



# National Health Service Reform and Health Care Professions Act 2002

## 2002 CHAPTER 17

### PART 1

#### NATIONAL HEALTH SERVICE, ETC

#### *NHS bodies and their functions: Wales*

#### **6 Local Health Boards**

(1) After section 16B of the 1977 Act there is inserted—

#### **“16BA Local Health Boards**

- (1) The National Assembly for Wales may establish bodies to be known as Local Health Boards with a view, in particular, to their exercising—
  - (a) functions of Health Authorities transferred or to be transferred to the Assembly by order under section 27 of the Government of Wales Act 1998 (reform of Welsh health authorities),
  - (b) other functions of the Assembly relating to the health service.
- (2) Each Local Health Board shall be established by order made by the Assembly (referred to in this Act as an LHB order), and an order may establish more than one Local Health Board.
- (3) A Local Health Board shall be established for the area of Wales specified in its LHB order.
- (4) If any consultation requirements apply, they must be complied with before an LHB order is varied or revoked.
- (5) In this section, “consultation requirements” means requirements about consultation contained in regulations made by the Assembly.

- (6) Schedule 5B to this Act (which makes further provision about Local Health Boards) shall have effect.

### **16BB Local Health Boards: functions**

- (1) The National Assembly for Wales may direct a Local Health Board to exercise in relation to its area any functions which—
- (a) were exercised by a Health Authority in relation to any part of the same area, and
  - (b) have been transferred to the Assembly as mentioned in section 16BA(1) above.
- (2) The Assembly may also direct a Local Health Board to exercise in relation to its area such other functions of the Assembly relating to the health service as are specified in the directions.
- (3) The functions which may be specified in directions under this section include functions under enactments relating to mental health and nursing homes.
- (4) The Assembly may give directions to a Local Health Board about its exercise of any functions.
- (5) Directions under subsection (1) above must be given in regulations made by the Assembly; but other directions under this section and directions under section 16BC below may be given in such regulations or by instrument in writing.

### **16BC Exercise of functions by Local Health Boards**

- (1) This section applies to functions which are exercisable by a Local Health Board under or by virtue of section 16BB above or this section.
- (2) The Assembly may give directions providing for any functions to which this section applies to be exercised—
- (a) by another Local Health Board;
  - (b) by a Special Health Authority; or
  - (c) jointly with any one or more of the following: Health Authorities, NHS trusts, Primary Care Trusts and other Local Health Boards.
- (3) Directions given by the Assembly may provide—
- (a) for any functions to which this section applies to be exercised, on behalf of the Local Health Board by whom they are exercisable, by a committee, sub-committee or officer of the Board,
  - (b) for any functions which, under this section, are exercisable by a Special Health Authority to be exercised, on behalf of that authority, by a committee, sub-committee or officer of the authority,
  - (c) for any functions which, under this section, are exercisable by a Local Health Board jointly with one or more Health Authorities or other Local Health Boards (but not with any NHS trusts) to be exercised, on behalf of the health service bodies in question, by a joint committee or joint sub-committee.”

- (2) Schedule 4 (which inserts the new Schedule 5B in the 1977 Act) and Schedule 5 (which makes other amendments relating to Local Health Boards) are to have effect.
- (3) In section 126 of the 1977 Act (orders, regulations and directions)—
  - (a) in subsection (1)—
    - (i) after “PCT order” there is inserted “or an instrument made by the National Assembly for Wales”, and
    - (ii) in paragraph (b), after “Schedule 5A to this Act” there is inserted “, paragraph 19, 20 or 22 of Schedule 5B to this Act”,
  - (b) in subsection (3B), after “pursuance of” there is inserted “section 16BB or”,
  - (c) in subsection (4), for “section 18” there is substituted “section 16BB, 18”, and
  - (d) in subsection (4A)—
    - (i) the word “or” at the end of paragraph (b) is omitted, and
    - (ii) after paragraph (b) there is inserted—
      - “(ba) paragraph 9(3) of Schedule 5B to this Act, or”.
- (4) Section 1 of the National Health Service (Private Finance) Act 1997 (c. 56) (powers to enter into externally financed development agreements) applies to Local Health Boards as it applies to NHS trusts.