

# **NATIONAL HEALTH SERVICE (INDEMNITIES) (WALES) ACT 2020**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 1 – Indemnities in connection with provision of health services***

4. Subsection (2) of section 1 of the Act inserts the definition “mutual indemnity scheme” into subsection (1) of section 30 of the 2006 Act. Inclusion of the defined term distinguishes those schemes made in accordance with subsection (1), where several health service bodies meet their expenses and liabilities by combining resources in a collective fund, from those schemes made under the new subsection (8) which are termed “direct indemnity schemes”.
5. Subsection (3) of section 1 of the Act adds to the bodies who may make provision within an indemnity scheme under section 30. The first of these new bodies is a person providing or who has provided primary medical services. This includes General Practitioners. The second addition is a body or other person providing or arranging the provision of, or who provided or arranged the provision of, health services (other than a body already listed in subsection (2)) under an arrangement with a Local Health Board, an NHS Trust or a Special Health Authority. This would include for example a person providing services under a contract with a Local Health Board.
6. Subsection (5) of section 1 of the Act inserts the names of the bodies that the Welsh Ministers may direct to participate in a mutual indemnity scheme in accordance with their power in subsection (4) of section 30 of the 2006 Act. This clarification is required as a result of the expanded list of bodies included in subsection (2) of section 30.
7. Subsection (8) of section 1 of the Act inserts new subsections (8) to (11) into section 30 of the 2006 Act.
8. The new subsection (8) of section 30 creates a power for the Welsh Ministers to make regulations to establish a statutory scheme under which they may indemnify the persons or bodies in subsection (2). The Act names these “direct indemnity schemes”.
9. The new subsection (9) provides a non-exhaustive list of what regulations establishing a direct indemnity scheme may prescribe, including for example who is an eligible person, and what liabilities or expenses may be indemnified by such a scheme.
10. The new subsection (10) of section 30 makes it clear that there is nothing in section 30 that prevents the Welsh Ministers from exercising their powers to provide indemnities to any person other than those listed in subsection (2), or from providing different kinds of indemnities to those bodies listed in subsection (2).
11. New subsection (11) provides a definition of “functions”.
12. The Act also makes a number of minor and consequential amendments to section 30 as a result of the substantive provisions.