



# National Health Service (Wales) Act 2006

## 2006 CHAPTER 42

### PART 13 **E+W**

#### MISCELLANEOUS

##### *Independent advocacy services*

#### 187 **Independent advocacy services** **E+W**

- (1) The Welsh Ministers must arrange, to such extent as they consider necessary to meet all reasonable requirements, for the provision of independent advocacy services.
- (2) “Independent advocacy services” are services providing assistance (by way of representation or otherwise) to individuals making or intending to make—
  - (a) a complaint under a procedure operated by a health service body or independent provider,
  - (b) a complaint under section 113(1) or (2) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43),
  - (c) a complaint to the Health Service Commissioner for England or the Public Services Ombudsman for Wales,
  - (d) a complaint of a prescribed description which relates to the provision of services as part of the health service and—
    - (i) is made under a procedure of a prescribed description, or
    - (ii) gives rise, or may give rise, to proceedings of a prescribed description.
- (3) In subsection (2)—

“health service body” means—

  - (a) in relation to England, a body which, under section 2(1) of the Health Service Commissioners Act 1993 (c. 46), is subject to investigation by the Health Service Commissioner for England,
  - (b) in relation to Wales, a Welsh health service body (within the meaning of the Public Services Ombudsman (Wales) Act 2005 (c. 10)),

“independent provider” means—

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- (a) in relation to England, a person who, under section 2B(1) of the Health Service Commissioners Act 1993, is subject to investigation by the Health Service Commissioner for England,
  - (b) in relation to Wales, a person who is an independent provider in Wales (within the meaning of the Public Services Ombudsman (Wales) Act 2005.
- (4) The Welsh Ministers may make such other arrangements as they consider appropriate for the provision of assistance to individuals in connection with complaints relating to the provision of services as part of the health service.
- (5) In making arrangements under this section the Welsh Ministers must have regard to the principle that the provision of services under the arrangements should, so far as practicable, be independent of any person who is—
- (a) the subject of a relevant complaint, or
  - (b) involved in investigating or adjudicating on such a complaint.
- (6) The Welsh Ministers may make payments to any person in pursuance of arrangements under this section.

*Joint working with the prison service*

**188 Joint working with the prison service E+W**

- (1) The Welsh Ministers may by regulations make provision for or in connection with enabling prescribed NHS bodies (on the one hand) and the prison service (on the other) to enter into prescribed arrangements in relation to the exercise of—
- (a) prescribed functions of the NHS bodies, and
  - (b) prescribed health-related functions of the prison service,
- if the arrangements are likely to lead to an improvement in the way in which those functions are exercised in relation to securing and maintaining the health of prisoners.
- (2) The arrangements which may be prescribed include arrangements—
- (a) for or in connection with the establishment and maintenance of a fund—
    - (i) which is made up of contributions by one or more NHS bodies and by the prison service, and
    - (ii) out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and prescribed health-related functions of the prison service,
  - (b) for or in connection with the exercise by an NHS body on behalf of the prison service of prescribed health-related functions of the prison service in conjunction with the exercise by the NHS body of prescribed functions of the NHS body,
  - (c) for or in connection with the exercise by the prison service on behalf of an NHS body of prescribed functions of the NHS body in conjunction with the exercise by the prison service of prescribed health-related functions of the prison service,
  - (d) as to the provision of staff, goods or services in connection with any arrangements mentioned in paragraph (a), (b) or (c),
  - (e) as to the making of payments by the prison service to an NHS body in connection with any arrangements mentioned in paragraph (b),

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- (f) as to the making of payments by an NHS body to the prison service in connection with any arrangements mentioned in paragraph (c).
- (3) Any arrangements made by virtue of this section do not affect the liability of NHS bodies, or of the prison service, for the exercise of any of their functions.
- (4) “The prison service” means the Minister of the Crown exercising functions in relation to prisons (within the meaning of the Prison Act 1952 (c. 52)); and “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### *Advisory committees*

### **189 Welsh Ministers' standing advisory committees** **E+W**

- (1) The Welsh Ministers may by order establish standing advisory committees for the purpose of advising them on such of the services provided under this Act as may be specified in the order.
- (2) A standing advisory committee consists of persons appointed by the Welsh Ministers after consultation with such representative organisations as they recognise for the purpose.
- (3) A standing advisory committee must advise the Welsh Ministers—
  - (a) on such matters relating to the services with which the committee is concerned as it considers appropriate, and
  - (b) on any questions referred to it by the Welsh Ministers relating to those services.
- (4) Schedule 13 makes further provision about standing advisory committees.

### **190 Advisory committees for Wales** **E+W**

- (1) Where the Welsh Ministers are satisfied that a committee formed for Wales is representative of any category of persons mentioned in subsection (2), they must recognise the committee.
- (2) The categories are—
  - (a) medical practitioners,
  - (b) dental practitioners,
  - (c) nurses and midwives,
  - (d) registered pharmacists, or
  - (e) optometrists.
- (3) A committee recognised under this section is called the Welsh Medical Committee, the Welsh Dental Committee, the Welsh Nursing and Midwifery Committee, the Welsh Pharmaceutical Committee or the Welsh Optical Committee.
- (4) The duty of the Welsh Ministers under subsection (1) is subject to paragraph 1 of Schedule 14.
- (5) Schedule 14 to this Act makes further provision about committees recognised under this section.

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### *Emergency powers*

#### **191 Emergency powers** **E+W**

- (1) The Welsh Ministers may give directions under this section if they consider that by reason of an emergency it is necessary to do so in order to ensure that a service falling to be provided under or by virtue of this Act is provided.
- (2) Directions under this section may direct that, during the period specified by the directions, a function conferred on any body or person under or by virtue of this Act is to the exclusion of or concurrently with that body or person to be performed by another body or person.
- (3) The powers conferred on the Welsh Ministers by this section are in addition to any other powers exercisable by the Welsh Ministers.

### *Local social services authorities*

#### **192 Local social service authorities** **E+W**

- (1) Subject to paragraphs (d) and (e) of section 3(1), the services described in Schedule 15 in relation to—
  - (a) care of mothers,
  - (b) prevention, care and after-care,
  - (c) home help and laundry facilities,
 are functions exercisable by local social services authorities.
- (2) A local social services authority which provides premises, furniture or equipment for any of the purposes of this Act may permit the use of the premises, furniture or equipment by—
  - (a) any other local social services authority,
  - (b) any of the bodies established under this Act, or
  - (c) a local education authority.
- (3) The permission may be on such terms (including terms with respect to the services of any staff employed by the authority giving permission) as may be agreed.
- (4) A local social services authority may provide (or improve or furnish) residential accommodation for officers—
  - (a) employed by it for the purposes of any of its functions as a local social services authority, or
  - (b) employed by a voluntary organisation for the purposes of any services provided under this section and Schedule 15.
- (5) In this section and Schedule 15 “equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle.

### *Supplies by the Welsh Ministers*

#### **193 Supplies not readily obtainable** **E+W**

- (1) Where the Welsh Ministers have acquired—

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- (a) supplies of human blood for the purposes of any service under this Act,
  - (b) any part of a human body for the purpose of, or in the course of providing, any such service, or
  - (c) supplies of any other substances or preparations not readily obtainable,
- they may arrange to make such supplies or that part available (on such terms, including terms as to charges, as they consider appropriate) to any person.
- (2) The Welsh Ministers may exercise the powers conferred by subsection (1) only if, and to the extent that, they are satisfied that anything which they propose to do or allow under those powers—
- (a) will not to a significant extent interfere with the performance by them of any duty imposed on them by this Act to provide accommodation or services of any kind, and
  - (b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at health service hospitals (whether as resident or non-resident patients) otherwise than as private patients.
- (3) “Health service hospital” includes such a hospital within the meaning of section 275 of the National Health Service Act 2006 (c. 41).

#### *Community services*

### **194 Power of Local Health Boards to make payments towards expenditure on community services** **E+W**

- (1) A Local Health Board may make payments to—
- (a) a local social services authority towards expenditure incurred or to be incurred by it in connection with any social services functions (within the meaning of the Local Authority Social Services Act 1970 (c. 42)), other than functions under section 3 of the Disabled Persons (Employment) Act 1958 (c. 33),
  - (b) a district council, or a Welsh county council or county borough council, towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (meals and recreation for old people),
  - (c) an authority which is a local education authority for the purposes of the Education Act 1996 (c. 56), towards expenditure incurred or to be incurred by it in connection with its functions under the Education Acts (within the meaning of that Act), in so far as it performs those functions for the benefit of disabled persons,
  - (d) a local housing authority within the meaning of the Housing Act 1985 (c. 68), towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of that Act (provision of housing), or
  - (e) any of the bodies mentioned in subsection (2), in respect of expenditure incurred or to be incurred by it in connection with the provision of housing accommodation.
- (2) The bodies are—
- (a) a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act),

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- (b) the Commission for the New Towns,
  - (c) a new town development corporation,
  - (d) an urban development corporation established under the Local Government, Planning and Land Act 1980 (c. 65),
  - (e) the Housing Corporation.
- (3) A Local Health Board may make payments to a local authority towards expenditure incurred or to be incurred by the authority in connection with the performance of any of the authority's functions which, in the opinion of the Local Health Board—
- (a) have an effect on the health of any individuals,
  - (b) have an effect on, or are affected by, any NHS functions, or
  - (c) are connected with any NHS functions.
- (4) “NHS functions” means functions exercised by an NHS body.
- (5) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (6) The Welsh Ministers may by directions prescribe conditions relating to payments under this section or section 195.
- (7) The conditions include, in particular, conditions requiring, in such circumstances as may be specified—
- (a) repayment of the whole or part of a payment under this section, or
  - (b) in respect of property acquired with a payment under this section, payment of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (8) No payment may be made under this section in respect of any expenditure unless the conditions relating to it conform with the conditions prescribed under subsection (6) for payments of that description.
- (9) “A disabled person” is a person who has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities or who has such other disability as may be prescribed.

**Modifications etc. (not altering text)**

**C1** S. 194(3) modified (1.3.2007) by 2004 c. 17, s. 4(5)(a)(ii) (as substituted by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 258(a)** (with Sch. 3 Pt. 1))

**195 Payments in respect of voluntary organisations under section 194** **E+W**

- (1) This section applies where the expenditure in respect of which a payment under section 194 is proposed to be made is expenditure in connection with services to be provided by a voluntary organisation.
- (2) Where this section applies, the Local Health Board may make payments to the voluntary organisation towards the expenditure incurred or to be incurred by the organisation in connection with the provision of those services, instead of or in addition to making payments under section 194(1) or (3).
- (3) Where this section applies—

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- (a) a body falling within any of paragraphs (a) to (d) of section 194(1) which has received payments under the paragraph, and
  - (b) a local authority which has received payments under section 194(3),
- may make out of the sums paid to it payments to the voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of those services.
- (4) No payment may be made under subsection (2) or (3) except subject to conditions which conform with the conditions prescribed for payments of that description under section 194(6).

**Modifications etc. (not altering text)**

- C2** S. 195(2) modified (1.3.2007) by 2004 c. 17, s. 4(5)(a)(ii) (as substituted by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 258(a)** (with Sch. 3 Pt. 1))

**196 Power of Welsh Ministers to make payments towards expenditure on community services in Wales** **E+W**

- (1) The Welsh Ministers may make payments—
- (a) to an authority in Wales of a description mentioned in paragraph (a), (b), (c) or (d) of section 194(2), for the purpose mentioned in the paragraph,
  - (b) to any body mentioned in subsection (2), in respect of expenditure incurred or to be incurred by the body in connection with the provision of housing accommodation in Wales.
- (2) The bodies are—
- (a) a registered social landlord within the meaning of the Housing Act 1985 (c. 68) (see section 5(4) and (5) of that Act),
  - (b) the Commission for the New Towns,
  - (c) a new town development corporation,
  - (d) an urban development corporation established under the Local Government, Planning and Land Act 1980 (c. 65).
- (3) The Welsh Ministers may make payments to a voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of services for which the Welsh Ministers could make payments under subsection (1).
- (4) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (5) Conditions may be attached to a payment under this section.
- (6) The conditions that may be attached include, in particular, conditions requiring, in such circumstances as may be specified—
- (a) repayment of the whole or part of a payment under this section, or
  - (b) in respect of property acquired with a payment under this section, payment of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.

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## *Universities*

### 197 University clinical teaching and research E+W

- (1) The Welsh Ministers must exercise their functions under this Act so as to secure that there are made available such facilities as they consider are reasonably required by any university which has a medical or dental school, in connection with—
  - (a) clinical teaching, and
  - (b) research connected with clinical medicine or clinical dentistry.
- (2) Regulations may provide for any functions—
  - (a) exercisable by a Strategic Health Authority, Primary Care Trust, Special Health Authority or Local Health Board,
  - (b) in relation to the provision of facilities such as are mentioned in subsection (1), to be exercisable by the body jointly with one or more NHS body other than an NHS foundation trust.

#### **Modifications etc. (not altering text)**

- C3** [S. 197](#): Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

## *Use of facilities in private practice*

### 198 Permission for use of facilities in private practice E+W

- (1) A person to whom this section applies who wishes to use any relevant health service accommodation or facilities for the purpose of providing medical, dental, pharmaceutical, ophthalmic or chiropody services to non-resident private patients may apply in writing to the Welsh Ministers for permission under this section.
- (2) Any application for permission under this section must specify—
  - (a) which of the relevant health service accommodation or facilities the applicant wishes to use for the purpose of providing services to such patients, and
  - (b) which of the kinds of services mentioned in subsection (1) he wishes the permission to cover.
- (3) On receiving an application under this section the Welsh Ministers—
  - (a) must consider whether anything for which permission is sought would interfere with the giving of full and proper attention to persons seeking or afforded access otherwise than as private patients to any services provided under this Act, and
  - (b) must grant the permission applied for unless in the opinion of the Welsh Ministers anything for which permission is sought would so interfere.
- (4) Any grant of permission under this section is on such terms (including terms as to the payment of charges for the use of the relevant health service accommodation or facilities pursuant to the permission) as the Welsh Ministers may from time to time determine.
- (5) The persons to whom this section applies are—



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- (a) medical practitioners or optometrists who provide services under Part 6,
  - (b) medical practitioners, registered pharmacists or other persons who provide services under Chapter 1 of Part 7,
  - (c) chiropodists who provide services under this Act at premises where services are provided under Part 6 or Chapter 1 of Part 7,
  - (d) persons providing primary medical services or primary dental services under a general medical services contract or a general dental services contract or in accordance with section 50 arrangements or section 64 arrangements.
- (6) “Relevant health service accommodation or facilities”, in relation to a person to whom this section applies, means—
- (a) any accommodation or facilities available at premises provided by the Welsh Ministers by virtue of this Act, being accommodation or facilities which that person is authorised to use for purposes of this Act, or
  - (b) in the case of a person to whom this section applies by virtue of subsection (5) (c), accommodation or facilities which that person is authorised to use for purposes of this Act at premises where services are provided under Part 6 or Chapter 1 of Part 7.

**Modifications etc. (not altering text)**

- C4** S. 198: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)
- C5** Ss. 71, 72, 78, 80, 109, 198, 206 modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 5, 8(2), [Sch. 3 para. 4](#) (with [Sch. 3 Pt. 1](#))

*Health service development*

**199 Persons displaced by health service development** **E+W**

- (1) Subsection (2) applies—
- (a) where the carrying out of a scheme for the provision by the Welsh Ministers in pursuance of this Act of hospital accommodation or other facilities will involve the displacement from any premises of persons living in the premises, and
  - (b) in so far as it appears to the Welsh Ministers that there is no other residential accommodation suitable for the reasonable requirements of those persons available on reasonable terms.
- (2) The Welsh Ministers may make arrangements with one or more of the bodies mentioned in subsection (3) for securing the provision, in advance of the displacement, of residential accommodation which becomes necessary as the carrying out of the scheme proceeds.
- (3) The bodies are—
- (a) a local housing authority (within the meaning of the Housing Act 1985 (c. 68)),
  - (b) a housing association or housing trust (within the meaning of the Housing Associations Act 1985 (c. 69)),
  - (c) a development corporation established under the New Towns Act 1981 (c. 64),

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(d) the Commission for the New Towns.

(4) Arrangements under subsection (2) may include provision for the making of payments by the Welsh Ministers to the body with whom the arrangements are made.

*Registration of information, etc*

**200 Special notices of births and deaths E+W**

- (1) The requirements of this section with respect to the notification of births and deaths are in addition to, and not in substitution for, the requirements of any Act relating to the registration of births and deaths.
- (2) Each registrar of births and deaths must furnish, to the Local Health Board the area of which includes the whole or part of the registrar's sub-district, such particulars of each birth and death which occurred in the area of the Local Health Board as are entered in a register of births or deaths kept for that sub-district.
- (3) Regulations may provide as to the manner in which and the times at which particulars must be furnished under subsection (2).
- (4) In the case of each child born—
  - (a) the child's father, if at the time of the birth he is residing on the premises where the birth takes place, and
  - (b) any person in attendance upon the mother at the time of, or within six hours after, the birth,
 must give notice of the birth to the Local Health Board for the area in which the birth takes place.
- (5) Subsection (4) applies to any child which is born after the expiry of the twenty-fourth week of pregnancy whether alive or dead.
- (6) Notice under subsection (4) must be given either—
  - (a) by posting within 36 hours after the birth a prepaid letter or postcard addressed to the Local Health Board at its offices and containing the required information, or
  - (b) by delivering within that period at the offices of the Local Health Board a written notice containing the required information.
- (7) A Local Health Board must, upon application to it, supply without charge to any medical practitioner or midwife residing or practising within its area prepaid addressed envelopes together with the forms of notice.
- (8) Any person who fails to give notice of a birth in accordance with subsection (4) is liable on summary conviction to a fine not exceeding level 1 on the standard scale, unless he satisfies the court that he believed, and had reasonable grounds for believing, that notice had been duly given by some other person.
- (9) Proceedings in respect of an offence under subsection (8) must not, without the Attorney-General's written consent, be taken by any person other than a party aggrieved or the Local Health Board concerned.

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- (10) A registrar of births and deaths must, for the purpose of obtaining information concerning births which have occurred in his sub-district, have access at all reasonable times to—
- (a) notices of births received by a Local Health Board under this section, or
  - (b) any book in which those notices may be recorded.

**Modifications etc. (not altering text)**

- C6 S. 200(2)(4)(6)(7)(9)(10): Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

**201 Provision of information by Registrar General E+W**

- (1) The Registrar General may provide to the Welsh Ministers any information to which this section applies.
- (2) Any information provided under subsection (1) must be provided in such form as appears to the Registrar General appropriate for the purpose of assisting the Welsh Ministers in the performance of their functions in relation to the health service.
- (3) This section applies to any information—
  - (a) entered in any register kept under the Births and Deaths Registration Act 1953 (c. 20),
  - (b) entered in the Adopted Children Register maintained by the Registrar General under the Adoption and Children Act 2002 (c. 38), or
  - (c) which is kept by the Registrar General under any other enactment and relates to any birth or death.
- (4) “Enactment” includes an enactment contained in subordinate legislation.

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