



# National Health Service (Wales) Act 2006

## 2006 CHAPTER 42

### PART 3

#### LOCAL AUTHORITIES AND THE NHS

#### **32 Supply of goods and services by local authorities**

- (1) In the Local Authorities (Goods and Services) Act 1970 (c. 39) the expression “public body” includes—
  - (a) any Local Health Board, and
  - (b) so far as relates to their functions under this Act, the Welsh Ministers.
- (2) Subsection (1) has effect as if made by an order under section 1(5) of the Local Authorities (Goods and Services) Act 1970 and may be varied or revoked by such an order.
- (3) Each local authority must make services available to each NHS body acting in its area, so far as is reasonably necessary and practicable to enable the NHS body to discharge its functions under this Act.
- (4) “Services” means the services of persons employed by the local authority for the purposes of its functions under the Local Authority Social Services Act 1970 (c. 42).

#### **33 Arrangements between NHS bodies and local authorities**

- (1) The Welsh Ministers may by regulations make provision for or in connection with enabling prescribed NHS bodies (on the one hand) and prescribed local authorities (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 local authorities,if the arrangements are likely to lead to an improvement in the way in which those functions are exercised.
- (2) The arrangements which may be prescribed include arrangements—

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*Status: This is the original version (as it was originally enacted).*

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- (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 one or more local authorities, 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 authority or authorities,
  - (b) for or in connection with the exercise by an NHS body on behalf of a local authority of prescribed health-related functions of the authority 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 a local authority on behalf of an NHS body of prescribed functions of the NHS body in conjunction with the exercise by the local authority of prescribed health-related functions of the local authority,
  - (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 a local authority to an NHS body in connection with any arrangements mentioned in paragraph (b),
  - (f) as to the making of payments by an NHS body to a local authority in connection with any arrangements mentioned in paragraph (c).
- (3) Regulations under this section may make provision—
- (a) as to the cases in which NHS bodies and local authorities may enter into prescribed arrangements,
  - (b) as to the conditions which must be satisfied in relation to prescribed arrangements (including conditions in relation to consultation),
  - (c) for or in connection with requiring the consent of the Welsh Ministers to the operation of prescribed arrangements (including provision in relation to applications for consent, the approval or refusal of such applications and the variation or withdrawal of approval),
  - (d) in relation to the duration of prescribed arrangements,
  - (e) for or in connection with the variation or termination of prescribed arrangements,
  - (f) as to the responsibility for, and the operation and management of, prescribed arrangements,
  - (g) as to the sharing of information between NHS bodies and local authorities.
- (4) The provision which may be made by virtue of subsection (3)(f) includes provision in relation to—
- (a) the formation and operation of joint committees of NHS bodies and local authorities,
  - (b) the exercise of functions which are the subject of prescribed arrangements (including provision in relation to the exercise of such functions by joint committees or employees of NHS bodies and local authorities),
  - (c) the drawing up and implementation of plans in respect of prescribed arrangements,
  - (d) the monitoring of prescribed arrangements,
  - (e) the provision of reports on, and information about, prescribed arrangements,
  - (f) complaints and disputes about prescribed arrangements,
  - (g) accounts and audit in respect of prescribed arrangements.

- (5) Arrangements made by virtue of this section do not affect—
- (a) the liability of NHS bodies for the exercise of any of their functions,
  - (b) the liability of local authorities for the exercise of any of their functions, or
  - (c) any power or duty to recover charges in respect of services provided in the exercise of any local authority functions.
- (6) The Welsh Ministers may issue guidance to NHS bodies and local authorities in relation to consultation or applications for consent in respect of prescribed arrangements.
- (7) The reference in subsection (1) to an improvement in the way in which functions are exercised includes an improvement in the provision to any individuals of any services to which those functions relate.
- (8) In this section—
- “health-related functions”, in relation to a local authority, means functions of the authority which, in the opinion of the Welsh Ministers—
- (a) have an effect on the health of any individuals,
  - (b) have an effect on, or are affected by, any functions of NHS bodies, or
  - (c) are connected with any functions of NHS bodies,
- “NHS body” does not include a Special Health Authority.
- (9) Schedule 12 makes provision with respect to the transfer of staff in connection with arrangements made by virtue of this section.

### **34 Power of local authorities to make payments**

- (1) A local authority may make payments to a Strategic Health Authority, a Primary Care Trust or a Local Health Board towards expenditure incurred or to be incurred by the body in connection with the performance by it of prescribed functions.
- (2) 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.
- (3) The Welsh Ministers may by directions prescribe conditions relating to payments under this section.
- (4) The power under subsection (3) may in particular be exercised so as to require, 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 payments 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.
- (5) No payment may be made under this section in respect of any expenditure unless the conditions relating to it conform with the conditions prescribed for payments of that description under subsection (3).

### **35 Care Trusts**

- (1) Where—
- (a) an NHS trust is, or will be, a party to any existing or proposed LA delegation arrangements, and

- (b) the Welsh Ministers consider that designation of the NHS trust as a Care Trust would be likely to promote the effective exercise by the NHS trust of prescribed health-related functions of a local authority (in accordance with the arrangements) in conjunction with prescribed NHS functions of the NHS trust,
- the Welsh Ministers may designate the NHS trust as a Care Trust.
- (2) An NHS trust may, however, be designated only in pursuance of an application made to the Welsh Ministers jointly by each prescribed body.
- (3) If the application under subsection (2) requests the Welsh Ministers to do so, they may when designating an NHS trust as a Care Trust make a direction under subsection (4).
- (4) The direction is that, while it is designated, the NHS trust may (in addition to exercising health-related functions of the local authority as mentioned in subsection (1)(b)) exercise such prescribed health-related functions of the local authority as are specified in the direction in relation to persons in any area so specified, even though it does not exercise any NHS functions in relation to persons in that area.
- (5) Where an NHS trust is designated as a Care Trust under this section—
- (a) its designation may be revoked by the Welsh Ministers at any time—
    - (i) of their own motion, and
    - (ii) after such consultation as they consider appropriate,
  - (b) if an application for the revocation of its designation is made to the Welsh Ministers by one or more of the parties to the LA delegation arrangements, its designation must be revoked by the Welsh Ministers at the earliest time at which they consider it practicable to do so, having regard, in particular, to any steps that need to be taken in relation to those arrangements in connection with the revocation.
- (6) The designation of an NHS trust as a Care Trust under this section must be effected by an order under section 18 which—
- (a) (in the case of an existing NHS trust) amends the order establishing the NHS trust so as to change its name to one that includes the words “Care Trust”, or
  - (b) (in the case of a new NHS trust) establishes the NHS trust with a name that includes those words,
- and any revocation of its designation must be effected by a further order under section 18 which makes such provision for changing the name of the NHS trust as the Welsh Ministers consider expedient.
- (7) The power of the Welsh Ministers to dissolve an NHS trust includes power to dissolve an NHS trust where they consider that it is appropriate to do so in connection with the designation of any other NHS trust (whether existing or otherwise) as a Care Trust.
- (8) Regulations may make such incidental, supplementary or consequential provision (including provision amending, repealing or revoking enactments) as the Welsh Ministers consider expedient in connection with the preceding provisions of this section.
- (9) Regulations under subsection (8) may, in particular, make provision—
- (a) prescribing—
    - (i) the manner and circumstances in which, and
    - (ii) any conditions which must be satisfied before,

- an application may be made for an NHS trust to be designated as a Care Trust under this section, or to cease to be so designated, and the information to be supplied with such an application,
- (b) enabling the Welsh Ministers to terminate appointments of persons as members of the board of directors of an NHS trust (or of a committee of such a trust) where they consider that it is appropriate to do so in connection with the designation of the NHS trust as a Care Trust,
  - (c) requiring the consent of the Welsh Ministers to be obtained before any prescribed change is made with respect to the governance of an NHS trust so designated,
  - (d) for supplementing or modifying, in connection with the operation of subsection (3), any provision made by regulations under section 33.
- (10) The designation of an NHS trust as a Care Trust under this section does not affect any of the functions, rights or liabilities of that NHS trust in its capacity as an NHS trust.
- (11) In connection with the exercise by an NHS trust so designated of any relevant social services functions under LA delegation arrangements—
- (a) section 7 of the Local Authority Social Services Act 1970 (c. 42) (authorities to exercise social services functions under guidance), and
  - (b) section 7A of that Act (directions as to exercise of such functions),
- apply to the NHS trust as if it were a local authority within the meaning of that Act.
- (12) In this section—
- “health-related functions” has the meaning given by section 33(8),
  - “LA delegation arrangements” means arrangements falling within section 33(2)(b), whether or not made in conjunction with any pooled fund arrangements,
  - “NHS functions” means functions exercisable by an NHS trust in its capacity as such,
  - “pooled fund arrangements” means arrangements falling within section 33(2)(a),
  - “relevant social services functions” means health-related functions which are social services functions within the meaning of the Local Authority Social Services Act 1970.

### **36 Directed partnership arrangements**

- (1) If the Welsh Ministers are of the opinion—
- (a) that a body to which this section applies (“the failing body”) is not exercising any of its functions adequately, and
  - (b) that it would be likely to lead to an improvement in the way in which that function is exercised if it were to be exercised—
    - (i) by another body to which this section applies under delegation arrangements, or
    - (ii) in accordance with pooled fund arrangements made with another such body,

the Welsh Ministers may direct those bodies to enter into such delegation arrangements or pooled fund arrangements in relation to the exercise of the appropriate function or functions as are specified in the direction.

- (2) In subsection (1) “the appropriate function or functions” means—
- (a) the function of the failing body mentioned in that subsection, and
  - (b) such other function of that body (if any) as the Welsh Ministers consider would, if exercised under or in accordance with the arrangements in question, be likely to contribute to an improvement in the exercise of the function referred to in paragraph (a).
- (3) The bodies to which this section applies are—
- (a) Strategic Health Authorities,
  - (b) Primary Care Trusts,
  - (c) NHS trusts,
  - (d) Local Health Boards, and
  - (e) local authorities,
- but in subsections (1) and (2) any reference to functions is, in relation to a local authority, a reference only to relevant social services functions of the authority.
- (4) In this section any reference to an improvement in the way in which any function is exercised includes an improvement in the provision to any individuals of any services to which that function relates.
- (5) In this section—
- “delegation arrangements” means arrangements falling within section 33(2)(b) or (2)(c), whether or not made in conjunction with any pooled fund arrangements,
- “health-related functions” has the meaning given by section 33(8),
- “pooled fund arrangements” means arrangements falling within section 33(2)(a),
- “relevant social services functions” means health-related functions which are social services functions within the meaning of the Local Authority Social Services Act 1970 (c. 42).

### **37 Further provisions about directions and directed partnership arrangements**

- (1) A direction under section 36(1) (a “principal direction”) may make provision with respect to—
- (a) any of the matters with respect to which provision is required to be made by the specified arrangements by virtue of regulations under section 33, and
  - (b) such other matters as the Welsh Ministers consider appropriate.
- (2) The Welsh Ministers may in particular (either in a principal direction or in any subsequent direction) make provision—
- (a) for the determination, whether—
    - (i) by agreement, or
    - (ii) (in default of agreement) by the Welsh Ministers or an arbitrator appointed by them,
 of the amount of any payments which need to be made by one body to another for the purposes of the effective operation of the specified arrangements, and for the variation of any such determination,
  - (b) specifying the manner in which the amount of any such payments must be so determined (or varied),

- (c) requiring a body specified in the direction to supply to the Welsh Ministers or an arbitrator, for the purpose of enabling any such amount to be so determined (or varied), such information or documents as may be so specified,
  - (d) requiring any amount so determined (or varied) to be paid by and to such bodies as are specified in the direction,
  - (e) requiring capital assets specified in the direction to be made available by and to such bodies as are so specified.
- (3) The Welsh Ministers may, when giving a principal direction to any bodies to which section 36 applies, give such directions to any other such body as they consider appropriate for or in connection with securing that full effect is given to the principal direction.
- (4) Before giving a principal direction to any bodies to which section 36 applies, the Welsh Ministers may—
- (a) direct either or both of the bodies in question to take such steps specified in the direction, or
  - (b) give such other directions,
- as the Welsh Ministers consider appropriate with a view to enabling them to determine whether the principal direction should be given.
- (5) The revocation of a principal direction does not affect the continued operation of the specified arrangements.
- (6) “The specified arrangements”, in relation to a principal direction, means the arrangements specified in the direction in pursuance of section 36(1).

### **38 Supply of goods and services by the Welsh Ministers**

- (1) The Welsh Ministers may supply to—
- (a) local authorities, and
  - (b) such public bodies or classes of public bodies as the Welsh Ministers may determine,
- any goods or materials of a kind used in the health service.
- (2) In subsection (1) “public bodies” includes public bodies in Northern Ireland.
- (3) The Welsh Ministers may make available to persons falling within subsection (1)—
- (a) any facilities provided by them or by a Primary Care Trust for any service under this Act, and
  - (b) the services of persons employed by the Welsh Ministers or by a Local Health Board, a Primary Care Trust or a Special Health Authority.
- (4) The Welsh Ministers may carry out maintenance work (including minor renewals, minor improvements and minor extensions) in connection with any land or building for the maintenance of which a local authority is responsible.
- (5) The Welsh Ministers may supply or make available to persons—
- (a) providing general ophthalmic services or pharmaceutical services,
  - (b) providing services under a general medical services contract or a general dental services contract, or
  - (c) providing services in accordance with section 50 arrangements or section 64 arrangements,

such goods, materials or other facilities as may be prescribed.

- (6) The Welsh Ministers must make available to local authorities—
- (a) any services (other than the services of any person) or other facilities provided under this Act,
  - (b) the services provided as part of the health service by any person employed by the Welsh Ministers, a Primary Care Trust, a Special Health Authority or a Local Health Board, and
  - (c) the services of any medical practitioner, dental practitioner or nurse employed by the Welsh Ministers, a Primary Care Trust, a Special Health Authority or a Local Health Board otherwise than to provide services which are part of the health service,

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

- (7) The Welsh Ministers may arrange to make available to local authorities the services of persons—
- (a) providing general ophthalmic services or pharmaceutical services,
  - (b) performing services under a general medical services contract or a general dental services contract,
  - (c) providing services in accordance with section 50 arrangements or section 64 arrangements,
  - (d) providing Local Health Boards, Primary Care Trusts or Special Health Authorities with services of a kind provided as part of the health service,

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

### **39 Conditions of supply under section 38**

- (1) The Welsh Ministers must, before they make available the services of any officer under subsection (3)(b) of section 38, or subsection (6)(b) or (c) of that section—
- (a) consult the officer or a body recognised by the Welsh Ministers as representing the officer, or
  - (b) satisfy themselves that the body who employs the officer has consulted the officer about the matter.
- (2) The Welsh Ministers may disregard the provisions of subsection (1) in a case where they—
- (a) consider it necessary to make the services of an officer available for the purpose of dealing temporarily with an emergency, and
  - (b) have previously consulted a body such as is mentioned in subsection (1)(b) about making services available in an emergency.
- (3) The Welsh Ministers may, for the purposes of subsection (3)(b) of section 38, or subsection (6)(b) or (c) of that section, give such directions to Primary Care Trusts, Special Health Authorities and Local Health Boards to make the services of their officers available as the Welsh Ministers consider appropriate.
- (4) Powers under this section and section 38 may be exercised on such terms as may be agreed, including terms as to the making of payments to the Welsh Ministers.



- (5) The Welsh Ministers may make such charges in respect of services or facilities provided under section 38(6) as may be agreed between the Welsh Ministers and the local authority or, in default of agreement, as may be determined by arbitration.
- (6) Any power to supply goods or materials under section 38 includes—
  - (a) a power to purchase and store them, and
  - (b) a power to arrange with third parties for the supply of goods or materials by those third parties.

#### **40 Health and well-being strategies in Wales**

- (1) Each local authority in Wales, and each Local Health Board any part of whose area lies within the area of the local authority, must jointly formulate and implement a strategy for the health and well-being of members of the public in the local authority's area (a "health and well-being strategy").
- (2) The local authority and the Local Health Board (or Boards) responsible for a health and well-being strategy are referred to in this section as the "responsible bodies".
- (3) The responsible bodies must have regard to their strategy in the exercise of their functions.
- (4) Each strategy must be formulated in relation to a period of time specified in regulations.
- (5) The Welsh Ministers may by regulations make further provision about health and well-being strategies.
- (6) The regulations may, in particular, make provision as to—
  - (a) the imposition of a duty on the responsible bodies to co-operate in formulating their strategy with prescribed persons or descriptions of person (including, for example, NHS trusts, Community Health Councils, voluntary bodies, and local businesses),
  - (b) steps which the responsible bodies must take before formulating the strategy,
  - (c) matters which the strategy must address,
  - (d) publication of the strategy,
  - (e) monitoring and review by the responsible bodies of the strategy and its implementation,
  - (f) the production of information and reports by the responsible bodies in relation to the strategy,
  - (g) the avoidance of duplication in the preparation of health and well-being strategies and other prescribed strategies or plans provided for under any other enactment.
- (7) The Welsh Ministers may—
  - (a) give directions to local authorities in Wales, Local Health Boards and NHS trusts in connection with health and well-being strategies,
  - (b) issue guidance to responsible bodies in connection with them.
- (8) The power to give directions under subsection (7)(a) does not affect any other power to give directions.
- (9) In this section—

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*Status: This is the original version (as it was originally enacted).*

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“local authority” means a county council or county borough council,  
“NHS trust” means an NHS trust all or most of whose hospitals,  
establishments and facilities are situated in Wales.