# Table of Provisions

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 1—Preliminary</strong></td>
<td></td>
</tr>
<tr>
<td>1 Objective</td>
<td>1</td>
</tr>
<tr>
<td>2 Authorising provision</td>
<td>2</td>
</tr>
<tr>
<td>3 Commencement</td>
<td>2</td>
</tr>
<tr>
<td>4 Definition</td>
<td>2</td>
</tr>
<tr>
<td><strong>Part 2—Nurse to patient and midwife to patient ratios</strong></td>
<td>3</td>
</tr>
<tr>
<td>5 Criteria for reducing or increasing number of nurses staffing an operating theatre</td>
<td>3</td>
</tr>
<tr>
<td>5A Criteria for increasing number of nurses or midwives staffing a special care nursery above minimum</td>
<td>3</td>
</tr>
<tr>
<td>5B Criteria for increasing number of nurses staffing a neonatal intensive care unit above minimum</td>
<td>4</td>
</tr>
<tr>
<td>5C Postnatal wards</td>
<td>4</td>
</tr>
<tr>
<td>6 Considerations applicable to a proposal to vary a ratio</td>
<td>5</td>
</tr>
<tr>
<td>10 Local agreements</td>
<td>5</td>
</tr>
<tr>
<td><strong>Part 3—Enforcement</strong></td>
<td>7</td>
</tr>
<tr>
<td>11 Local dispute resolution</td>
<td>7</td>
</tr>
<tr>
<td>12 Failure to resolve a dispute and referral to Magistrates' Court</td>
<td>8</td>
</tr>
<tr>
<td><strong>Endnotes</strong></td>
<td>9</td>
</tr>
<tr>
<td>1 General information</td>
<td>9</td>
</tr>
<tr>
<td>2 Table of Amendments</td>
<td>11</td>
</tr>
<tr>
<td>3 Amendments Not in Operation</td>
<td>12</td>
</tr>
<tr>
<td>4 Explanatory details</td>
<td>13</td>
</tr>
</tbody>
</table>
Part 1—Preliminary

1 Objective

The objective of these Regulations is to make further provision for safe patient care in hospitals by—

(a) specifying criteria in accordance with which the number of nurses or midwives, as the case requires, with whom specified wards are staffed—

(i) may be reduced or increased, in the case of an operating theatre; or

(ii) may be increased above the minimum required, in the case of a special care nursery or neonatal intensive care unit; and

(b) setting out procedures in accordance with which—

(i) an agreement to vary a ratio or the application of a rounding method under section 12 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 may be made; and

(ii) a local dispute must be resolved; and

Reg. 1 substituted by S.R. No. 15/2019 reg. 5.
(c) prescribing other matters to give effect to the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015.

2 Authorising provision

These Regulations are made under section 45 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015.

3 Commencement

These Regulations come into operation on 23 December 2015.

4 Definition

In these Regulations—

the Act means the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015.
Part 2—Nurse to patient and midwife to patient ratios

5 Criteria for reducing or increasing number of nurses staffing an operating theatre

For the purposes of section 25(2) of the Act, the following criteria are prescribed—

(a) the complexity of the surgical procedure;
(b) the pre-existing condition of the patient;
(c) the number of operations on the list for the operating theatre;
(d) the experience and skill mix of staff;
(e) the type of equipment used;
(f) the number of students requiring supervision;
(g) the layout of the operating theatre and the and number of operating theatres in the suite;
(h) temporary fluctuations in demand across the whole theatre suite during an operating theatre session.

5A Criteria for increasing number of nurses or midwives staffing a special care nursery above minimum

For the purposes of section 27(4)(a) and (b) of the Act, the following criteria are prescribed—

(a) the conditions of the infants in the special care nursery;
(b) the level of care required by the infants in the special care nursery;
(c) the experience and skill mix of staff;
(d) the number of students requiring supervision.
5B Criteria for increasing number of nurses staffing a neonatal intensive care unit above minimum

For the purposes of section 28(2)(a) and (b) of the Act, the following criteria are prescribed—

(a) the conditions of the infants in the neonatal intensive care unit;

(b) the level of care required by the infants in the neonatal intensive care unit;

(c) the experience and skill mix of staff;

(d) the number of students requiring supervision.

5C Postnatal wards

For the purposes of section 31A(3)(c) of the Act, the following are the prescribed requirements—

(a) the postgraduate midwifery program referred to in section 31A(3)(b) of the Act and being undertaken by the nurse must be a postgraduate midwifery program that, on completion, qualifies the nurse for registration as a midwife under the Health Practitioner Regulation National Law;

(b) the nurse has completed the initial postnatal theory component of the postgraduate midwifery program;

(c) the nurse has completed all relevant staff orientation programs required by the operator of the hospital;

(d) the nurse has completed all orientation programs relevant to postnatal wards required by the operator of the hospital.
6 Considerations applicable to a proposal to vary a ratio

For the purposes of section 32(b) of the Act, the following considerations, so far as relevant to the proposal, are prescribed—

(a) the profile of patients in the ward as to age, expected length of stay, complexity of treatment and case mix and throughput of patients in the clinical setting;

(b) the capacity of the nurses or midwives with whom the ward is staffed to complete their duties within the existing rostered number of nursing or midwifery hours;

(c) clinical risks to the quality of patient care, including risks of falls, medication errors, sepsis, thrombosis, pressure ulcers, pneumonia and urinary tract infections;

(d) the occupational health and safety of the nurses or midwives with whom the ward is staffed, including the physical environment of the ward;

(e) the staff engagement of the nurses or midwives with whom the ward is staffed.

* * * * *

10 Local agreements

(1) For the purposes of section 36(2) of the Act, the following procedures are prescribed—

(a) the operator of the hospital, or a relevant union, prepares a written proposal that—

(i) complies with subregulation (2); and
(ii) sets out the nature of the proposed variation; and

(iii) sets out the period for which it is proposed that the variation will operate; and

(iv) sets out the scope of application of the variation; and

(v) sets out the benchmarks and performance criteria underlying the proposal, including its impact on the quality of patient care and, if relevant, addresses the other considerations specified in regulation 6;

(b) the operator and the union negotiate in good faith in relation to the proposal;

(c) if the operator and the union agree to the proposal, the agreement is evidenced by an exchange of letters between them.

(2) The proposal must—

(a) state when the variation is to be implemented, which must not be before the beginning of the next roster period after the exchange of letters referred to in subregulation (1)(c); and

(b) provide for how the agreement may be varied or terminated.
Part 3—Enforcement

11 Local dispute resolution

(1) For the purposes of section 41(2) of the Act, the following resolution procedures are prescribed—

(a) the nurse or midwife (the aggrieved employee) or the aggrieved employee's representative notifies in writing the operator of the hospital (through the aggrieved employee's immediate supervisor) of an alleged breach of the ratio or ratio variation;

(b) without prejudice to the outcome of the local dispute, the operator, as soon as practicable after the notification referred to in paragraph (a), must suspend the course of conduct alleged to constitute a breach of the ratio or ratio variation for the duration of the resolution procedures set out in this regulation;

(c) the operator must arrange a meeting to discuss the local dispute between—

(i) the aggrieved employee or representative; and

(ii) the immediate supervisor or a representative of the operator other than the immediate supervisor;

(d) if the local dispute is not resolved at the meeting referred to in paragraph (c), the operator, on the operator's own initiative or at the request of the aggrieved employee or representative made within 48 hours after the end of that meeting, must arrange another meeting between the aggrieved employee or representative and a representative of the operator.
(2) A meeting referred to in subregulation (1)(c) must be held—
   (a) within 48 hours after the notification referred to in subregulation (1)(a); or
   (b) as otherwise agreed by, or on behalf of, the operator and the aggrieved employee.

(3) A meeting referred to in subregulation (1)(d) must be held—
   (a) within 48 hours after the requirement to arrange the meeting arises; or
   (b) as otherwise agreed by, or on behalf of, the operator and the aggrieved employee.

(4) All parties to a resolution procedure conducted under this regulation for settling a local dispute must—
   (a) genuinely attempt to resolve the dispute in a timely manner through the procedure; and
   (b) for that purpose act cooperatively and genuinely consider resolution options.

12 Failure to resolve a dispute and referral to Magistrates' Court

For the avoidance of doubt, a party is not prevented from exercising a right to apply to the Magistrates' Court under section 42(1) of the Act if the inability to resolve a local dispute arises from the failure of a party to comply with the resolution procedures set out in regulation 11.
Endnotes

1 General information


The Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015, S.R. No. 169/2015 were made on 22 December 2015 by the Governor in Council under section 45 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015, No. 51/2015 and came into operation on 23 December 2015: regulation 3.

The Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015 will sunset 10 years after the day of making on 22 December 2025 (see section 5 of the Subordinate Legislation Act 1994).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- Headings

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).
• **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

• **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

• **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

• **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

• **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).
2 Table of Amendments

This publication incorporates amendments made to the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015 by statutory rules, subordinate instruments and Acts.

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Regulations 2019, S.R. No. 15/2019

Date of Making: 5.3.19
Date of Commencement: 6.3.19: reg. 3
3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.
4 Explanatory details

No entries at date of publication.