

Statutory Document No. 20XX/XXXX

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Manx Care Act 2021

SOCIAL SERVICES ACT 2011 (SECTION 26) (AMENDMENT) REGULATIONS 2021

*Approved by Tynwald:
Coming into operation in accordance with regulation 2*

The Department of Health and Social Care makes the following Regulations under section 39 of the Manx Care Act 2021.

1 Title

These Regulations are the Social Services Act 2011 (Section 26) (Amendment) Regulations 2021.

2 Commencement

If approved by Tynwald, these Regulations come into operation on [TBC]¹.

3 Amendment of section 26 of the Social Services Act 2011

For section 26² (complaints about social care functions) of the Social Services Act 2011 substitute –

«26 Complaints about social care services

- (1) The Department shall by regulations make provision about the handling and consideration of complaints made under the regulations about the provision of services under Part 2 (social care services) or Part 3 (carer support) by –
 - (a) the Department;
 - (b) Manx Care; and

¹ Tynwald procedure – approval required under section 39 of the Manx Care Act 2021.

² Section 26 was amended by Schedule 5 to the Manx Care Act 2021.

- (c) other persons or bodies.
- (2) Regulations under subsection (1) shall provide for a complaint to be considered by —
 - (a) the Department;
 - (b) Manx Care; or
 - (c) another person or body.
- (3) The Department shall by regulations make provision about the handling and consideration of complaints made under the regulations—
 - (a) where persons are aggrieved by a decision under this Act of —
 - (i) the Department
 - (ii) Manx Care; or
 - (iii) another person or body;
 - (b) where persons are not satisfied with the outcome of an investigation of a complaint made under regulations made under subsection (1); and
 - (c) in other circumstances.
- (4) Regulations under subsection (3) shall provide for a complaint to be considered by the Health and Social Services Independent Review Body constituted under section 26A.
- (5) Regulations under subsections (1) and (3) may, without prejudice to the generality of those subsections, make provision about —
 - (a) the persons who may make a complaint;
 - (b) the complaints which may, or may not, be made under the regulations;
 - (c) the persons to whom complaints may be made;
 - (d) complaints which need not be considered;
 - (e) the period within which complaints must be made;
 - (f) the procedure to be followed in making, handling and considering a complaint;
 - (g) matters which are excluded from consideration;
 - (h) the making of a report or recommendations about —
 - (i) a complaint or complaints;
 - (ii) the handling and consideration of complaints, and such a report may be required to be laid before Tynwald;
 - (i) the action to be taken as a result of the complaint;

- (j) action which may be taken to improve —
 - (i) the handling and consideration of complaints; or
 - (ii) the provision of services referred to in subsection (1), as a consequence of a complaint or otherwise.
- (6) Regulations under subsections (1) and (3) may require any person or body who handles or considers complaints under the regulations or any other person or body to make information available to the public about the procedures to be followed under the regulations.
- (7) The regulations may also—
 - (a) provide for different parts or aspects of a complaint to be treated differently;
 - (b) require the production of information or documents in order to —
 - (i) enable a complaint to be properly considered; or
 - (ii) monitor the handling and consideration of complaints;
 - (c) provide for a complaint made to one person or body to be referred to another person or body;
 - (d) authorise the disclosure of information or documents relevant to a complaint to a person or body—
 - (i) who is considering a complaint under the regulations;
 - (ii) to whom a complaint has been referred; or
 - (iii) for the purpose of monitoring the handling and consideration of complaints,and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.
- (8) The regulations may make provision about complaints which raise both matters falling to be considered under the regulations and matters falling to be considered under other statutory complaints procedures, including in particular provision for—
 - (a) enabling such a complaint to be made under the regulations; and
 - (b) securing that matters falling to be considered under other statutory complaints procedures are treated as if they had been raised in a complaint made under the appropriate procedures;

and in this subsection “statutory complaints procedures” means procedures established by or under any enactment.

- (9) Regulations under subsection (1) or (3) may make such supplemental, incidental, consequential, transitional or saving provisions as are considered to be necessary or expedient by the Department.

26A Health and Social Services Independent Review Body

- (1) The Health and Social Services Independent Review Body referred to in section 26(4) shall be appointed by the Appointments Commission and shall consist of —

- (a) a chairperson with such qualifications or experience as the Appointments Commission considers appropriate;
- (b) 8 other persons drawn from a panel of persons who have such experience in the fields of health, social care, dispute resolution and administrative justice as the Appointments Commission considers appropriate.

- (2) The Department shall make regulations providing for —

- (a) such description of persons as are prescribed to be ineligible for appointment to the Health and Social Services Independent Review Body;
- (b) the terms of appointment of the members of the Health and Social Services Independent Review Body; and
- (c) other matters relating to the Health and Social Services Independent Review Body and its members and other persons.

- (3) Regulations under subsection (2) may make such supplemental, incidental, consequential, transitional or saving provisions as are considered to be necessary or expedient by the Department.».

MADE

Minister for Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute section 26 of the Social Services Act 2011 with new sections 26 and 26A.

New section 26(1) requires regulations to be made about the handling and consideration of complaints about the provision of certain services under the Social Services Act 2011 by certain persons or bodies. Regulations under section 26(1) must also specify the persons or bodies who are to consider those complaints (see section 26(2)).

New section 26(3) requires regulations to be made about the handling and consideration of complaints: (a) where persons are aggrieved by a decision of certain persons or bodies under the Social Services Act 2011; (b) where persons are not satisfied with the outcome of an investigation of a complaint made under regulations made under section 26(1) of that Act; and (c) in other circumstances. Regulations under section 26(3) of the Social Services Act 2011 shall provide for such a complaint to be considered by the Health and Social Services Independent Review Body constituted under section 26A of that Act.

The rest of new section 26 specifies other regulation-making powers in relation to complaints made under section 26(1) or (3).

New section 26A of the Social Services Act 2011 provides for the Health and Social Services Independent Review Body to be constituted and how it is to be composed. It also provides for regulations to be made prescribing persons ineligible for appointment to that body, the terms of appointment of members of the body and other related matters.