
Changes to legislation: National Health Service (Wales) Act 2006, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 5

Section 22

SPECIAL HEALTH AUTHORITIES ESTABLISHED UNDER SECTION 22

Corporate status

- 1 Each Special Health Authority is a body corporate.

Pay and allowances

- 2 (1) The Welsh Ministers may pay to—
- (a) the chairman of a Special Health Authority, and
 - (b) any member of a Special Health Authority who is appointed by the Welsh Ministers,
- such remuneration as the Welsh Ministers may determine.
- (2) The Welsh Ministers may provide as they may determine for the payment of a pension, allowance or gratuity to or in respect of the chairman of a Special Health Authority.
- (3) A determination under sub-paragraph (2), so far as it relates to a pension, may be made only with the approval of the Treasury.
- (4) Where a person ceases to be chairman of a Special Health Authority, and it appears to the Welsh Ministers that there are special circumstances which make it right for that person to receive compensation, the Welsh Ministers may make him a payment of such amount as the Welsh Ministers may determine.
- (5) The Welsh Ministers may pay to a member of a Special Health Authority, or of a committee or sub-committee of, or joint committee or joint sub-committee including, a Special Health Authority, such travelling and other allowances (including attendance allowance or compensation for the loss of remunerative time) as the Welsh Ministers may determine.
- (6) Allowances may not be paid under sub-paragraph (5) except in connection with the exercise, in such circumstances as the Welsh Ministers may determine, of such functions as they may determine.
- (7) Payments under this paragraph must be made at such times, and in such manner and subject to such conditions, as the Welsh Ministers may determine.

Modifications etc. (not altering text)

- C1** Sch. 5 para. 2 excluded (5.10.2017) by [The Health Education and Improvement Wales Regulations 2017 \(S.I. 2017/909\)](#), regs. 1(2), **18(5)**

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Staff

- 3 (1) A Special Health Authority may employ such officers as it may determine.
- (2) A Special Health Authority may—
- (a) pay its officers such remuneration and allowances, and
 - (b) employ them on such other terms and conditions,
- as it may determine.
- (3) A Special Health Authority must, in exercising its powers under sub-paragraph (1) or (2), act in accordance with regulations and any directions given by the Welsh Ministers.
- (4) Regulations and directions under sub-paragraph (3) may make provision with respect to any matter connected with the employment by a Special Health Authority of its officers, including in particular provision—
- (a) with respect to the qualifications of persons who may be employed as officers of a Special Health Authority,
 - (b) requiring a Special Health Authority to employ a chief officer and officers of such other descriptions as may be prescribed and to employ, for the purpose of performing prescribed functions of the Special Health Authority or any other body, officers having prescribed qualifications or experience, and
 - (c) as to the manner in which any officers of a Special Health Authority must be appointed.
- (5) A direction under sub-paragraph (3) may relate to a particular officer or class of officer specified in the direction.
- (6) Regulations and directions under sub-paragraph (3) may provide for approvals or determinations to have effect from a date specified in them.
- (7) The date may be before or after the date of giving the approvals or making the determinations but may not be before if it would be to the detriment of the officers to whom the approvals or determinations relate.
- (8) Regulations may provide for the transfer of officers from one Special Health Authority to another Special Health Authority^{F1}..., and for arrangements under which the services of an officer of a Special Health Authority are placed at the disposal of another Special Health Authority^{F2}... or a local authority.
- (9) Sub-paragraph (11) applies where the registration of a dental practitioner in the dentists register is suspended—
- (a) by an interim suspension order under section 32 of the Dentists Act 1984 (c. 24) (interim orders), or
 - (b) by a direction or an order of the Health Committee, the Professional Performance Committee or the Professional Conduct Committee of the General Dental Council under any of sections 27B, 27C or 30 of that Act following a relevant determination that that practitioner's fitness to practise is impaired.
- (10) For the purposes of sub-paragraph (9), a “relevant determination” that a practitioner's fitness to practice is impaired is a determination which is based solely on—
- (a) the ground mentioned in paragraph (b) of subsection (2) of section 27 of the Dentists Act 1984 (deficient professional performance),

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- (b) the ground mentioned in paragraph (c) of that subsection (adverse physical or mental health), or
 - (c) both those grounds.
- (11) The suspension does not terminate any contract of employment made between the dental practitioner and a Special Health Authority, but a person whose registration is so suspended must not perform any duties under a contract made between him and a Special Health Authority which involves the practice of dentistry within the meaning of the Dentists Act 1984.
- (12) Directions may be given—
- (a) by the Welsh Ministers to a Special Health Authority to place the services of any of its officers at the disposal of another Special Health Authority ^{F3}...,
 - (b) by the Welsh Ministers to any Special Health Authority to employ as an officer of the Special Health Authority any person who is or was employed by another Special Health Authority ^{F4}... and is specified in the direction.
- (13) Regulations made in pursuance of this paragraph may not require that all consultants employed by a Special Health Authority must be so employed whole-time.

Textual Amendments

- F1** Words in Sch. 5 para. 3(8) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 41(2)(a)(i); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** Words in Sch. 5 para. 3(8) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 41(2)(a)(ii); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F3** Words in Sch. 5 para. 3(12)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 41(2)(b)(i); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in Sch. 5 para. 3(12)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 41(2)(b)(ii); S.I. 2013/160, art. 2(2) (with arts. 7-9)

- 4 (1) The Welsh Ministers must, before they make regulations under paragraph 3, consult such bodies as they may recognise as representing persons who, in their opinion, are likely to be affected by the regulations.
- (2) The Welsh Ministers must, before they give directions to a Special Health Authority under paragraph 3(12) in respect of any officer of a Special Health Authority—
- (a) consult the officer about the directions,
 - (b) satisfy themselves that the Special Health Authority of which he is an officer has consulted the officer about the placing or employment in question, or
 - (c) in the case of a direction under paragraph 3(12)(a), consult with respect to the directions such body as they may recognise as representing the officer.
- (3) But if the Welsh Ministers—
- (a) consider it necessary to give directions under paragraph 3(12)(a) for the purpose of dealing temporarily with an emergency, and
 - (b) have previously consulted bodies recognised by them as representing the relevant officers about the giving of directions for that purpose,
- the Welsh Ministers may disregard sub-paragraph (2) in relation to the directions.

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Miscellaneous

- 5 Provision may be made by regulations as to—
- (a) the appointment and tenure of office of the chairman, vice-chairman and members of a Special Health Authority,
 - (b) the appointment and tenure of office of any members of a committee or sub-committee of a Special Health Authority who are not members of the Special Health Authority,
 - (c) the appointment and tenure of office of any members of a joint committee or joint sub-committee including a Special Health Authority who are not members of the Special Health Authority,
 - [^{F5}(d) the circumstances in which the chairman or vice-chairman or any member of a Special Health Authority may be suspended from office,]
 - (e) the appointment and constitution of committees and sub-committees (and joint committees and joint sub-committees) of (or including) a Special Health Authority (including any such committees consisting wholly or partly of persons who are not members of the Special Health Authority in question), and
 - (f) the procedure of a Special Health Authority and of such committees and sub-committees as are mentioned in paragraph (e).

Textual Amendments

- F5** Sch. 5 para. 5(d) substituted (1.4.2010) by [Health Act 2009 \(c. 21\)](#), ss. 19, 40, [Sch. 3 paras. 15, 18\(1\)](#) (b) (with [para. 19](#)); [S.I. 2010/930](#), [art. 2](#)

- 6 Regulations made under this Schedule may make provision (including provision modifying this Schedule) to deal with cases where the post of chief officer or any other officer of a Special Health Authority is held jointly by two or more persons or where the functions of such an officer are in any other way performed by more than one person.
- 7 A Special Health Authority may pay subscriptions, of such amounts as the Welsh Ministers may approve, to the funds of such bodies as the Welsh Ministers may approve.
- 8 A Special Health Authority has power to accept gifts of property (including property to be held on trust, either for the general or any specific purposes of the Special Health Authority or for any purposes relating to the health service).
- 9 (1) The Welsh Ministers may by order provide for the appointment of trustees for a Special Health Authority to hold property on trust—
- (a) for the general or any specific purposes of the Special Health Authority (including the purposes of any specific hospital or other establishment or facility at or from which services are provided by the Special Health Authority), or
 - (b) for any purposes relating to the health service.
- (2) An order under sub-paragraph (1) may—
- (a) make provision as to the persons by whom trustees must be appointed and generally as to the method of their appointment,
 - (b) make any appointment subject to such conditions as may be specified in the order (including conditions requiring the consent of the Welsh Ministers),

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- (c) make provision as to the number of trustees to be appointed, including provision under which that number may from time to time be determined by the Welsh Ministers after consultation with such persons as they consider appropriate, and
 - (d) make provision with respect to the term of office of any trustee and his removal from office.
 - (3) Where under sub-paragraph (1) trustees have been appointed for a Special Health Authority, the Welsh Ministers may by order provide for the transfer of any trust property from the Special Health Authority to the trustees.
- 10 The proceedings of a Special Health Authority are not invalidated by any vacancy in its membership or by any defect in a member's appointment.
- 11 (1) A Special Health Authority may—
 - (a) make available at a hospital for which it has responsibility accommodation or services for patients who give undertakings (or for whom undertakings are given) to pay any charges imposed by the Special Health Authority in respect of the accommodation or services, and
 - (b) make and recover charges in respect of such accommodation or services and calculate them on any basis that it considers to be the appropriate commercial basis.
- (2) A Special Health Authority may exercise the power conferred by sub-paragraph (1) only if it is satisfied that its exercise—
 - (a) does not to any significant extent interfere with the performance by the Special Health Authority of any function conferred on it under this Act to provide accommodation or services of any kind, and
 - (b) does not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at health service hospitals (whether as resident or non-resident patients) otherwise than under this section.
- (3) Before a Special Health Authority decides to make accommodation or services available under sub-paragraph (1), it must consult organisations representative of the interests of persons likely to be affected by the decision.
- (4) A Special Health Authority may allow accommodation or services which are made available under sub-paragraph (1) to be so made available in connection with treatment in pursuance of arrangements—
 - (a) made by a medical practitioner or dental practitioner serving (whether in an honorary or paid capacity) on the staff of a health service hospital,
 - (b) for the treatment of private patients of that practitioner.
- (5) References in this paragraph to a health service hospital include references to such a hospital within the meaning of section 275 of the National Health Service Act 2006 (c. 41), but do not include references to a hospital vested in an NHS trust or an NHS foundation trust.
- 12 (1) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a Special Health Authority of any function exercisable by it by virtue of section 24 or section 25 are enforceable by or against that Special Health Authority (and no other body).

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- (2) This paragraph does not apply in relation to the joint exercise of any functions by a Special Health Authority with another body under section 25(1)(b).
- 13 Provision may be made by regulations with respect to the recording of information by a Special Health Authority, and the furnishing of information by a Special Health Authority to the Welsh Ministers, another Special Health Authority or [^{F6}NHS England].

Textual Amendments

- F6** Words in Sch. 5 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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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. 201A-201C inserted by [2017 c. 23 s. 9](#)
- s. 201C(2) words substituted by [2018 c. 12 Sch. 19 para. 118\(2\)](#)
- s. 201C(4) inserted by [2018 c. 12 Sch. 19 para. 118\(3\)](#)
- Sch. 7 para. 1(2A) inserted by [2009 c. 21 s. 32\(3\)](#)