

# Nurse Staffing Levels (Wales) Act 2016

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# Nurse Staffing Levels (Wales) Act 2016

An Act of the National Assembly for Wales to make provision about Local Health Boards and NHS Trusts in Wales establishing nurse staffing levels.

[21 March 2016]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## **1 Nurse staffing levels**

- (1) In Part 2 of the National Health Service (Wales) Act 2006 (c.42) (health service bodies), in Chapter 4 (miscellaneous), before section 26 insert –

*“Nursing services*

### **25A Duty to have regard to providing sufficient nurses**

- (1) Subsection (2) applies where a Local Health Board is considering the extent of provision of nursing services for its area necessary to meet all reasonable requirements.
- (2) The Local Health Board must have regard to the importance of –
  - (a) providing sufficient nurses to allow the nurses time to care for patients sensitively, and
  - (b) where securing the provision of nursing services, ensuring that there are sufficient nurses to allow the nurses time to care for patients sensitively.
- (3) Where an NHS Trust in Wales provides nursing services it must provide those services to such extent as it considers necessary to meet all reasonable requirements; and subsection (4) applies where an NHS Trust in Wales is considering the extent of provision of nursing services.
- (4) The NHS Trust must have regard to the importance of –
  - (a) providing sufficient nurses to allow the nurses time to care for patients sensitively, and

- (b) where securing the provision of nursing services, ensuring that there are sufficient nurses to allow the nurses time to care for patients sensitively.
- (5) For the purposes of having regard to the importance of providing sufficient nurses to allow the nurses time to care for patients sensitively, a Local Health Board or NHS Trust in Wales must (among other things) undertake workforce planning (including planning the recruitment, retention, education and training of nurses).
- (6) In this section, and in sections 25B to 25E, references to—
  - (a) a nurse providing care for patients include the provision of care by a person other than a nurse acting under the supervision of, or discharging duties delegated to the person by, a nurse;
  - (b) a “nurse” mean a registered nurse;
  - (c) an “NHS Trust in Wales” mean an NHS trust all or most of whose hospitals, establishments and facilities are situated in Wales.

*Nurse staffing levels*

**25B Duty to calculate and take steps to maintain nurse staffing levels**

- (1) Where a Local Health Board or NHS Trust in Wales provides nursing services in a situation to which this section applies, it must—
  - (a) designate a person or a description of person to calculate the number of nurses appropriate to provide care to patients that meets all reasonable requirements in that situation (the “nurse staffing level”),
  - (b) take all reasonable steps to maintain the nurse staffing level, and
  - (c) make arrangements for the purpose of informing patients of the nurse staffing level.
- (2) A person designated by virtue of subsection (1)(a) (“a designated person”) must calculate the nurse staffing level in accordance with section 25C.
- (3) This section applies to the following situations—
  - (a) adult acute medical inpatient wards,
  - (b) adult acute surgical inpatient wards, and
  - (c) such other situations as the Welsh Ministers may by regulations specify.

**25C Nurse staffing levels: method of calculation**

- (1) When calculating a nurse staffing level, a designated person must—
  - (a) exercise professional judgement, and
  - (b) take into account each of the following—
    - (i) the average ratio of nurses to patients appropriate to provide care to patients that meets all reasonable requirements, estimated for a specified period using evidence-based workforce planning tools;
    - (ii) the extent to which patients' well-being is known to be particularly sensitive to the provision of care by a nurse.
- (2) A designated person may calculate different nurse staffing levels—
  - (a) in relation to different periods of time;
  - (b) depending on the conditions in which care is provided by a nurse.

**25D Nurse staffing levels: guidance**

- (1) The Welsh Ministers must issue guidance about the duties under sections 25B and 25C and Local Health Boards and any NHS Trust to which those sections apply must have regard to the guidance.
- (2) The guidance may set out, in particular, that when calculating a nurse staffing level a designated person should exercise professional judgement by taking the following into account—
  - (a) the qualifications, competencies, skills and experience of the nurses providing care to patients;
  - (b) the conditions in which care by a nurse is provided;
  - (c) the potential impact on care by a nurse of—
    - (i) the physical condition and layout of the ward or other situation in which the care is provided;
    - (ii) the turnover of patients receiving the care;
  - (d) services or care provided to patients by other health professionals or other staff (for example, health care support workers), and their qualifications, competencies, skills and experience;
  - (e) the extent to which the nurses providing care are required to undertake supervisory or administrative functions.
- (3) The guidance may also make provision about workforce planning that Local Health Boards and NHS Trusts may undertake in order to enable them to comply with their duties under sections 25B and 25C.

- (4) Before issuing guidance the Welsh Ministers must consult –
- (a) Local Health Boards and any NHS Trust that is under a duty to have regard to the guidance,
  - (b) such organisations as appear to them to represent the interests of any –
    - (i) providers of care homes, or
    - (ii) providers of independent hospitals in Wales,likely to be affected by the guidance,
  - (c) such organisations as appear to them to represent the interests of any other persons likely to be affected by the guidance, and
  - (d) such other persons likely to be affected by the guidance as they consider appropriate.
- (5) For the purposes of subsection (4) –
- “care home” means premises at which a care home service within the meaning given by paragraph 1 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided, and
- “independent hospital” has the meaning given in section 2 of the Care Standards Act 2000 (c.14).

**25E Nurse staffing levels: reports**

- (1) Each Local Health Board and any NHS Trust to which the duty in section 25B applies must submit a nurse staffing levels report (whether or not as part of a wider report) in accordance with this section.
- (2) A nurse staffing levels report must set out, in respect of the period to which the report relates (the “reporting period”) –
- (a) the extent to which nurse staffing levels have been maintained;
  - (b) the impact the Board or Trust considers that not maintaining nurse staffing levels has had on care provided to patients by nurses, for example by reference to complaints about care provided to patients by nurses made in accordance with the Complaints Regulations or by reference to an increase in incidents of harm caused by –
    - (i) errors in administering medication to patients;
    - (ii) patients falling;
    - (iii) patients developing hospital-acquired pressure ulcers;
  - (c) any actions taken in response to not maintaining nurse staffing levels.

- (3) Each nurse staffing levels report must be submitted to the Welsh Ministers no later than 30 days after the last day of the reporting period.
  - (4) The Welsh Ministers must, after the expiry of each reporting period –
    - (a) prepare and publish a document summarising the content of the nurse staffing levels reports submitted in respect of that reporting period, and
    - (b) lay each report submitted to them in that period before the National Assembly for Wales.
  - (5) For the purposes of this section the reporting period is –
    - (a) in the case of the initial reporting period, the period of three years beginning with the commencement of this section, and
    - (b) in the case of all subsequent reporting periods, the period of three years beginning with the day after the last day of the preceding reporting period.
  - (6) In subsection (2)(b) “Complaints Regulations” means regulations made under –
    - (a) section 113 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43);
    - (b) the NHS Redress (Wales) Measure 2008 (nawm 1).”
- (2) In section 203(6) of the National Health Service (Wales) Act 2006 (c.42) (subordinate legislation: affirmative resolution) after “containing” insert “regulations under section 25B(3)(c) or”.
  - (3) In section 207 of the National Health Service (Wales) Act 2006 (c.42) (index of defined expressions) after the entry in the table for “NHS trust order” insert “nurse staffing level” in the first column and insert “section 25B(1)(a)” next to it in the second column.

## **2 Commencement**

- (1) This Act comes into force on the day on which this Act receives Royal Assent except for section 1 which comes into force on such day as the Welsh Ministers may appoint by order made by statutory instrument.
- (2) An order under subsection (1) may –
  - (a) appoint different days for different purposes;
  - (b) make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

## **3 Short title**

The short title of this Act is the Nurse Staffing Levels (Wales) Act 2016.