



Health and Care (Staffing) (Scotland) Act 2019

2019 asp 6

PART 2

STAFFING IN THE NHS

5 Application of duties to certain Special Health Boards

- (1) The State Hospitals Board for Scotland Order 1995 (S.I. 1995/574) is amended in accordance with subsections (2) and (3).
- (2) In Part I of the schedule—
 - (a) in column 1—
 - (i) after the entry relating to section 10(4) of the National Health Service (Scotland) Act 1978, insert “ Section 12IA ”,
 - (ii) after the entry inserted by sub-paragraph (i), insert “ Section 12IC ”,
 - (iii) after the entry inserted by sub-paragraph (ii), insert “ Section 12ID ”,
 - (iv) after the entry inserted by sub-paragraph (iii), insert “ Section 12IE ”,
 - (v) after the entry inserted by sub-paragraph (iv), insert “ Section 12IF ”,
 - (vi) after the entry inserted by sub-paragraph (v), insert “ Section 12IH ”,
 - (vii) after the entry inserted by sub-paragraph (vi), insert “ Section 12II ”,
 - (viii) after the entry inserted by sub-paragraph (vii), insert “ Section 12IJ ”,
 - (ix) after the entry inserted by sub-paragraph (viii) , insert “ Section 12IL ”,
 - (x) after the entry inserted by sub-paragraph (ix), insert “ Section 12IM ”, and
 - (xi) after the entry inserted by sub-paragraph (x), insert “ Section 12IN ”, and
 - (b) in column 2—
 - (i) in the place corresponding to the entry inserted by paragraph (a)(i), insert “ Duty to ensure appropriate staffing ”,
 - (ii) in the place corresponding to the entry inserted by paragraph (a)(ii), insert “ Duty to have real-time staffing assessment in place ”,

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- (iii) in the place corresponding to the entry inserted by paragraph (a)(iii), insert “ Duty to have risk escalation process in place ”,
 - (iv) in the place corresponding to the entry inserted by paragraph (a)(iv), insert “ Duty to have arrangements to address severe and recurrent risks ”,
 - (v) in the place corresponding to the entry inserted by paragraph (a)(v), insert “ Duty to seek clinical advice on staffing ”,
 - (vi) in the place corresponding to the entry inserted by paragraph (a)(vi), insert “ Duty to ensure adequate time given to clinical leaders ”,
 - (vii) in the place corresponding to the entry inserted by paragraph (a)(vii), insert “ Duty to ensure appropriate staffing: training of staff ”,
 - (viii) in the place corresponding to the entry inserted by paragraph (a)(viii), insert “ Duty to follow common staffing method ”,
 - (ix) in the place corresponding to the entry inserted by paragraph (a)(ix), insert “ Duties of training and consultation of staff ”,
 - (x) in the place corresponding to the entry inserted by paragraph (a)(x), insert “ Duty of reporting on staffing ”, and
 - (xi) in the place corresponding to the entry inserted by paragraph (a)(xi), insert “ Duty to have regard to Ministerial guidance on staffing ”.
- (3) In Part II of the schedule—
- (a) in column 1, at the end, insert “ Section 2 of the Health and Care (Staffing) (Scotland) Act 2019 ”, and
 - (b) in column 2, in the place corresponding to the entry inserted by paragraph (a), insert “ Duties to have regard to guiding principles etc. in health care staffing and planning ”.
- (4) The Scottish Ambulance Service Board Order 1999 (S.I. 1999/686) is amended in accordance with subsections (5) and (6).
- (5) In Part I of the schedule—
- (a) in column 1—
 - (i) after the entry relating to section 10(4) of the National Health Service (Scotland) Act 1978, insert “ Section 12IA ”,
 - (ii) after the entry inserted by sub-paragraph (i), insert “ Section 12IC ”,
 - (iii) after the entry inserted by sub-paragraph (ii), insert “ Section 12ID ”,
 - (iv) after the entry inserted by sub-paragraph (iii), insert “ Section 12IE ”,
 - (v) after the entry inserted by sub-paragraph (iv), insert “ Section 12IF ”,
 - (vi) after the entry inserted by sub-paragraph (v), insert “ Section 12IH ”,
 - (vii) after the entry inserted by sub-paragraph (vi), insert “ Section 12II ”,
 - (viii) after the entry inserted by sub-paragraph (vii), insert “ Section 12IM ”, and
 - (ix) after the entry inserted by sub-paragraph (viii), insert “ Section 12IN ”,
 - (b) in column 2—
 - (i) in the place corresponding to the entry inserted by paragraph (a)(i), insert “ Duty to ensure appropriate staffing ”,
 - (ii) in the place corresponding to the entry inserted by paragraph (a)(ii), insert “ Duty to have real-time staffing assessment in place ”,

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- (iii) in the place corresponding to the entry inserted by paragraph (a)(iii), insert “ Duty to have risk escalation process in place ”,
 - (iv) in the place corresponding to the entry inserted by paragraph (a)(iv), insert “ Duty to have arrangements to address severe and recurrent risks ”,
 - (v) in the place corresponding to the entry inserted by paragraph (a)(v), insert “ Duty to seek clinical advice on staffing ”,
 - (vi) in the place corresponding to the entry inserted by paragraph (a)(vi), insert “ Duty to ensure adequate time given to clinical leaders ”,
 - (vii) in the place corresponding to the entry inserted by paragraph (a)(vii), insert “ Duty to ensure appropriate staffing: training of staff ”,
 - (viii) in the place corresponding to the entry inserted by paragraph (a)(viii), insert “ Duty of reporting on staffing ”, and
 - (ix) in the place corresponding to the entry inserted by paragraph (a)(ix), insert “ Duty to have regard to Ministerial guidance on staffing ”, and
- (c) in column 3—
- (i) in the place corresponding to the entry inserted by paragraph (a)(viii), insert “ Applied in so far as it relates to sections [F1 12IA, 12IC, 12ID, 12IE, 12IF, 12IH and 12II] of the Act and section 2 of the Health and Care (Staffing) (Scotland) Act 2019 ”, and
 - (ii) in the place corresponding to the entry inserted by paragraph (a)(ix), insert “ Applied in so far as it relates to sections [F1 12IA, 12IC, 12ID, 12IE, 12IF, 12IH and 12II] of the Act and section 2 of the Health and Care (Staffing) (Scotland) Act 2019 ”.
- (6) In Part II of the schedule—
- (a) in column 1, at the end, insert “ Section 2 of the Health and Care (Staffing) (Scotland) Act 2019 ”, and
 - (b) in column 2, in the place corresponding to the entry inserted by paragraph (a), insert “ Duties to have regard to guiding principles etc. in health care staffing and planning ”.
- (7) The NHS 24 (Scotland) Order 2001 (S.S.I. 2001/137) is amended in accordance with subsections (8) and (9).
- (8) In Part I of the schedule—
- (a) in column 1—
 - (i) after the entry relating to section 10(4) of the National Health Service (Scotland) Act 1978, insert “ Section 12IA ”,
 - (ii) after the entry inserted by sub-paragraph (i), insert “ Section 12IC ”,
 - (iii) after the entry inserted by sub-paragraph (ii), insert “ Section 12ID ”,
 - (iv) after the entry inserted by sub-paragraph (iii), insert “ Section 12IE ”,
 - (v) after the entry inserted by sub-paragraph (iv), insert “ Section 12IF ”,
 - (vi) after the entry inserted by sub-paragraph (v), insert “ Section 12IH ”,
 - (vii) after the entry inserted by sub-paragraph (vi), insert “ Section 12II ”,
 - (viii) after the entry inserted by sub-paragraph (vii), insert “ Section 12IJ ”,
 - (ix) after the entry inserted by sub-paragraph (viii), insert “ Section 12IL ”,
 - (x) after the entry inserted by sub-paragraph (ix), insert “ Section 12IM ”, and

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- (xi) after the entry inserted by sub-paragraph (x), insert “ Section 12IN ”, and
- (b) in column 2—
 - (i) in the place corresponding to the entry inserted by paragraph (a)(i), insert “ Duty to ensure appropriate staffing ”,
 - (ii) in the place corresponding to the entry inserted by paragraph (a)(ii), insert “ Duty to have real-time staffing assessment in place ”,
 - (iii) in the place corresponding to the entry inserted by paragraph (a)(iii), insert “ Duty to have risk escalation process in place ”,
 - (iv) in the place corresponding to the entry inserted by paragraph (a)(iv), insert “ Duty to have arrangements to address severe and recurrent risks ”,
 - (v) in the place corresponding to the entry inserted by paragraph (a)(v), insert “ Duty to seek clinical advice on staffing ”,
 - (vi) in the place corresponding to the entry inserted by paragraph (a)(vi), insert “ Duty to ensure adequate time given to clinical leaders ”,
 - (vii) in the place corresponding to the entry inserted by paragraph (a)(vii), insert “ Duty to ensure appropriate staffing: training of staff ”,
 - (viii) in the place corresponding to the entry inserted by paragraph (a)(viii), insert “ Duty to follow common staffing method ”,
 - (ix) in the place corresponding to the entry inserted by paragraph (a)(ix), insert “ Duties of training and consultation of staff ”,
 - (x) in the place corresponding to the entry inserted by paragraph (a)(x), insert “ Duty of reporting on staffing ”, and
 - (xi) in the place corresponding to the entry inserted by paragraph (a)(xi), insert “ Duty to have regard to Ministerial guidance on staffing ”.
- (9) In Part II of the schedule—
 - (a) in column 1, at the end, insert “ Section 2 of the Health and Care (Staffing) (Scotland) Act 2019 ”, and
 - (b) in column 2, in the place corresponding to the entry inserted by paragraph (a), insert “ Duties to have regard to guiding principles etc. in health care staffing and planning ”.
- (10) The National Waiting Times Centre Board (Scotland) Order 2002 (S.S.I. 2002/305) is amended in accordance with subsections (11) and (12).
- (11) In Part I of the schedule—
 - (a) in column 1—
 - (i) after the entry relating to section 10(4) of the National Health Service (Scotland) Act 1978, insert “ Section 12IA ”,
 - (ii) after the entry inserted by sub-paragraph (i), insert “ Section 12IC ”,
 - (iii) after the entry inserted by sub-paragraph (ii), insert “ Section 12ID ”,
 - (iv) after the entry inserted by sub-paragraph (iii), insert “ Section 12IE ”,
 - (v) after the entry inserted by sub-paragraph (iv), insert “ Section 12IF ”,
 - (vi) after the entry inserted by sub-paragraph (v), insert “ Section 12IH ”,
 - (vii) after the entry inserted by sub-paragraph (vi), insert “ Section 12II ”,
 - (viii) after the entry inserted by sub-paragraph (vii), insert “ Section 12IJ ”,
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- (x) after the entry inserted by sub-paragraph (ix), insert “ Section 12IM ”, and
- (xi) after the entry inserted by sub-paragraph (x), insert “ Section 12IN ”, and
- (b) in column 2—
 - (i) in the place corresponding to the entry inserted by paragraph (a)(i), insert “ Duty to ensure appropriate staffing ”,
 - (ii) in the place corresponding to the entry inserted by paragraph (a)(ii), insert “ Duty to have real-time staffing assessment in place ”,
 - (iii) in the place corresponding to the entry inserted by paragraph (a)(iii), insert “ Duty to have risk escalation process in place ”,
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 - (ix) in the place corresponding to the entry inserted by paragraph (a)(ix), insert “ Duties of training and consultation of staff ”,
 - (x) in the place corresponding to the entry inserted by paragraph (a)(x), insert “ Duty of reporting on staffing ”, and
 - (xi) in the place corresponding to the entry inserted by paragraph (a)(xi), insert “ Duty to have regard to Ministerial guidance on staffing ”.
- (12) In Part II of the schedule—
 - (a) in column 1, at the end, insert “ Section 2 of the Health and Care (Staffing) (Scotland) Act 2019 ”, and
 - (b) in column 2, in the place corresponding to the entry inserted by paragraph (a), insert “ Duties to have regard to guiding principles etc. in health care staffing and planning ”.

Textual Amendments

- F1** Words in s. 5(5)(c) substituted (12.5.2023) by [The Health and Care \(Staffing\) \(Scotland\) Act 2019 Amendment Regulations 2023 \(S.S.I. 2023/127\)](#), regs. 1, **3(3)**

Commencement Information

- I1** S. 5(1)(2)(a)(xi)(b) in force at 15.5.2023 for specified purposes by [S.S.I. 2023/131](#), reg. 2, **sch.**
- I2** S. 5(4)(5)(a)(ix)(b) in force at 15.5.2023 for specified purposes by [S.S.I. 2023/131](#), reg. 2, **sch.**
- I3** S. 5(7)(8)(a)(xi)(b) in force at 15.5.2023 for specified purposes by [S.S.I. 2023/131](#), reg. 2, **sch.**
- I4** S. 5(10)(11)(a)(xi)(b) in force at 15.5.2023 for specified purposes by [S.S.I. 2023/131](#), reg. 2, **sch.**

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Changes and effects yet to be applied to :

- s. 5(2)(a)(i)-(x) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(3) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(6) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(8)(a)(i)-(x) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(9) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(11)(a)(i)-(x) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(12) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(1)s. 5(2)(a)(xi)(b) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(4)s. 5(5)(a)(ix)(b) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(5)(a)(i)-(viii)(c) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(7)s. 5(8)(a)(xi)(b) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)
- s. 5(10)s. 5(11)(a)(xi)(b) coming into force by [S.S.I. 2024/20 reg. 2\(2\)](#)