

HEALTH AND CARE (STAFFING) (SCOTLAND) ACT 2019

The Health and Care (Staffing) (Scotland) Act was passed by the Scottish Parliament in 2019. Implementation of the Act was paused to allow everyone to focus efforts on the Covid-19 pandemic. **The Act will come into force on 1st April 2024.**

The Act is applicable to everyone working in a health and care service. Defined in section 11 of the Act, working in a care service includes: working for payment or as a volunteer, working under a contract of service or apprenticeship, a contract for services or otherwise than under a contract.

This would include, for example:

- Employees of the care service
- Agency and other temporary / contract workers
- Self-employed workers
- Those on apprenticeship schemes and other 'earn as you learn' schemes who are employed by the care service
- All volunteers

There are 4 parts to the Act. Parts 1 (guiding principles) and 3 (Staffing in care services) are most relevant to social care.

Part 2 is only for NHS.

Part 4 give powers to the Scottish Ministers around enactment of the legislation and to make amendments as necessary.

All care services have a duty to follow Part 1 - the guiding principles of the Act and part 3, which includes:

- Section 7 (appropriate staffing),
- Section 8 (staff training and qualifications)
- Section 10, subsections (1) and (2) (having regard to any guidance issued by the Scottish Ministers).

Part 3 of the Act details how you should determine what constitutes appropriate staffing levels, by considering the nature of the care service, the kind of service provided. The size of the care service, the aims and objectives and, the number of people experiencing care and the needs of those people.

The similarities between the current legislation of regulation 15 and the new Act are evident. The wording is a little different but in general the ask of the new legislation does not differ much from Regulation 15 apart from "The wellbeing of staff". In terms of staff wellbeing, the focus is on staff wellbeing in so far as it affects the main purposes of providing safe and high-quality services and ensuring the best care outcomes for service users.

Guiding Principles for Safe Staffing

Part 1 of the [Health and Care \(Staffing\) \(Scotland\) Act 2019](#) outlines specific responsibilities and procedures related to safe care service staffing in Scotland, which covers the following:

- 1 Providing safe, high-quality services
- 2 Ensuring the best possible outcomes



Staffing Duty

You are expected to consider the guiding principles for health and care staffing when fulfilling your staffing obligations.

Planning and Contracting Care Services

When planning or securing care services through contracts or agreements, local authorities and integration authorities must adhere to the guiding principles, ensuring that the principles and staffing duties are in line with relevant legislation.

Guidance

Scottish Ministers may issue guidance related to these principles. The guidance issued by the Scottish Ministers will be made available to the public.

Consultation

Before issuing any guidance, the Scottish Ministers will consult with stakeholders such as Social Care and Social Work Improvement Scotland, service providers, commissioners, professional bodies, and carers.

Transparency

At the end of each financial year, local authorities and integration authorities are required to publish information about their efforts to comply with the principles and any ongoing risks that might affect their ability to do so.

Training

Part 3 of the Act details the training of staff and the responsibilities on providers to ensure staff are appropriately trained to carry out their duties. To fulfil the current legislation, the Care Inspectorate already asks providers during inspection about induction plans and checking the regularity of scheduled supervisions and/or appraisal systems, for providers to assess, monitor and plan the appropriate training needs for individual staff. The ask in the Act about staff receiving appropriate training for the work they are to perform and being assisted to ensure their professional learning is not a new ask of the Act.

Learning Resources for Safe Staffing

Turas provides a dedicated course for safe staffing on its [learning portal](#).

There are four levels of knowledge and skills on the course: Informed, Skilled, Enhanced and Expert. Each level of knowledge and skill is designed for staff at increasing levels of responsibility.

There are four modules in the course: Fundamentals of Health and Care Staffing, Workload and Workforce Planning, Managing and Using Workforce Planning Data and Quality Assurance and Governance. Each module has four levels of mastery to correspond to the four levels of knowledge and skills.

Staffing Methods and Tools

There are also specific duties about the development of staffing methods and tools in Part 3a of the Act – applicable in the first instance to care homes for adults, then other services as the Scottish ministers instruct:

Care Inspectorate may develop and recommend to the Scottish Ministers staffing methods for use by those who provide care home services for adults.

Scottish Ministers may put Regulations through Parliament that allow the Care Inspectorate to develop staffing methods for other care services.

Care Inspectorate must collaborate with others when developing such methods: to ensure methods can be implemented in practice and provide reliable and relevant information.

Care Inspectorate must also have regard to any guidance issued by the Scottish Ministers and the guiding principles of the Act.

Reporting Requirements for Safe Staffing

You should be aware of the following reporting requirements related to the [Health and Care \(Staffing\) \(Scotland\) Act 2019](#):

- It is the duty of every Health Board and the Agency to put and keep in place arrangements for the escalation of any risk, including procedures for the initial and onward reporting of a risk.
- Each Health Board and the Agency must, within a month following the end of each financial year, publish a report describing how they fulfilled their duties under various

sections, including considering guiding principles in health care staffing and planning. The report should outline any challenges or risks faced and the steps to address them.

- The reports must detail any challenges and steps taken by Health Boards and the Agency in fulfilling their duties.
- The Scottish Ministers will compile these reports into an annual combined report and will also provide a statement on how they intend to incorporate this information into their staffing policies.
- After the end of each financial year, Ministers will publish a report on how Health Boards and the Agency fulfilled their duties regarding guiding principles in health care staffing and planning, outlining any identified challenges and the resulting actions, and will then present a summary and evaluation of the submitted information to Parliament.