

# C(5)032 – The Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 6, Savings and Transitional Provisions) Order 2019

## Background and Purpose

This is the sixth Commencement Order made by the Welsh Ministers under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”). Article 2 and the Schedule bring into force provisions of the Act relating to the regulation of certain social care service providers.

Section 6 of the Act is brought into force on 29 April 2019 to allow applications for registration to be made in respect of an adoption service, a fostering service, an adult placement service or an advocacy service. 29 April 2019 is the coming into force date for the provisions of Part 1 as they apply to persons providing an adoption service, a fostering service, an adult placement service or an advocacy service. Article 2 also commences relevant consequential amendments in Part 1 of Schedule 3 to the Act.

Articles 3 to 13 make savings 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.

## Procedure

This Commencement Order is made under sections 188(1) and (3) of the Act. In accordance with normal practice for commencement orders, section 188 does not require the order to be subject to the negative or affirmative procedure in the National Assembly. This is because the current law and that which will replace it will have been subject to the full scrutiny given to primary legislation. Commencement Orders are not required to be laid before the Assembly, but are always published on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website.

In this case, section 186(1) of the Act contained a broad power<sup>1</sup> to make transitional and saving provision (amongst other things) that would have been subject to the negative or affirmative procedure, depending on whether or not it amended primary legislation.

## Scrutiny under Standing Order 21.7

The following point is identified for reporting under Standing Order 21.7 in respect of this Order.

The commencement provisions are set out in article 2 and the Schedule to this Order. Articles 3-12 contain detailed transitional and saving provisions. This Order is therefore drawn to the Committee’s attention because it demonstrates the scale of such provisions that may be necessary when changing from one legislative framework to another. The Committee may then consider whether it is appropriate

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<sup>1</sup> The Welsh Ministers may by regulations make such consequential, incidental, transitional, transitory or saving provision as they think appropriate for the purposes of or in connection with this Act.



for such provisions to be included in a statutory instrument that is not generally subject to Assembly scrutiny and whether such powers should be included in future Acts of the Assembly.

## Implications arising from exiting the European Union

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This Order has no implications arising from exiting the European Union.

## Government Response

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A government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**April 2019**

