

# Health and Care (Staffing) (Scotland) Act 2019

## 12IR 'HIS: Monitoring and Development of Staffing Tools'

### Inclusion of paid breaks within relevant staffing tools

#### 1.0 Introduction

Healthcare Improvement Scotland (HIS) recommends to Scottish Ministers revisions to the staffing tools, prescribed under section 12IJ (3) of the Health and Care (Staffing) (Scotland) Act 2019 (HCSA) as follows:

The revision of the 'Adult Inpatient Staffing Level Tool Version 5' with a new revised staffing level tool 'Adult Inpatient Staffing Level Tool Version 6'

- **Staffing tool:** Adult Inpatient Staffing Level Tool Version 6
- **Type of healthcare:** Adult inpatient provision
- **Location:** Hospitals wards with 17 occupied beds or more on average
- **Employees:** Registered nurses (including other staff working under the supervision or delegation by the registered nurse)

The revision of the 'Small Wards Staffing Level Tool Version 4' with a new revised staffing level tool 'Small Wards Staffing Level Tool Version 5'

- **Staffing tool:** Small Wards Staffing Level Tool Version 5
- **Type of healthcare:** Small ward provision
- **Location:** Hospitals wards with 16 occupied beds or fewer on average
- **Employees:** Registered nurses (including other staff working under the supervision or delegation by the registered nurse)

The revision of the 'Emergency Care Provision Staffing Level Tool Version 5' with a new revised staffing level tool 'Emergency Care Provision Staffing Level Tool Version 6'

- **Staffing tool:** Emergency Care Provision Staffing Level Tool Version 6
- **Type of healthcare:** Emergency care provision
- **Location:** Emergency departments in hospitals
- **Employees:** Medical practitioners and registered nurses (including other staff working under the supervision or delegation by a medical practitioner and/or registered nurse)

## 2.0 Revision: Covers all three named staffing level tools in introduction

- 2.1 A staffing level tool review process was undertaken by HIS in 2024/25. As part of this process both paid and unpaid breaks were discussed at expert working groups, which contained clinical representation from health boards and professional bodies for each named tool outlined in the introduction.
- 2.2 The extant tool development methodology for the tools named within the introduction were based on observation studies. These studies recorded all nursing activities, plus medical for emergency care, during each study, including any staff breaks. Staff were observed for their full shift, including the unpaid element, for example: long day shift 07:00 – 19:30, 12.5 hours of activities recorded per staff member, inclusive of all breaks.
- 2.3 As part of the calculation used to develop the required care hours per patient day and subsequent recommended Whole Time Equivalent (WTE), both paid and unpaid breaks were removed from the observation studies, previously classified as 'unproductive time'. The reason for this is that no direct care, indirect care or associated work was observed, therefore there was no contribution to the service or patients during this time.
- 2.4 Nursing staff that are included within the named tools in the introduction are on Agenda for Change (AfC) contracts. As per AfC terms and conditions, staff are not entitled to be paid for meal breaks. This informs their shift length with provision of an unpaid meal break element. Therefore, it is correct that unpaid breaks (meal breaks) are removed from the calculation as these are excluded for AfC staff and are not included in staff working hours as part of their WTE.
- 2.5 An assessment of the removal of 'unproductive time', including the paid break element, from the observation studies was completed by Healthcare Improvement Scotland and taken to each expert working group named in the introduction for their input.
- 2.6 It was concluded that it was not appropriate to remove the paid break element from observation studies. The primary justification for this decision was that staff can't be

expected to work for the full paid element of their shift without having short complimentary paid breaks e.g. a refreshment break. The change to include paid breaks in the observation studies will support the health and wellbeing of staff which is an important part of the legislation.

- 2.7 The proposal is to reduce the percentage of ‘unproductive time’ removed from the staffing tools to a flat 8% for unpaid breaks and no percentage for the paid-break element. The 8% was based on a survey of boards which determined that 8% was the unpaid break element of the most common shift pattern within boards.
- 2.8 This change will impact the nursing outputs of each named staffing level tool in the introduction. The medical outputs for the Emergency Care Provision tool will not be impacted as medical staff are paid for their breaks; therefore, no time is removed for breaks within the existing calculation.
- 2.9 The proposal to reinstate the paid-break element within the methodology underpinning the staffing level tools named under the Health and Care (Staffing) (Scotland) Act 2019 was presented to the Nursing and Midwifery Taskforce Phase Two: Working Environment and Work-Life Balance Subgroup for endorsement. The subgroup reached consensus that reinstating paid breaks represents a positive step in supporting staff wellbeing and ensuring that staff are able to take appropriate rest breaks.

### 3.0 Recommendations

3.1 HIS recommend the following amendments to The National Health Service (Common Staffing Method) (Scotland) Regulations 2025, that accompany the Health and Care (Staffing) (Scotland) Act 2019, as follows:

#### 3.2 Adult Inpatient

- Schedule Staffing Level Tools Column 1 Kind of health care Provision: ‘Adult inpatient provision by registered nurses in hospital wards with 17 occupied beds or more on average – remains unchanged.
- Schedule Staffing Level Tools Column 2 Staffing level tool:

‘Adult Inpatient Staffing Level Tool Version 5 (3)’

Replacement with a revised staffing level tool as follows:

‘Adult Inpatient Staffing Level Tool Version 6 (3)’

- (3) Version 5 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.

Replaced with:

(3) Version 6 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.

### 3.3 Small Wards

- Schedule Staffing Level Tools Column 1 Kind of health care Provision: ‘Small ward provision by registered nurses in hospital wards with 16 occupied beds or fewer on average – remains unchanged.
- Schedule Staffing Level Tools Column 2 Staffing level tool:

‘Small Wards Staffing Level Tool Version 4 (12)’

Replacement with a revised staffing level tool as follows:

‘Small Wards Staffing Level Tool Version 5 (12)’

- (12) Version 4 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.

Replaced with:

(12) Version 5 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.

### 3.4 Emergency Care

- Schedule Staffing Level Tools Column 1 Kind of health care Provision: ‘Emergency Care provision by registered nurses or by medical practitioners in emergency departments in hospitals’ – remains unchanged.

- Schedule Staffing Level Tools Column 2 Staffing level tool:

‘Emergency Care Provision Staffing Level Tool Version 5 (7)’

Replacement with a new staffing level tool as follows:

‘Emergency Care Provision Staffing Level Tool Version 6 (7)’

- (7) Version 5 was made available online on the RLDatix SafeCare Platform as part of the national e-rostering contract to those granted access.

Replaced with:

(7) Version 6 was made available online on the RLDatix SafeCare Platform as part of the national e-rostering contract to those granted access.