



# Health (Wales) Act 2003

## CHAPTER 4

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# Health (Wales) Act 2003

## 2003 CHAPTER 4

An Act to make provision about Community Health Councils in Wales; to establish and make provision about the Wales Centre for Health; and to make provision for the establishment of, and otherwise about, Health Professions Wales.  
[8th April 2003]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Community Health Councils*

#### **1 Community Health Councils in Wales**

(1) After section 20 of the National Health Service Act 1977 (c. 49) insert—

##### **“20A Community Health Councils in Wales**

- (1) The Community Health Councils established for areas or parts of areas of Health Authorities in Wales are to continue in existence.
- (2) But the National Assembly for Wales may by order—
  - (a) provide for the Councils to be known by a different name;
  - (b) abolish a Council, alter the district in Wales for which a Council is established, or provide for the establishment of a new Council for a district in Wales.
- (3) In making an order the Assembly must ensure—
  - (a) that every part of Wales is included in the district of a Council;
  - (b) that no part of a district is separated from the rest of it by a territory not included in the district.
- (4) Schedule 7A to this Act makes further provision about Councils continued in existence or established under this section.”.

- (2) In section 126 of that Act, after subsection (4) insert—
  - “(4A) Supplementary, incidental, consequential, transitory, transitional or saving provision made by virtue of subsection (4) above in connection with an order under section 20A above, or regulations under Schedule 7A to this Act, may include provision amending or repealing any provision made by or under an enactment.”.
- (3) After Schedule 7 to that Act insert, as Schedule 7A, the Schedule set out in Schedule 1 to this Act.
- (4) Section 20 of, and Schedule 7 to, that Act are omitted.

### *Wales Centre for Health*

## **2 Wales Centre for Health**

- (1) There is to be a body corporate to be known as the Wales Centre for Health or Canolfan Iechyd Cymru.
- (2) The Centre is to consist of such number of members appointed by the National Assembly for Wales as the Assembly may determine.
- (3) The Assembly is to appoint one of the members of the Centre as its chairman.
- (4) The Assembly may make payments to the Centre of such amounts, at such times and on such conditions (if any), as it considers appropriate.
- (5) Further provision about the Centre is in Schedule 2.

## **3 Functions of the Centre**

- (1) The Wales Centre for Health must—
  - (a) develop and maintain arrangements for making information about matters related to the protection and improvement of health in Wales available to the public in Wales;
  - (b) undertake and commission research into such matters;
  - (c) contribute to the provision and development of training in such matters.
- (2) The function under subsection (1)(a) must be carried out with a view to ensuring that members of the public in Wales are kept informed about matters which the Centre considers might significantly affect their health.
- (3) The National Assembly for Wales may by regulations make provision about—
  - (a) functions relating to the protection and improvement of health in Wales which the Centre is to exercise in addition to those conferred by subsection (1);
  - (b) persons, or groups of persons, to whom information and advice are to be given by the Centre;
  - (c) reports which are to be published by the Centre.
- (4) The Assembly may by order make provision for the transfer to it of any or all of the Centre’s functions.

- (5) Where an order under subsection (4) makes provision for the transfer of all of the Centre's functions, the order may include provision for the abolition of the Centre.
- (6) An order under subsection (4) may include provision for the transfer of staff of the Centre and of any property, rights and liabilities to which the Centre is entitled or subject and may in particular –
  - (a) provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order;
  - (b) provide for the creation of interests in, or rights over, property transferred or retained or for the creation of new rights and liabilities between the Centre and the Assembly;
  - (c) provide for the order to have effect in spite of any provisions (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order.

#### *Health Professions Wales*

#### **4 Health Professions Wales**

- (1) The National Assembly for Wales may by order establish a body corporate, to be known as Health Professions Wales or Proffesiynau Iechyd Cymru (but referred to in this Act as HPW).
- (2) HPW is to have such functions in relation to health care professions and health care support workers as may be conferred on it under this section.
- (3) The Assembly may by order provide for HPW to carry out functions on behalf of the Assembly.
- (4) The Assembly may by order make provision enabling HPW to –
  - (a) enter into arrangements with the Health Professions Council for carrying out functions on behalf of that Council in relation to Wales;
  - (b) enter into arrangements with the Nursing and Midwifery Council for carrying out functions on behalf of that Council in relation to Wales;
  - (c) enter into arrangements with any other body for carrying out functions on behalf of that body in relation to Wales;
  - (d) carry out any such arrangements.
- (5) The reference in subsection (3) to functions of the Assembly does not include a reference to the function of making, confirming or approving subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (6) The carrying out of functions by HPW on behalf of the Assembly or any other body does not affect the responsibility of the Assembly or the body concerned.
- (7) The Assembly may by order make provision about the constitution of HPW (and may in particular make provision similar to that made by Schedule 2).
- (8) “Health care profession” means a profession (whether or not regulated by virtue of any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals.
- (9) “Health care support worker” means a person employed to provide support for one or more members of a health care profession.

## 5 Further provision about HPW

- (1) The Assembly may by order provide for HPW to charge for any services which it provides in discharging any function.
- (2) The Assembly may by order provide for the transfer to HPW, for the purpose of enabling or assisting it to carry out functions on behalf of the Assembly, of—
  - (a) property, rights and liabilities;
  - (b) persons employed in connection with any of those functions.
- (3) The Assembly may make payments to HPW of such amounts, at such times and on such conditions (if any), as it considers appropriate.
- (4) The Assembly may give HPW directions—
  - (a) as to the appointment of staff (including any conditions to be fulfilled for appointment);
  - (b) as to the terms and conditions of employment of staff (including provision about the payment of pensions, allowances or gratuities and the payment of compensation for loss of employment);
  - (c) as to the application of any sums received by HPW under subsection (3).
- (5) A direction under subsection (4) must be given in writing.
- (6) HPW must comply with any direction given by the Assembly under subsection (4).
- (7) The Assembly may by order make provision about the accounts or audit of HPW (and may in particular make provision similar to that made by Schedule 2).
- (8) The Assembly may by order abolish HPW.
- (9) The Assembly may by order provide for the transfer of staff of HPW and of any property, rights and liabilities to which HPW is entitled or subject.
- (10) An order under subsection (2) or (9) may in particular—
  - (a) provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order;
  - (b) provide for the creation of interests in, or rights over, property transferred or retained or for the creation of new rights and liabilities between the transferor and the transferee;
  - (c) provide for the order to have effect in spite of any provisions (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order.

### *Supplementary and general provisions*

## 6 Powers of National Assembly for Wales under amended Acts

- (1) In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), any reference to an Act which is amended by this Act is (as from the time when the Act is so amended) to be treated as a reference to the Act as amended by this Act.

- (2) Subsection (1) does not affect the power to make further Orders varying or omitting any such reference in that Schedule.

## **7 Minor and consequential amendments and repeals**

- (1) Schedule 3 contains minor and consequential amendments.
- (2) The enactments specified in Schedule 4 are repealed to the extent specified.

## **8 Orders and regulations**

- (1) A power to make regulations or an order under this Act is exercisable by statutory instrument.
- (2) Regulations or an order under this Act may make different provision for different purposes or for different cases.
- (3) Regulations or an order under this Act may make—
  - (a) any appropriate consequential, incidental or supplementary provision;  
or
  - (b) any appropriate transitory, transitional or saving provision,  
including provision amending or repealing any provision made by or under an enactment.

## **9 Financial provision**

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

## **10 Short title, commencement and extent**

- (1) This Act may be cited as the Health (Wales) Act 2003.
- (2) This Act (apart from this section, section 8 and section 9) comes into force on such day as the National Assembly for Wales may by order appoint.
- (3) Different days may be appointed for different purposes.
- (4) Sections 1 to 5 (including Schedules 1 and 2) extend to England and Wales only.
- (5) The extent of any amendment or repeal made by this Act is the same as that of the enactment amended or repealed.

## SCHEDULES

### SCHEDULE 1

Section 1

#### SCHEDULE 7A TO BE INSERTED IN THE NATIONAL HEALTH SERVICE ACT 1977

#### “SCHEDULE 7A

Section 20A

##### FURTHER PROVISIONS ABOUT COUNCILS UNDER SECTION 20A

- 1 It is the duty of a Council—
  - (a) to represent the interests in the health service of the public in its district; and
  - (b) to perform such other functions as may be conferred on it by regulations under paragraph 2.
  
- 2 The National Assembly for Wales may by regulations make provision about—
  - (a) the membership of Councils (including the election by members of a Council of a member to chair the Council);
  - (b) the proceedings of Councils;
  - (c) the staff, premises and expenses of Councils;
  - (d) the discharge of any function of a Council by a committee of the Council or by a joint committee appointed with another Council;
  - (e) the appointment, as members of a committee or joint committee, of persons who are not members of the Council or Councils concerned;
  - (f) the consultation of Councils by Health Authorities, Local Health Boards, Strategic Health Authorities, Primary Care Trusts and NHS trusts with respect to such matters, and on such occasions, as may be prescribed;
  - (g) the consideration by Councils of matters relating to the operation of the health service within their districts, and the giving of advice by Councils to Health Authorities, Local Health Boards and NHS trusts on such matters;
  - (h) the preparation and publication of reports by Councils;
  - (i) matters to be included in any such report;
  - (j) the furnishing and publication by Health Authorities, Local Health Boards and NHS trusts of comments on reports of Councils;
  - (k) the provision of information (including descriptions of information which are or are not to be provided) to Councils by Health Authorities, Local Health Boards, Strategic Health Authorities, Primary Care Trusts or NHS trusts;

- (l) the provision of information (including descriptions of information which are or are not to be provided) by Councils to other persons (including other Councils);
  - (m) the provision by Councils on behalf of the Assembly of the independent advocacy services required to be provided under section 19A of this Act;
  - (n) the functions to be exercised by Councils in addition to those exercisable otherwise by virtue of this Schedule.
- 3 (1) The Assembly may make regulations requiring –
- (a) Health Authorities;
  - (b) Local Health Boards;
  - (c) Strategic Health Authorities;
  - (d) Primary Care Trusts;
  - (e) local authorities;
  - (f) NHS trusts;
  - (g) persons providing services under Part 2 of this Act or under arrangements under section 28C of this Act; or
  - (h) persons providing piloted services under pilot schemes established under section 28 of the Health and Social Care Act 2001 (c. 15), or providing LP services under an LPS scheme established under Schedule 8A to this Act,
- to allow members of a Council authorised by or under the regulations to enter and inspect, for the purposes of any of the Council’s functions, premises owned or controlled by those referred to in paragraphs (a) to (h).
- (2) The Assembly may also make regulations requiring any other person who owns or controls premises where services are provided as mentioned in sub-paragraph (1)(g) or (h) to allow members of a Council authorised by or under the regulations to enter and inspect the premises for the purposes of any of the Council’s functions.
- (3) The regulations may in particular make provision as to –
- (a) cases and circumstances in which access is to be permitted;
  - (b) limitations or conditions to which access is to be subject.
- 4 The Assembly may by regulations –
- (a) provide for the establishment of a body –
    - (i) to advise Councils with respect to the performance of their functions, and to assist Councils in the performance of their functions; and
    - (ii) to perform such other functions as may be prescribed; and
  - (b) provide for the membership, proceedings, staff, premises and expenses of that body.
- 5 The Assembly may pay to members of Councils and any body established under paragraph 4 such travelling and other allowances (including compensation for loss of remunerative time) as it may determine.”



## SCHEDULE 2

Section 2

## WALES CENTRE FOR HEALTH: FURTHER PROVISION

*Status*

- 1 The Wales Centre for Health is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Centre's property is not to be regarded as property of, or held on behalf of, the Crown.

*Exercise of functions*

- 2 The Centre must carry out its functions effectively, economically and efficiently.
- 3 Anything authorised or required to be done by the Centre may be done by any member or member of staff of the Centre who, or any committee or sub-committee of the Centre which, is authorised for the purpose by the Centre (whether generally or specially).

*Assembly directions*

- 4 The Assembly may give directions—
- (a) as to the appointment of staff (including any conditions to be fulfilled for appointment);
  - (b) as to the terms and conditions of employment of staff (including provision about the payment of pensions, allowances or gratuities and the payment of compensation for loss of employment);
  - (c) as to the application of any sums received by the Centre under section 2(4).
- 5 Directions under paragraph 4 may include a direction that the Centre employ any person who is or was employed by a National Health Service trust and is specified in the direction.
- 6 If it appears to the Assembly that there has been a serious failure by the Centre to perform any function which it considers should have been performed by the Centre, the Assembly may give the Centre such directions as it may consider appropriate for remedying that failure.
- 7 Directions under paragraph 6 must include a statement summarising the reasons for giving them.
- 8 A direction under this Schedule must be given in writing.
- 9 The Centre must comply with any direction given by the Assembly under this Schedule.

*Regulations*

- 10 The Assembly may by regulations make provision—
- (a) about the appointment of the chairman and other members of the Centre (including any conditions to be fulfilled for appointment and provision about disqualification);

- (b) about the tenure of office of the chairman of the Centre (including the circumstances in which he ceases to be chairman or may be removed or suspended from office);
- (c) about the tenure of office as a member of the Centre of the chairman or of other members of the Centre (including the circumstances in which they cease to be members or may be removed or suspended from office);
- (d) about the appointment, constitution of and exercise of functions by a committee or sub-committee of the Centre (including provision for the inclusion in a committee or sub-committee of persons who are not members of the Centre, or in a sub-committee of persons who are not members of the committee);
- (e) about the proceedings of the Centre, or of any committee or sub-committee.

### *Members*

- 11 The Centre must, if required to do so by the Assembly, pay the chairman and other members of the Centre and any member of a committee or sub-committee who is not a member of the Centre such remuneration, and such travelling and other allowances, as the Assembly may determine.
- 12 The Centre must, if required to do so by the Assembly –
- (a) pay to or in respect of any person who is or has been the chairman or other member of the Centre or a member of a committee or sub-committee such pension, allowances or gratuities as the Assembly may determine; or
  - (b) make such payments as the Assembly may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of any such person.
- 13 Where –
- (a) a person ceases to hold office as chairman or other member of the Centre or as a member of a committee or sub-committee; and
  - (b) the Assembly determines that there are special circumstances which make it appropriate for that person to receive compensation,
- the Centre must make a payment by way of compensation of such amount as the Assembly may determine.

### *Chief executive*

- 14 (1) The Centre must appoint a person as chief executive.
- (2) The person appointed under sub-paragraph (1) –
- (a) may be appointed only with the consent of the Assembly;
  - (b) is to be appointed on such terms and conditions as the Assembly may determine.
- 15 The Centre must, if required to do so by the Assembly –
- (a) pay to or in respect of any person who is or has been the chief executive of the Centre such pension, allowances or gratuities as the Assembly may determine; or
  - (b) make such payments as the Assembly may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of any such person.

- 16 Where—
- (a) a person ceases to hold office as the chief executive of the Centre; and
  - (b) the Assembly determines that there are special circumstances which make it appropriate for that person to receive compensation,
- the Centre must make a payment by way of compensation of such amount as the Assembly may determine.

*Other staff*

- 17 (1) The Centre may appoint such other staff as it considers appropriate.
- (2) Staff appointed under this paragraph are to be appointed on such terms and conditions as the Centre may determine.

- 18 The Centre may—
- (a) pay to or in respect of any person who is or has been a member of staff such pension, allowances or gratuities as the Centre considers appropriate; or
  - (b) make such payments as the Centre considers appropriate towards provision for the payment of a pension, allowance or gratuity to or in respect of any such person.

- 19 Where—
- (a) a person ceases to be a member of staff; and
  - (b) the Centre determines that there are special circumstances which make it appropriate for that person to receive compensation,
- the Centre may make a payment by way of compensation of such amount as it considers appropriate.

*General powers*

- 20 (1) The Centre may do anything which it considers necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) That includes, in particular—
- (a) co-operating with other public authorities;
  - (b) acquiring and disposing of land and other property; and
  - (c) entering into contracts.

*Charging of fees*

- 21 The Centre may charge such fees as it considers appropriate for the provision of advice, information or assistance to any person.

*Arrangements for assistance*

- 22 (1) The Centre may make arrangements with such persons as it considers appropriate to assist it in the discharge of any function.
- (2) Arrangements may include the payment of fees to such persons.

*Accounts*

- 23 (1) The Centre must keep proper accounting records.

- (2) The Centre must prepare accounts for each financial year in such form as the Assembly may determine.

*Audit*

- 24 (1) The accounts prepared by the Centre for any financial year must be submitted to the Auditor General for Wales before the end of such period after the end of the financial year as the Assembly may direct.
- (2) The Auditor General for Wales must –
- (a) examine and certify accounts submitted to him under sub-paragraph (1); and
  - (b) lay before the Assembly a copy of them as certified by him together with his report on them.

*Examinations into use of resources*

- 25 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Centre has used its resources in carrying out its functions.
- (2) Sub-paragraph (1) is not to be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Centre.
- (3) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this paragraph.
- (4) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Centre under this paragraph or section 7 of the National Audit Act 1983 (c. 44) (economy, etc. examinations).

*Examinations by the Comptroller and Auditor General*

- 26 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Centre, the Comptroller and Auditor General –
- (a) is to have a right of access at all reasonable times to all such documents in the custody or under the control of the Centre, or of the Auditor General for Wales, as he may reasonably require for that purpose; and
  - (b) is to be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General must –
- (a) consult the Auditor General for Wales; and
  - (b) take into account any relevant work done or being done by the Auditor General for Wales,
- before he acts in reliance on sub-paragraph (1) or carries out an examination in respect of the Centre under section 7 of the National Audit Act 1983 (economy, etc. examinations).

*Further provision about accounts and audit*

- 27 The Assembly may by regulations make such further provision about the accounts or audit of the Centre as it considers appropriate.

*Evidence*

- 28 A document purporting to be duly executed under the seal of the Centre or signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

*Reports and information*

- 29 (1) As soon as practicable after the end of each financial year the Centre must report to the Assembly on the exercise of its functions during the year.  
(2) The Centre must publish the report made under sub-paragraph (1).  
(3) The Centre must also provide the Assembly with such other information relating to the exercise of the Centre's functions as the Assembly may request.

## SCHEDULE 3

Section 7

## MINOR AND CONSEQUENTIAL AMENDMENTS

*Public Bodies (Admission to Meetings) Act 1960 (c. 67)*

- 1 In paragraph 1 of the Schedule to the Public Bodies (Admission to Meetings) Act 1960, after paragraph (l) insert –  
“(m) the Wales Centre for Health;”.

*House of Commons Disqualification Act 1975 (c. 24)*

- 2 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975, insert at the appropriate place –  
“The Wales Centre for Health.”.

*National Health Service Act 1977 (c. 49)*

- 3 In section 18(1A) of the National Health Service Act 1977, omit the “or” at the end of paragraph (a), and paragraph (c).  
4 In section 98 of that Act, omit subsection (2A).

*Community Health Councils (Access to Information) Act 1988 (c. 24)*

- 5 In section 1(1) of the Community Health Councils (Access to Information) Act 1988, for “established in accordance with section 20” substitute “continued in existence by or established under section 20A”.

*National Health Service and Community Care Act 1990 (c. 19)*

- 6 In section 4(2) of the National Health Service and Community Care Act 1990,

after paragraph (e) insert –

“(ee) the Wales Centre for Health;”.

*Welsh Language Act 1993 (c. 38)*

7 In section 6(1)(i) of the Welsh Language Act 1993, for “established in accordance with section 20” substitute “continued in existence by or established under section 20A”.

8 After section 6(1)(i) of that Act, insert –

“(ia) the Wales Centre for Health;”.

*Government of Wales Act 1998 (c. 38)*

9 In section 27(7) of the Government of Wales Act 1998, omit paragraph (b) and the “but” preceding it.

10 In section 118(2) of that Act, before the “and” at the end of paragraph (j) insert –

“(ja) the Wales Centre for Health;”.

11 In section 144 of that Act, in subsection (8)(a), after “the Welsh Administration Ombudsman,” insert “the Wales Centre for Health;”.

12 In Schedule 5 to that Act –

(a) in paragraph 13, omit “for a district wholly in Wales”;

(b) after paragraph 45 insert –

“46. The Wales Centre for Health.”.

13 In paragraph 14(2) of Schedule 9 to that Act, after paragraph (g) insert –

“(ga) the Wales Centre for Health;”.

*Freedom of Information Act 2000 (c. 36)*

14 In Part 3 of Schedule 1 to the Freedom of Information Act 2000, in paragraph 41, for “established under section 20” substitute “continued in existence by or established under section 20A”.

15 In Part 6 of that Schedule, insert at the appropriate place –

“The Wales Centre for Health.”.

*National Health Service Reform and Health Care Professions Act 2002 (c. 17)*

16 In section 22 of the National Health Service Reform and Health Care Professions Act 2002, omit subsection (4).

## SCHEDULE 4

Section 7

## REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
National Health Service Act 1977 (c. 49)	In section 18(1A), the “or” at the end of paragraph (a), and paragraph (c). Section 20. Section 98(2A). Schedule 7.
Health and Social Security Act 1984 (c. 48)	Section 6(2). In Schedule 3, paragraph 15.
National Health Service and Community Care Act 1990 (c. 19)	In Schedule 9, paragraph 18(13).
Health Authorities Act 1995 (c. 17)	In Schedule 1, paragraphs 11, 50(b) and 62.
Government of Wales Act 1998 (c. 38)	In section 27(7), paragraph (b) and the “but” preceding it. In paragraph 13 of Schedule 5, the words “for a district wholly in Wales”.
Health Act 1999 (c. 8)	In Schedule 4, paragraph 40.
National Health Service Reform and Health Care Professions Act 2002 (c. 17)	Section 3(5)(a) and (c). Section 22(4). In Schedule 5, paragraph 24. In Schedule 8, paragraph 11.

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