



National Health Service (Wales) Act 2006

2006 CHAPTER 42

PART 2

HEALTH SERVICE BODIES

CHAPTER 4

MISCELLANEOUS

[^{F1}Nursing services

Textual Amendments

- F1** Ss. 25A-25E and cross-headings inserted (3.8.2016 for the insertion of s. 25D, 6.4.2017 for the insertion of s. 25A, 6.4.2018 in so far as not already in force) by [Nurse Staffing Levels \(Wales\) Act 2016 \(anaw 5\)](#), ss. **1(1)**, **2(1)**; S.I. 2016/829, art. 2(a)(b)(c)

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.

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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.

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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).

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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).]

Intervention orders and default powers

26 Intervention orders

- (1) This section applies to NHS bodies other than [F²NHS England][F³, integrated care boards and] NHS foundation trusts.
- (2) If the Welsh Ministers—
 - (a) consider that a body to which this section applies is not performing one or more of its functions adequately or at all, or that there are significant failings in the way the body is being run, and
 - (b) are satisfied that it is appropriate for them to intervene under this section,

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

they may make an order under this section in respect of the body (an “intervention order”).

- (3) An intervention order may make any provision authorised by section 27 (including any combination of such provisions).

Textual Amendments

- F2** Words in s. 26 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Words in s. 26(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 4 para. 143; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

27 Effect of intervention orders

- (1) In this section—
- (a) “member” means a member of a ^{F4}... ^{F5}... Special Health Authority or Local Health Board, or a member of the board of directors of an NHS trust,
 - (b) “employee member” means a member of a ^{F4}... ^{F5}... Special Health Authority or Local Health Board who is an officer of the body, or an executive director of an NHS trust.
- (2) An intervention order may provide for the removal from office of—
- (a) all the members, or
 - (b) those specified in the order,
- and for their replacement with individuals specified in or determined in accordance with the order (who need not be the same in number as the removed individuals).
- (3) An intervention order may provide for the suspension (either wholly, or in respect only of powers and duties specified in or determined in accordance with the order) of—
- (a) all the members, or
 - (b) those specified in the order,
- and for the powers of the suspended members to be exercised, and their duties performed, during their suspension by individuals specified in or determined in accordance with the order (who need not be the same in number as the suspended individuals).
- (4) The powers and duties referred to in subsection (3) are, in the case of an employee member, only those which he has in his capacity as a member.
- (5) An intervention order may contain directions to the body to which it relates to secure that a function of the body specified in the directions—
- (a) is performed, to the extent specified in the directions, on behalf of the body and at its expense, by such person as is specified in the directions, and
 - (b) is so performed in such a way as to achieve such objectives as are so specified, and the directions may require that any contract or other arrangement made by the body with that person contains such terms and conditions as may be so specified.
- (6) If the person referred to in subsection (5)(a) is a body to which section 26 applies, the functions of that body include the performance of the functions specified in the directions under subsection (5).

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) Subsection (8) applies in relation to any provision in this Act, or in any order or regulations made, or directions given, under this Act, relating to—
- (a) the membership of the body to which an intervention order relates (or in the case of an NHS trust to the membership of its board of directors), or
 - (b) the procedure of the body.
- (8) The intervention order may provide in relation to any provision specified in the order—
- (a) that it does not apply in relation to the body while the order remains in force, or
 - (b) that it applies in relation to the body, while the order remains in force, with modifications specified in the order.
- (9) An intervention order may contain such supplementary directions to the body to which it relates as the Welsh Ministers consider appropriate for the purpose of giving full effect to the order.

Textual Amendments

- F4** Words in s. 27(1) omitted (1.2.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 20\(a\)](#); [S.I. 2012/2657, art. 2\(4\)](#)
- F5** Words in s. 27(1) omitted (1.2.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 20\(b\)](#); [S.I. 2012/2657, art. 2\(4\)](#)

28 Default powers

- (1) This section applies to NHS bodies other than ^{F6}[NHS England]^{F7}, integrated care boards and] NHS foundation trusts.
- (2) If the Welsh Ministers consider that a body to which this section applies—
- (a) has failed to carry out any functions conferred or imposed on it by or under this Act, or
 - (b) has in carrying out those functions failed to comply with any regulations or directions relating to those functions,
- they may after such inquiry as they consider appropriate make an order declaring it to be in default.
- (3) The members of the body in default must immediately vacate their office, and the order—
- (a) must provide for the appointment, in accordance with the provisions of this Act, of new members of the body, and
 - (b) may contain such provisions as seem to the Welsh Ministers expedient for authorising any person to act in the place of the body pending the appointment of new members.
- (4) An order under this section may contain such supplementary and incidental provisions as appear to the Welsh Ministers to be necessary or expedient, including—
- (a) provision for the transfer to the Welsh Ministers of property and liabilities of the body in default, and
 - (b) where any such order is varied or revoked by a subsequent order, provision in the subsequent order for the transfer to the body in default of any property

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

or liabilities acquired or incurred by the Welsh Ministers in discharging any of the functions transferred to them.

Textual Amendments

- F6 Words in s. 28 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with [regs. 13, 29, 30](#))
- F7 Words in s. 28(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 4 para. 144](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with [regs. 13, 29, 30](#))

Transfer of residual liabilities

29 Transfer of residual liabilities

- (1) If a Local Health Board, an NHS trust or a Special Health Authority ceases to exist, the Welsh Ministers must exercise their functions so as to secure that all of the body's liabilities (other than any criminal liabilities) are dealt with.
- (2) A liability is dealt with by being transferred to an NHS body, the Welsh Ministers or the Secretary of State.

Losses and liabilities of certain health service bodies

30 Schemes for meeting losses and liabilities etc of certain health service bodies

- (1) The Welsh Ministers may by regulations establish a scheme [^{F8}(a “mutual indemnity scheme”)] whereby any of the bodies [^{F9}or other persons] specified in subsection (2) may make provision to meet—
 - (a) expenses arising from any loss of or damage to their property, and
 - (b) liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies [^{F9}or other persons] concerned.
- (2) The bodies [^{F10}and other persons] referred to in subsection (1) are—
 - (a) Local Health Boards,
 - (b) NHS trusts, ^{F11}...
 - (c) Special Health Authorities, ^{F12}...
 - (d) ^{F13}.....
 - ^{F12}(e)
 - ^{F14}(f) a person who is providing, or who has provided, primary medical services in accordance with a contract or other arrangement under Part 4, and
 - (g) a body or other person (other than a body or other person specified under paragraphs (a) to (f) who is providing or arranging the provision of, or who has provided or arranged the provision of, health services whose provision is the subject of a contract or other arrangements with a Local Health Board, NHS trust or Special Health Authority,]but a [^{F15}mutual indemnity scheme] may limit the class or description of bodies which [^{F16}, or other persons who,] are eligible to participate in it.
- (3) A [^{F17}mutual indemnity scheme] may, in particular—

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) provide for the scheme to be administered by the Welsh Ministers or by an NHS trust or Special Health Authority specified in the scheme,
 - (b) require any body which^[F18], or other person who,] participates in the scheme to make payments in accordance with the scheme, and
 - (c) provide for the making of payments for the purposes of the scheme by the Welsh Ministers.
- (4) If the Welsh Ministers so direct, a ^[F19]Local Health Board, NHS trust or Special Health Authority] which is eligible to participate in a scheme must do so.
- (5) Where a ^[F20]mutual indemnity scheme] provides for the scheme to be administered by the Welsh Ministers, a Special Health Authority or NHS trust must carry out such functions in connection with the administration of the scheme as the Welsh Ministers may direct.
- (6) Subsections (4) and (5) do not affect any other power of direction of the Welsh Ministers.
- (7) A person or body administering a ^[F21]mutual indemnity scheme] does not require permission under any provision of the Financial Services and Markets Act 2000 (c. 8) as respects activities carried out under the scheme.
- ^[F22](8) The Welsh Ministers may by regulations establish a scheme (a “direct indemnity scheme”) under which they may indemnify any of the bodies or other persons specified in subsection (2) against—
- (a) expenses arising from any loss of or damage to their property, and
 - (b) liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies or other persons concerned.
- (9) A direct indemnity scheme may, in particular—
- (a) specify the persons or other bodies eligible to be indemnified (including limiting the class or description of bodies or other persons who are eligible);
 - (b) specify the expenses and liabilities in respect of which a body or other person may be indemnified and the extent to which they may be indemnified;
 - (c) require any body or other person indemnified under the scheme to make payments in accordance with the scheme.
- (10) Nothing in this section limits or affects the powers of the Welsh Ministers under this Act, or any other enactment, to provide an indemnity—
- (a) to any person other than the bodies or other persons specified in subsection (2), or
 - (b) to a body or other person specified in subsection (2) in respect of any expenses or liabilities other than those mentioned in subsections (1) and (8).
- (11) In this section—
- (a) in subsections (1)(b) and (8)(b) “functions”, in relation to a body or other person specified in subsection (2)(g), means the body or person's functions of providing, or arranging the provision of, health services whose provision is the subject of a contract or other arrangements with a Local Health Board, NHS trust or Special Health Authority;
 - (b) in subsection (2) and in paragraph (a) of this subsection “health services” means services provided as part of the health service.]

Status: Point in time view as at 26/09/2023.

Changes to legislation: National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F8** Words in s. 30(1) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(2\)\(a\)](#), 2(2)
- F9** Words in s. 30(1) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(2\)\(b\)](#), 2(2)
- F10** Words in s. 30(2) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(3\)\(a\)](#), 2(2)
- F11** Word in s. 30(2)(b) omitted (27.2.2020) by virtue of [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(3\)\(b\)](#), 2(2)
- F12** S. 30(2)(e) and word omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 7 para. 22\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F13** S. 30(2)(d) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 166, 170, Sch. 5 para. 88(b), [Sch. 15 Pt. 1](#); S.I. 2009/462, [art. 2](#), Sch. 1 paras. 35, 36
- F14** S. 30(2)(f)(g) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(3\)\(c\)](#), 2(2)
- F15** Words in s. 30(2) substituted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(3\)\(d\)\(i\)](#), 2(2)
- F16** Words in s. 30(2) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(3\)\(d\)\(ii\)](#), 2(2)
- F17** Words in s. 30(3) substituted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(4\)\(a\)](#), 2(2)
- F18** Words in s. 30(3)(b) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(4\)\(b\)](#), 2(2)
- F19** Words in s. 30(4) substituted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(5\)](#), 2(2)
- F20** Words in s. 30(5) substituted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(6\)](#), 2(2)
- F21** Words in s. 30(7) substituted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(7\)](#), 2(2)
- F22** S. 30(8)-(11) inserted (27.2.2020) by [National Health Service \(Indemnities\) \(Wales\) Act 2020 \(anaw 2\)](#), [ss. 1\(8\)](#), 2(2)

Directions and regulations under this Part

31 Directions and regulations under this Part

- (1) This section applies to directions and regulations under any of—
- (a) section 12,
 - (b) section 13,
 - (c) section 19,
 - (d) section 23,
 - (e) section 24,
 - (f) section 25.
- (2) Except in prescribed cases, the directions and regulations must not preclude a person or body by whom the function is exercisable apart from the directions or regulations from exercising the function.

Status:

Point in time view as at 26/09/2023.

Changes to legislation:

National Health Service (Wales) Act 2006, Chapter 4 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.