

NATIONAL HEALTH SERVICE REFORM AND HEALTH CARE PROFESSIONS ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – National Health Service, etc.

NHS bodies and their functions: Wales

Section 6: Local Health Boards

52. *Section 6* enables the Assembly to create statutory bodies to be known as LHBs to exercise health functions as directed by the Assembly.
53. *Subsection (1)* inserts three new sections into the 1977 Act, sections 16BA, 16BB and 16BC. The new section 16BA empowers the Assembly to establish LHBs with a view to their exercising the functions of former HAs and also any other functions of the Assembly relating to the health service. It also introduces a new Schedule 5B in the 1977 Act (as set out in *Schedule 4*). Schedule 5B makes provision for the content of orders establishing LHBs, the status, constitution and membership of LHBs and other matters. In particular, under paragraph 5 of the Schedule, the chairman is to be a board member and appointed by the Assembly; this also applies to a vice-Chairman who can be appointed if the Assembly so wishes. *Paragraph 13* enables the LHB to do whatever it considers necessary in order to exercise its functions. *Paragraph 17* enables the Assembly to make regulations for the LHB to produce reports, audit and publish accounts, and publish other such documents as required.
54. The new section 16BB empowers the Assembly to direct LHBs to carry out specified HA functions, which have previously been transferred to the Assembly under Section 27 of the Government of Wales Act 1998. The Assembly may also direct a LHB to exercise, in relation to its area, other health service related functions of the Assembly. The Assembly may direct LHBs about the exercise of functions, which it has directed LHBs to exercise. The Assembly can, if it considers appropriate, confer different powers and functions upon different LHBs and change these as it determines necessary.
55. The new section 16BC enables the Assembly to give directions for an LHB's functions to be exercised on its behalf by another LHB, a Special Health Authority or jointly with a number of other health bodies, or by any committee, sub-committee or officer of the relevant LHB or health body.
56. *Subsection (3)* applies to orders, regulations and directions made in respect of LHBs the general powers relating to orders, regulations and directions provided by Section 126 of the 1977 Act.
57. *Subsection (4)* extends section 1 of the National Health Service (Private Finance) Act 1997 to LHBs so that they may enter into externally financed development agreements.