ministers;

“secondary mental health services” (“*gwasanaethau iechyd meddwl eilaidd*”) has the meaning given by section 49;

“treatment” (“*triniaeth*”) means treatment for mental disorder within the meaning of field 9 of Part 1 of Schedule 5 to the Government of Wales Act 2006.

- (2) For the purposes of this Measure, an individual is under the guardianship of a local authority in Wales if a local authority has, in respect of the individual, the powers in section 8(1) of the Mental Health Act 1983.
- (3) In this Measure any reference (however expressed) to a service being provided by a person includes a reference to a service being provided under arrangements made by the person.
- (4) Until the coming into force of section 8(1) of the Children and Young Persons Act 2008, all references to section 22C(12) of the Children Act 1989 are to be read as references to section 23(3) of the Children Act 1989.
- (5) References in this Measure to a care coordinator are to be construed as references to a care coordinator acting on behalf of the mental health service provider who had responsibility for appointing the individual as care coordinator under section 14(1) or (3), unless the context otherwise requires.

## 52 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.

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- (2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power–
- (a) to make different provision for different cases or classes of case, different areas or different purposes;
  - (b) to make provision generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case;
  - (c) to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Welsh Ministers think fit.
- (3) Any statutory instrument containing regulations made under this Measure or an order under section 53(3)(b) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Subsection (3) does not apply to regulations and orders to which subsections (5) and (6) apply.
- (5) A statutory instrument containing (alone or with other provisions)–
- (a) an order under section 49(4) or section 53(3)(a), or
  - (b) regulations under section 7(6)(a), 23(1)(b), 23(2), 45 or 46,
- must not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.
- (6) A statutory instrument containing (alone or with other provisions) the first regulations to be made under section 18(1)(c) or 18(8) must not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

### **53 Consequential etc amendments**

- (1) Schedule 1 has effect to make minor and consequential amendments in connection with Part 4.
- (2) The Welsh Ministers may by order make such provision as the Welsh Ministers consider appropriate for the general purposes, or any particular purposes, of this Measure, or in consequence of, or for giving full effect to, any provision made by this Measure or regulations under sections 45 and 46.
- (3) The provision that may be made in an order under subsection (2) includes provision to amend, repeal, revoke or modify the application of any provision of–
- (a) any Act of Parliament or Act or Measure of the National Assembly for Wales (including this Measure); and
  - (b) subordinate legislation.
- (4) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

### **54 Repeals**

Schedule 2 has effect to make repeals in connection with Part 4.

**55 Commencement**

- (1) The provisions in subsection (2) come into force at the end of the period of two months beginning on the day on which this Measure is approved by Her Majesty in Council.
- (2) The provisions are—
  - (a) those contained in this Part (other than in sections 53(1) and 54); and
  - (b) any provision conferring power to make regulations or an order, to the extent that the provision confers such power.
- (3) The remaining provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order.

**56 Short title**

This Measure may be cited as the Mental Health (Wales) Measure 2010.