



National Health Service (Wales) Act 2006

2006 CHAPTER 42

PART 2

HEALTH SERVICE BODIES

CHAPTER 1

LOCAL HEALTH BOARDS

11 Local Health Boards

- (1) The Welsh Ministers may establish bodies to be known as Local Health Boards.
- (2) Each Local Health Board is established by order made by the Welsh Ministers (referred to in this Act as an LHB order), and an order may establish more than one Local Health Board.
- (3) A Local Health Board is established for the area of Wales specified in its LHB order.
- (4) If any consultation requirements apply, they must be complied with before an LHB order is varied or revoked.
- (5) “Consultation requirements” means requirements about consultation contained in regulations.
- (6) Schedule 2 makes further provision about Local Health Boards.

12 Functions of Local Health Boards

- (1) The Welsh Ministers may direct a Local Health Board to exercise in relation to its area—
 - (a) functions which were transferred to the National Assembly for Wales by the Health Authorities (Transfer of Functions, Staff, Property, Rights and Liabilities and Abolition) (Wales) Order 2003 ([S.I. 2003/813 \(W.98\)](#)),

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- (b) such other of their functions relating to the health service as are specified in the direction.
- (2) The functions which may be specified in directions under subsection (1) include functions under enactments relating to mental health and care homes.
- (3) The Welsh Ministers may give directions to a Local Health Board about its exercise of any functions.

13 Exercise of Local Health Board functions

- (1) This section applies to functions exercisable by a Local Health Board under or by virtue of this Act (including this section) or any prescribed provision of any other Act.
- (2) The Welsh Ministers may give directions providing for any functions to which this section applies to be exercised—
 - (a) by another Local Health Board,
 - (b) by a Special Health Authority, or
 - (c) jointly with any one or more of the bodies mentioned in subsection (3).
- (3) The bodies are—
 - (a) Primary Care Trusts,
 - (b) NHS trusts, and
 - (c) other Local Health Boards.
- (4) Directions given by the Welsh Ministers may provide—
 - (a) for any functions to which this section applies to be exercised, on behalf of the Local Health Board by whom they are exercisable, by a committee, sub-committee or officer of the Local Health Board,
 - (b) for any functions which, under this section, are exercisable by a Special Health Authority to be exercised, on behalf of that Special Health Authority, by a committee, sub-committee or officer of the Special Health Authority,
 - (c) for any functions which, under this section, are exercisable by a Local Health Board jointly with one or more other Local Health Boards (but not with any NHS trusts) to be exercised, on behalf of the Local Health Boards in question, by a joint committee or joint sub-committee.
- (5) Subsection (6) applies where, by virtue of subsection (2)(b), a Special Health Authority exercises functions of a Local Health Board in relation to a general dental services contract.
- (6) The Welsh Ministers may by order make provision for the transfer to the Special Health Authority of the rights and liabilities of the Local Health Board under the contract (and for their transfer back to the Local Health Board where the Special Health Authority ceases to exercise the functions).

14 Section 50 arrangements and section 64 arrangements

- (1) Each Local Health Board must, in accordance with regulations, perform such functions in relation to section 50 arrangements (primary medical services) and section 64 arrangements (primary dental services) as may be prescribed.
- (2) The regulations may, in particular—

- (a) prescribe functions in relation to training,
- (b) provide for appeals to the Welsh Ministers or a prescribed body in relation to prescribed functions.

15 Administration and management of services

Each Local Health Board must, in accordance with regulations—

- (a) administer the arrangements made in pursuance of this Act for the provision for its area of primary medical services, primary dental services, general ophthalmic services and pharmaceutical services, and
- (b) perform such management and other functions relating to those services as may be prescribed.

16 Advice for Local Health Boards

Each Local Health Board must make arrangements with a view to securing that it receives advice appropriate for enabling it effectively to exercise the functions exercisable by it from persons with professional expertise relating to the physical or mental health of individuals.

17 Plans for improving health etc

- (1) Each Local Health Board must, at such times as the Welsh Ministers may direct, prepare a plan which sets out a strategy for improving—
 - (a) the health of the people for whom it is responsible, and
 - (b) the provision of health care to such people.
- (2) Each Local Health Board must keep under review any plan prepared by it under this section.
- (3) Each of the bodies specified in subsection (4) must participate in the preparation or review by a Local Health Board of any plan under this section.
- (4) Those bodies are—
 - (a) any local authority whose area falls wholly or partly within the area of the Local Health Board, and
 - (b) any NHS trust which provides services at or from a hospital or other establishment or facility which falls within the area of the Local Health Board.
- (5) In preparing or reviewing any plan under this section, a Local Health Board—
 - (a) must consult, or seek the participation of, such persons as the Welsh Ministers may direct, and
 - (b) may consult, or seek the participation of, such other persons as it considers appropriate.
- (6) The Welsh Ministers may give directions as to—
 - (a) the periods to be covered by plans under this section,
 - (b) the action to be taken by Local Health Boards, NHS trusts and local authorities in connection with the preparation or review of plans under this section,
 - (c) the matters to be taken into account in connection with the preparation or review of plans under this section,
 - (d) the matters to be dealt with by plans under this section,

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- (e) the form and content of plans under this section,
 - (f) the publication of plans prepared or reviewed under this section,
 - (g) the sharing of information between Strategic Health Authorities, Primary Care Trusts, NHS trusts, Local Health Boards and local authorities in connection with the preparation or review of plans under this section or section 24 of the National Health Service Act 2006 (c. 41),
 - (h) the provision by Strategic Health Authorities, Primary Care Trusts and Local Health Boards of reports or other information to the Welsh Ministers in connection with plans under this section or section 24 of the National Health Service Act 2006 (c. 41).
- (7) In exercising its functions—
- (a) a Local Health Board must have regard to any plan prepared or reviewed by it, and
 - (b) an NHS trust and a local authority must have regard to any plan in relation to which it has participated.
- (8) For the purposes of this section, the persons for whom a Local Health Board is responsible are—
- (a) the people in the area of the Local Health Board, and
 - (b) such of the people outside the area as may be specified in directions given by the Welsh Ministers.
- (9) “Health care” means—
- (a) services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
 - (b) the promotion and protection of public health.

CHAPTER 2

NHS TRUSTS

18 NHS trusts

- (1) The Welsh Ministers may by order establish bodies, called National Health Service trusts (“NHS trusts”), to provide goods and services for the purposes of the health service.
- (2) An order under subsection (1) is referred to in this Act as “an NHS trust order”.
- (3) No NHS trust order may be made until after the completion of such consultation as may be prescribed.
- (4) Schedule 3 makes further provision about NHS trusts.

19 Welsh Ministers' directions to NHS trusts

- (1) The Welsh Ministers may give directions to an NHS trust about its exercise of any functions.

- (2) The Welsh Ministers may not give directions under this section in respect of matters concerning xenotransplantation, surrogacy agreements, embryology or human genetics.
- (3) Nothing in provision made by or under this or any other Act affects the generality of subsection (1).

20 General duty of NHS trusts

An NHS trust must exercise its functions effectively, efficiently and economically.

21 Financial provisions relating to NHS trusts

Schedule 4 makes provision about the financing of NHS trusts.

CHAPTER 3

SPECIAL HEALTH AUTHORITIES

22 Special Health Authorities

- (1) The Welsh Ministers may by order establish special bodies for the purpose of exercising any functions which may be conferred on them by or under this Act.
- (2) The Welsh Ministers may make such further provision relating to a body established under subsection (1) as they consider appropriate.
- (3) A body established under this section is called a Special Health Authority.
- (4) An order may, in particular, contain provisions as to—
 - (a) the membership of the body established by the order,
 - (b) the transfer to the body of officers, property and liabilities, and
 - (c) the name of the body.
- (5) The liabilities which may be transferred by virtue of this section, section 203(10) and section 204(1) to an NHS body on the abolition of a Special Health Authority include criminal liabilities.
- (6) In this Act (apart from in Schedule 12) “NHS body” means—
 - (a) a Strategic Health Authority,
 - (b) a Primary Care Trust,
 - (c) an NHS trust,
 - (d) a Special Health Authority,
 - (e) an NHS foundation trust, and
 - (f) a Local Health Board.
- (7) The Welsh Ministers must, before they make an order under this section, consult with respect to the order such bodies as they may recognise as representing officers who in the opinion of the Welsh Ministers are likely to be transferred or affected by transfers in pursuance of the order.
- (8) Schedule 5 makes further provision about Special Health Authorities.

23 Welsh Ministers' directions to Special Health Authorities

- (1) The Welsh Ministers may give directions to a Special Health Authority about its exercise of any functions.
- (2) The Welsh Ministers may not give directions under this section in respect of matters concerning xenotransplantation, surrogacy agreements, embryology or human genetics.
- (3) Nothing in provision made by or under this or any other Act affects the generality of subsection (1).

24 Exercise of health service functions by Special Health Authorities

- (1) The Welsh Ministers may direct a Special Health Authority to exercise any of the functions of the Welsh Ministers relating to the health service which are specified in the directions.
- (2) Subsection (1) does not apply to the functions of the Welsh Ministers in relation to pilot schemes.
- (3) The functions which may be specified in directions include functions under enactments relating to mental health and care homes.

25 Exercise of Special Health Authority functions

- (1) Regulations may provide for any functions which are exercisable by a Special Health Authority under section 24 to be exercised—
 - (a) by another Special Health Authority, or
 - (b) jointly with one or more other Special Health Authorities.
- (2) Regulations may provide—
 - (a) for any functions which are exercisable by a Special Health Authority under section 24 or this section to be exercised on behalf of that Special Health Authority by a committee, sub-committee or officer of the Special Health Authority,
 - (b) for any functions exercisable jointly under subsection (1)(b) to be exercised, on behalf of the Special Health Authorities in question, by a joint committee or joint sub-committee.

CHAPTER 4

MISCELLANEOUS

*Intervention orders and default powers***26 Intervention orders**

- (1) This section applies to NHS bodies other than 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,
- 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).

27 Effect of intervention orders

- (1) In this section—
- (a) “member” means a member of a Strategic Health Authority, Primary Care Trust, 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 Strategic Health Authority, Primary Care Trust, 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).
- (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—

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- (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.

28 Default powers

- (1) This section applies to NHS bodies other than 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 or liabilities acquired or incurred by the Welsh Ministers in discharging any of the functions transferred to them.

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.

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- (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 whereby any of the bodies 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 concerned.
- (2) The bodies referred to in subsection (1) are—
- (a) Local Health Boards,
 - (b) NHS trusts,
 - (c) Special Health Authorities,
 - (d) the Commission for Healthcare Audit and Inspection, and
 - (e) the Health Protection Agency,
- but a scheme under this section may limit the class or description of bodies which are eligible to participate in it.
- (3) A scheme under this section may, in particular—
- (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 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 body which is eligible to participate in a scheme must do so.
- (5) Where a 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 scheme under this section 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.

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,

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- (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.