

**HEALTH AND CARE (STAFFING) (SCOTLAND) BILL –
STAGE 2 DEBATE: TUESDAY 29 JANUARY 2019
PURPOSE AND EFFECT NOTES**

**GROUP 1 – GUIDING PRINCIPLES FOR HEALTH AND
CARE STAFFING**

Amendment number(s)	81, 82, 1, 83, 2, 8, 9, 10, 11,12, 14,
Subject	Guiding Principles for Health and Care Staffing
Text of amendment(s)	<p style="text-align: center;">Section 1</p> <p>Monica Lennon 81 In section 1, page 1, line 7, leave out <purpose> and insert <purposes></p> <p>Monica Lennon 82 In section 1, page 1, line 7, leave out <is> and insert <are— ()></p> <p>Alex Cole-Hamilton 1 In section 1, page 1, line 8, after <services> insert <and to ensure the health, wellbeing and safety of service users></p> <p>Monica Lennon 83 In section 1, page 1, line 8, at end insert <and () to ensure the best health care outcomes for service users,></p> <p>Alex Cole-Hamilton 2 In section 1, page 1, line 10, at end insert— <() ensuring the health, wellbeing and safety of service users,></p> <p>Jeane Freeman 8 In section 1, page 1, line 10, at end insert— <(zi) improving standards and outcomes for service users,></p> <p>Jeane Freeman 9 In section 1, page 1, line 17, leave out <allocating staff efficiently and effectively> and insert <making the best use of the available individuals, facilities and resources></p> <p>Jeane Freeman 10 In section 1, page 1, line 17, at end insert <and,</p>

(vii) promoting multi-disciplinary services as appropriate.>

Alex Cole-Hamilton

11 In section 1, page 1, line 22, at end insert—

<“multi-disciplinary services” means health care or care services delivered together by individuals from such a range of professional disciplines as necessary in order to meet the needs of, and improve standards and outcomes for, service users,>

Jeane Freeman

12 In section 1, page 1, line 24, at end insert—

<“standards and outcomes for service users” means—

- (a) in relation to health care, the standards and outcomes published by the Scottish Ministers under section 10H of the National Health Service (Scotland) Act 1978, and
- (b) in relation to care services, the standards and outcomes published by the Scottish Ministers under section 50 of the Public Services Reform (Scotland) Act 2010.>

Jeane Freeman

14 In section 4, page 2, line 34, after <individuals> insert <, from such a range of professional disciplines as necessary,>

Purpose & Effect

Amendments 81,82 and 83

As currently drafted, the Bill sets out the guiding principles for health and care staffing. Section 1(1)(a) sets out that the main purpose of staffing for health care and care services is to provide safe and high-quality services. These amendments add an additional main purpose, that the main purpose of staffing for health and care services is also to ensure the best health care outcomes for service users.

Amendment 1

As currently drafted, the Bill sets out the guiding principles for health and care staffing. Section 1(1)(a) sets out that the main purpose of staffing for health care and care services is to provide safe and high-quality services. Amendment 1 adds ‘and to ensure the health, wellbeing and safety of service users’ to this main purpose.

Amendment 2

Paragraph (b) of section 1(1) provides that, in so far as consistent with the aforementioned main purpose, staffing for health care and care services is to be arranged while taking account of a number of further principles. Amendment 2 inserts a new principle, to ensure the health, wellbeing and safety of service users.

Amendment 8

This amendment inserts a new principle to the list of principles in section 1(1)(b) which Health Boards and the Agency must take account of, in so far as it is consistent with the aforementioned main purpose of providing safe and high-quality care – improving standards and outcomes for service users.

Amendment 9

This amendment removes ‘allocating staff efficiently and effectively’ from the list of principles in section 1(1)(b), and replaces it with ‘making the best use of the available individuals, facilities and resources’.

Amendment 10

Amendment 10 inserts an additional principle into the guiding principles in section 1(1)(b). The effect of this amendment is that, in so far as consistent with the main purpose to provide safe and high- quality services, staffing for health and care services is to be arranged while promoting multidisciplinary services as appropriate.

Amendment 11

Amendment 11 amends section 1(2) to provide a definition of multi-disciplinary services. “Multi-disciplinary services” are defined as health care or care services delivered together by individuals from such a range of professional disciplines as necessary in order to meet the needs of, and improve standards and outcomes for, service users.

Amendment 12

This amendment, which is linked to amendment 8, provides a definition of ‘standards and outcomes for service users’ in section 1(2). It provides that these are the standards and outcomes issued by Ministers under section 10H of the National Health Service (Scotland) Act 1978 and the standards and outcomes issued by Ministers under section 50 of the Public Services Reform (Scotland) Act 2010.

Amendment 14

In the Bill as introduced, section 12IA places a duty on Health Boards and the Agency to ensure that at all times suitably qualified and competent individuals are working in such numbers as are appropriate for the health, wellbeing and safety of patients and the provision of high quality care.

Amendment 14 provides that such individuals must be “from such a range of professional disciplines as necessary”.

GROUP 2 – DUTIES ON COMMISSIONERS OF HEALTH AND CARE

Amendment number(s)	84, 85, 86, 87, 88, 89, 110
Subject	Duties on Commissioners of Health and Care
Text of amendment(s)	<p style="text-align: center;">Section 2</p> <p>Miles Briggs</p> <p>84 In section 2, page 2, line 9, after <must> insert <—</p> <p style="padding-left: 40px;">() take all reasonable steps to ensure that the person is provided with sufficient funds through the contract, agreement or arrangements to provide the service with appropriate staffing arrangements, and</p> <p style="padding-left: 40px;">()></p> <p>Monica Lennon</p> <p>85 In section 2, page 2, line 12, at end insert—</p> <p style="padding-left: 20px;"><(3) As soon as reasonably practicable after the end of each financial year, every Health Board and the Common Services Agency for the Scottish Health Service must provide information to the Scottish Ministers as on the steps they have taken to comply with subsections (1) and (2).</p> <p style="padding-left: 20px;">(4) Information provided under subsection (3) must set out how the steps taken by the Health Board or (as the case may be) Common Services Agency for the Scottish Health Service to comply with subsections (1) and (2) have improved outcomes for service users.</p> <p style="padding-left: 20px;">(5) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must collate information received under subsection (3) into a combined report to be laid before the Scottish Parliament.</p> <p style="padding-left: 20px;">(6) A report laid under subsection (5) must set out—</p> <p style="padding-left: 60px;">(a) the steps taken by Health Boards and (as the case may be) the Common Services Agency for the Scottish Health Service to comply with subsections (1) and (2),</p> <p style="padding-left: 60px;">(b) the steps that the Scottish Ministers will take in relation to the staffing of the health service in response to the report’s conclusions and recommendations.></p> <p style="text-align: center;">Section 3</p> <p>Miles Briggs</p> <p>86 In section 3, page 2, line 20, after <must> insert <—</p> <p style="padding-left: 40px;">() take all reasonable steps to ensure that the person is provided with sufficient funds through the contract, agreement or arrangements to provide the service with appropriate staffing arrangements, and</p>

()>

Monica Lennon

87 In section 3, page 2, line 23, after <of > insert <this section and>

David Stewart

88 In section 3, page 2, line 25, at end insert—

<() the duty imposed on them by virtue of section (*Duty on commissioners of care services to ensure appropriate resources*).>

Monica Lennon

89 In section 3, page 2, line 25, at end insert—

<(3) As soon as reasonably practicable after the end of each financial year, every local authority and every integration authority (within the meaning of section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014) must provide the Scottish Ministers with information on—

- (a) the steps they have taken, and
- (b) any ongoing risk that may affect their ability,

to comply with subsection (2).

(4) Information provided under subsection (3) must set out how the steps taken by the local authority or (as the case may be) integration authority to comply with subsection (2) have improved outcomes for service users.

(5) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must collate the information provided to them under subsection (3) into a combined report to be laid before the Scottish Parliament.

(6) A report laid under subsection (5) must set out—

- (a) the steps taken by local authorities and (as the case may be) integration authorities to comply with subsection (2),
- (b) any ongoing risk that may affect the ability of the local authority or (as the case may be) integration authority to comply with subsection (2),
- (c) the steps that the Scottish Ministers will take in relation to the staffing of social care services in response to the report's conclusions and recommendations.>

Before section 6

David Stewart

110 Before section 6, insert—

<**Duty on commissioners of care services to ensure appropriate resources**>

	<p>(1) In planning or securing the provision of a care service from another person under a contract, agreement or other arrangements, every local authority and every integration authority (within the meaning of section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014) must ensure that appropriate resources are provided to that person as is necessary for the provision of suitably qualified and competent individuals in care services, as is appropriate for—</p> <ul style="list-style-type: none"> (a) the health, wellbeing and safety of service users, and (b) the provision of high quality care. <p>(2) In determining what constitutes appropriate resources for the purposes of subsection (1), regard is to be had to—</p> <ul style="list-style-type: none"> (a) the nature of the care service, (b) the size of the care service, (c) the aims and objectives of the care service, (d) the number of service users, and (e) the needs of service users.>
<p>Purpose & Effect</p>	<p>Amendment 84</p> <p>This amendment adds to the duty on Health Boards and the Common Services Agency to, when contracting services or entering into an arrangement to secure the provision of health care services from another provider, have regard to the guiding principles and the need for the person from whom care is being contracted to have appropriate staffing arrangements in place. This would place a duty on Health Board and the Common Services Agency to ensure that the person from whom the service is contracted is provided with sufficient funds by the Board or the Agency.</p> <p>Amendment 85</p> <p>This would create an additional duty on Health Boards and the Common Service Agency to report to Scottish Ministers on how they have complied with Section 2(1) and (2). This would also require them to report on how the services contracted have improved outcomes for patients. Scottish Ministers would be required to collate these reports and lay this collated report in Parliament with a statement of steps that Ministers will take in response to the recommendations and conclusions of the reports.</p> <p>Amendment 86</p> <p>This amendment adds to the duty on local authorities and integration authorities to, when planning or securing provision of a care service, have regard to the guiding principles and the need for the person from whom care is being</p>

contracted to comply with their duties under this legislation and under Chapters 3 and 3A of Part 5 of the Public Services Reform (Scotland) Act 2010. This would place a duty on local authorities and integration authorities to take reasonable steps to ensure that the person from whom the service is contracted is provided with sufficient funds.

Amendment 87

This amends Section 3(2)(b)(i) to require local authorities and integration authorities to have regard to Section 3 in addition to Sections 6 and 8 when planning or securing the provision of a care service from another person.

Amendment 88

Requires local authorities and integration authorities to consider the duty placed on them by amendment 110 when planning or securing the provision of care services.

Amendment 89

This would create an additional duty on local authorities and integration authorities to report to Scottish Ministers on how they have complied with Section 3(2) and any risks that may affect their ongoing ability to do so. This would also require them to report on how the services contracted have improved outcomes for patients. Scottish Ministers would be required to collate these reports and lay this collated report in Parliament with a statement of steps that Ministers will take in response to the recommendations and conclusions of the reports.

Amendment 110

Creates a new duty on commissioners of care services which requires them to provide appropriate resources for the provision of suitably qualified and competent individuals as is appropriate for the health wellbeing and safety of service users and the provision of high quality care. In doing so the commissioner must have regard to the same factors that care service providers are to have regard to when determining what constitutes an appropriate number of staff.

GROUP 3 – MINISTERIAL GUIDANCE ON STAFFING BY CARE SERVICES

Amendment number(s)	13, 68, 69, 70, 71
Subject	Ministerial guidance on staffing by care services
Text of amendment(s)	<p style="text-align: center;">Section 3</p> <p>Jeane Freeman</p> <p>13 In section 3, page 2, line 25, at end insert—</p> <p style="padding-left: 40px;"><(3) Every local authority and every integration authority must have regard to any guidance issued by the Scottish Ministers about the operation of subsection (2).</p> <p style="padding-left: 40px;">(4) Before issuing such guidance, the Scottish Ministers must consult—</p> <p style="padding-left: 80px;">(a) Social Care and Social Work Improvement Scotland,</p> <p style="padding-left: 80px;">(b) such persons as they consider to be representative of the providers, commissioners and users of care services,</p> <p style="padding-left: 80px;">(c) such trade unions and professional bodies as they consider to be representative of individuals working in care services,</p> <p style="padding-left: 80px;">(d) such persons as they consider to be representative of carers (within the meaning of section 1 of the Carers (Scotland) Act 2016), and</p> <p style="padding-left: 80px;">(e) such other persons as they consider appropriate.></p> <p style="padding-left: 40px;">(5) The Scottish Ministers must publish any guidance issued under subsection (3).></p> <p style="text-align: center;">Section 8</p> <p>Jeane Freeman</p> <p>68 In section 8, page 10, line 14, at end insert—</p> <p style="padding-left: 40px;"><(1A) Such guidance may, in particular, include provision about the related duty under section 3(1) to have regard to the guiding principles for health and care staffing.></p> <p>Jeane Freeman</p> <p>69 In section 8, page 10, line 16, at end insert—</p> <p style="padding-left: 40px;"><(aa) the Scottish Social Services Council,></p> <p>Jeane Freeman</p> <p>70 In section 8, page 10, line 17, after <providers> insert <, commissioners></p> <p>Jeane Freeman</p> <p>71 In section 8, page 10, line 20, at end insert—</p>

	<p style="text-align: center;"><(ca) such persons as they consider to be representative of carers (within the meaning of section 1 of the Carers (Scotland) Act 2016),></p>
<p>Purpose & Effect</p>	<p>Amendment 13 This amendment would allow Ministers to issue guidance about the duty on commissioners of care services under section 3(2) of the Bill to have regard, when commissioning services, to the guiding principles for care staffing and to certain statutory duties relating to staffing on care service providers (including the new duties in sections 6 and 7 of the Bill). As with the other guidance powers in the Bill this is subject to consultation and publication requirements.</p> <p>Amendment 68 This amendment clarifies that guidance issued to care service providers under section 8(1) can cover the duty on care services providers under section 3(1) to have regard to the guiding principles for health and care staffing (set out in section 1) when complying with the duty to ensure appropriate staffing (set out in section 6).</p> <p>Amendment 69 This amendment adds the Scottish Social Services Council (SSSC) to the list of those with whom Scottish Ministers must consult under section 8(2) before issuing guidance to care service providers under section 8(1).</p> <p>Amendment 70 This amendment adds commissioners to the list of those with whom Scottish Ministers must consult under section 8(2) before issuing guidance to care service providers under section 8(1).</p> <p>Amendment 71 This amendment adds representatives of carers to the list of those with whom Scottish Ministers must consult under section 8(2) before issuing guidance to care service providers under section 8(1).</p>

GROUP 4 – DUTY TO ENSURE APPROPRIATE STAFFING: PURPOSES OF STAFFING

Amendment number(s)	3, 4, 5, 15, 16
Subject	Duty ensure appropriate staffing: Purposes of Staffing
Text of amendment(s)	<p style="text-align: center;">Section 4</p> <p>Alex Cole-Hamilton</p> <p>3 In section 4, page 2, line 36, after <patients> insert <and staff></p> <p>Alex Cole-Hamilton</p> <p>4 In section 4, page 2, line 37, after <of> insert <safe and></p> <p>Alex Cole-Hamilton</p> <p>5 In section 4, page 2, line 37, after <care> insert <and services></p> <p>Jeane Freeman</p> <p>15 In section 4, page 2, line 37, at end insert <and, (c) in so far as it affects either of those matters, the wellbeing of staff.></p> <p>Jeane Freeman</p> <p>16 In section 4, page 2, line 37, at end insert— <(2) In determining what, in a particular kind of health care provision, constitutes appropriate numbers for the purposes of subsection (1), regard is to be had to— (a) the nature of the particular kind of health care provision, (b) the local context in which it is being provided, (c) the number of patients being provided it, (d) the needs of patients being provided it, and (e) appropriate clinical advice.></p>
Purpose & Effect	<p>Amendment 3</p> <p>Section 121A of the Bill as introduced provides that every Health Board must ensure that at all times suitably qualified and competent individuals are working in their service in such numbers as are appropriate for the health, wellbeing and safety of service users. Amendment 3 seeks to expand this duty to apply to the health, wellbeing and safety of staff.</p>

Amendment 4

Section 12IA introduces a duty on all geographical Health Boards and the Agency to ensure that a sufficient number of suitably qualified and competent individuals are working at all times for two related purposes: for the health, wellbeing and safety of patients, and for the provision of high-quality care. Amendment 4 adds “safe” to the purpose at 12IA(b) to become the provision of safe high-quality health care.

Amendment 5

Section 12IA introduces a duty on all geographical Health Boards and the Agency to ensure that a sufficient number of suitably qualified and competent individuals are working at all times for two related purposes: for the health, wellbeing and safety of patients, and for the provision of high-quality care. Amendment 5 adds “and services” to the purpose at 12IA(b) which together with amendment 4 becomes the provision of safe high-quality health care and services.

Amendment 15

Section 12IA of the Bill as introduced provides that every Health Board and the Agency must ensure that at all times suitably qualified and competent individuals are working in their service in such numbers as are appropriate for the health, wellbeing and safety of their service users and the provision of high quality care. Amendment 15 amends section 12IA to provide that such numbers must be working as are appropriate for the wellbeing of staff, in so far as the wellbeing of staff affects the health, wellbeing and safety of service users and the provision of high quality care.

Amendment 16

Amendment 16 creates a list of factors to be considered by Health Boards when determining appropriate numbers of staff as part of the general duty to ensure appropriate staffing in section 12IA. This would apply to all staff groups, including in areas which are not covered by the common staffing method in 12IB.

GROUP 5 – REAL-TIME STAFFING ASSESSMENT AND RISK ESCALATION PROCESS

Amendment number(s)	17, 17A, 17B, 17C, 17D, 17E, 17F, 17G, 17H, 17I, 39, 41, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 107, 123
Subject	Real-time Staffing Assessment and Risk Escalation Process
Text of amendment(s)	<p>Jeane Freeman</p> <p>17 In section 4, page 2, line 37, at end insert—</p> <p style="padding-left: 40px;"><12IAA Duty to have real-time staffing assessment in place</p> <p style="padding-left: 80px;">(1) It is the duty of every Health Board and the Agency to put and keep in place arrangements for the real-time assessment of its compliance with the duty imposed by section 12IA.</p> <p style="padding-left: 80px;">(2) The arrangements under subsection (1) must, in particular, include—</p> <p style="padding-left: 120px;">(a) a procedure for the identification, by any member of staff, of any risks caused by staffing levels to—</p> <p style="padding-left: 160px;">(i) the health, wellbeing and safety of patients,</p> <p style="padding-left: 160px;">(ii) the provision of high-quality health care, or</p> <p style="padding-left: 160px;">(iii) in so far as it affects either of those matters, the wellbeing of staff.</p> <p style="padding-left: 120px;">(b) a procedure for the mitigation of any such risks, so far as possible, by the individual with lead clinical professional responsibility where the risk was identified, and</p> <p style="padding-left: 120px;">(c) raising awareness among staff about the procedures described in paragraphs (a) and (b).</p> <p style="padding-left: 40px;">12IAB Duty to have risk escalation process in place</p> <p style="padding-left: 80px;">(1) It is the duty of every Health Board and the Agency to put and keep in place arrangements for the escalation of any risk—</p> <p style="padding-left: 120px;">(a) identified during the real-time assessment of its staffing levels in accordance with arrangements put in place under section 12IAA, and</p> <p style="padding-left: 120px;">(b) which it has not been possible to mitigate in accordance with the arrangements put in place under that section.</p> <p style="padding-left: 80px;">(2) The arrangements under subsection (1) must, in particular, include—</p>

- (a) a procedure for the initial reporting of a risk as described in subsection (1), by the individual with lead clinical professional responsibility where the risk was identified, to a more senior decision-maker in the clinical professional structure,
- (b) a requirement for any such decision-maker to seek appropriate clinical advice, as necessary, in reaching a decision on the risk,
- (c) a procedure for the onward reporting of the risk, as necessary, to a more senior decision-maker in turn, and a requirement for that decision-maker in turn to seek appropriate clinical advice, as necessary, in reaching a decision on the risk,
- (d) a procedure for the notification of every decision made following the initial report, and the reasons for it, to—
 - (i) any individual who was involved in identifying the risk in accordance with the arrangements put in place under section 12IAA(2)(a),
 - (ii) any individual who was involved in attempting to mitigate the risk in accordance with the arrangements put in place under section 12IAA(2)(b),
 - (iii) any individual who was involved in reporting the risk in accordance with the arrangements put in place under paragraph (a) or (c) of this subsection, and
 - (iv) any individual who gave clinical advice in accordance with the arrangements put in place under paragraph (b) or (c) of this subsection,
- (e) a procedure for those individuals to record any disagreement with any decision made following the initial report, and
- (f) raising awareness among staff about the procedures described in paragraphs (a) to (e).>

David Stewart

17A As an amendment to amendment 17, line 7, after <identification,> insert <and notification to an individual with lead clinical professional responsibility,>

David Stewart

17B As an amendment to amendment 17, line 12, leave out second <the> and insert <an>

David Stewart

17C As an amendment to amendment 17, line 15, leave out <raising awareness among staff about> and insert <steps to be taken by the Health Board or Agency to raise awareness of, and enable and encourage employees to make use of,>

David Stewart

17D As an amendment to amendment 17, line 16, at end insert—

<(3) As soon as reasonably practicable after the end of each financial year, every Health Board and the Agency must publish, and submit to the Scottish Ministers, information on the operation of the real-time staffing assessment and steps taken to mitigate any risk identified in the assessment.>

David Stewart

17E As an amendment to amendment 17, line 26, leave out first <the> and insert <an>

David Stewart

17F As an amendment to amendment 17, line 29, after <seek> insert <, and have regard to,>

David Stewart

17G In an amendment to amendment 17, line 33, after <seek> insert <, and have regard to,>

David Stewart

17H As an amendment to amendment 17, line 51, leave out <raising awareness among staff about> and insert <steps to be taken by the Health Board or Agency to raise awareness of, and enable and encourage employees to make use of,>

David Stewart

17I As an amendment to amendment 17, line 52, at end insert—

<(3) As soon as reasonably practicable after the end of each financial year, every Health Board and the Agency must publish, and submit to the Scottish Ministers, information on the operation of the risk escalation process and steps taken to mitigate any risk identified in the assessment.>

David Stewart

107 In section 4, page 5, line 23, at end insert—

<12IDA Risk management protocol

(1) Every Health Board and the Agency must establish a risk management protocol.

- (2) The purpose of a risk management protocol established under subsection (1) is to—
- (a) identify,
 - (b) monitor, and
 - (c) assess,
- risk associated with complying with the duty in section 12IA.
- (3) A risk management protocol established under subsection (1) must—
- (a) set out the steps to be taken by the Health Board or Agency to mitigate any risk associated with complying with the duty in section 12IA,
 - (b) set out the steps which may be taken by employees of the Health Board or the Agency to mitigate risk associated with complying with the duty in section 12IA,
 - (c) set out the steps which may be taken by employees of the Health Board or the Agency in seeking local resolution associated with complying with the duty in section 12IA,
 - (d) set out the steps to be taken by the Health Board or the Agency to enable and encourage employees to escalate risk associated with complying with the duty in section 12IA,
 - (e) be developed, and from time to time reviewed, by the designated person, taking into account the views of employees of the Health Board or the Agency.
- (4) As soon as reasonably practicable after the end of each financial year, every Health Board and the Agency must publish, and submit to the Scottish Ministers, information on the operation of the risk management protocol and steps taken to mitigate any risk identified in the protocol.
- (5) In this section—
- “designated person” means an employee designated by the Health Board or the Agency to manage the risk management protocol,
 - “escalate” means to seek assistance from beyond the local context in which health care is provided to mitigate or resolve risk,
 - “local resolution” means to mitigate or resolve risk within the local context in which health care is provided,
 - “risk” means any factor which, if not appropriately addressed by the Health Board or the Agency, would cause detriment to the ability of the Health Board or the Agency to comply with the duty under section 12IA.>

Miles Briggs

123 In section 4, page 5, line 23, at end insert—

<121DB Role of designated persons

- (1) Every Health Board and the Agency must—
 - (a) designate a person (a “designated person nursing and midwifery”) to carry out functions, insofar as they relate to the nursing and midwifery workforce, to enable the Board or Agency to comply with the duty in section 12IA,
 - (b) designate a person (a “designated person medical”) to carry out functions, insofar as they relate to the medical workforce, to enable the Board or Agency to comply with that duty,
 - (c) designate a person (a “designated person allied health professionals”) to carry out functions, insofar as they relate to the allied health professionals workforce, to enable the Board or Agency to comply with that duty,
 - (d) make arrangements for the purpose of informing patients and staff of staffing levels.
- (2) In complying with its duties under Parts 1 and 2 of the Health and Care (Staffing) (Scotland) Act 2019 (“2019 Act duties”), the Health Board or Agency must consult, and have due regard to the professional advice and judgement of, the persons designated under subsection (1) (“designated persons”).
- (3) At least once every three months, the designated persons must report to the Health Board or the Agency (as the case may be) on the extent to which, in the designated persons’ professional opinion, the Health Board or the Agency is complying with its 2019 Act duties.
- (4) Every Health Board and the Agency must, in seeking to comply with its 2019 Act duties, take account of reports to it under subsection (3).
- (5) Where, in the professional judgement of one or more of the designated persons—
 - (a) the Health Board or the Agency is not complying with its 2019 Act duties, any one or more designated person may provide a report to the Health Board or the Agency (as the case may be) at any time setting out why the designated person considers this to be the case,
 - (b) a decision of the Health Board or Agency is not compatible with its 2019 Act duties, the designated person may require the Health Board or the Agency (as the case may be) to record formally the designated person’s judgement on that decision.

- (6) A designated person may delegate functions conferred under subsection (1) to any person who, in the opinion of the designated person, is suitably qualified and competent.
- (7) Every Health Board and the Agency must provide the designated persons with sufficient staff and resources to carry out the designated person's functions under this section.
- (8) The Scottish Ministers must by regulations prescribe the qualifications and experience required for a person to be designated under subsection (1).>

Jeane Freeman

- 39** In section 4, page 5, line 31, insert—
- <(aa) section 12IAA,
 - (ab) section 12IAB.>

Jeane Freeman

- 41** In section 4, page 6, line 9, at end insert <and,
- (c) procedures for the identification, mitigation and escalation of risks caused by staffing levels in arrangements put in place under sections 12IAA and 12IAB.>

Jeane Freeman

- 48** In section 5, page 7, line 4, at end insert—
- <(ia) after the entry inserted by sub-paragraph (i), insert “Section 12IAA”,
 - (ib) after the entry inserted by sub-paragraph (ia), insert “Section 12IAB”,>

Jeane Freeman

- 49** In section 5, page 7, line 5, leave out <(i)> and insert <(ib)>

Jeane Freeman

- 50** In section 5, page 7, line 11, at end insert—
- <(ia) in the place corresponding to the entry inserted by paragraph (a)(ia), insert “Duty to have real-time staffing assessment in place”,
 - (ib) in the place corresponding to the entry inserted by paragraph (a)(ib), insert “Duty to have risk escalation process in place”,>

Jeane Freeman

- 51** In section 5, page 7, line 24, leave out <Duty> and insert <Duties>

Jeane Freeman

52 In section 5, page 7, line 31, at end insert—

- <(ia) after the entry inserted by sub-paragraph (i), insert “Section 12IAA”,
- (ib) after the entry inserted by sub-paragraph (ia), insert “Section 12IAB”,>

Jeane Freeman

53 In section 5, page 7, line 32, leave out <(i)> and insert <(ib)>

Jeane Freeman

54 In section 5, page 7, line 36, at end insert—

- <(ia) in the place corresponding to the entry inserted by paragraph (a)(ia), insert “Duty to have real-time staffing assessment in place”,
- (ib) in the place corresponding to the entry inserted by paragraph (a)(ib), insert “Duty to have risk escalation process in place”,>

Jeane Freeman

55 In section 5, page 8, line 3, leave out <section 12IA> and insert <sections 12IA, 12IAA and 12IAB>

Jeane Freeman

56 In section 5, page 8, line 6, leave out <section 12IA> and insert <sections 12IA, 12IAA and 12IAB>

Jeane Freeman

57 In section 5, page 8, line 12, leave out <Duty> and insert <Duties>

Jeane Freeman

58 In section 5, page 8, line 19, at end insert—

- <(ia) after the entry inserted by sub-paragraph (i), insert “Section 12IAA”,
- (ib) after the entry inserted by sub-paragraph (ia), insert “Section 12IAB”,>

Jeane Freeman

59 In section 5, page 8, line 20, leave out <(i)> and insert <(ib)>

Jeane Freeman

60 In section 5, page 8, line 26, at end insert—

	<p><(ia) in the place corresponding to the entry inserted by paragraph (a)(ia), insert “Duty to have real-time staffing assessment in place”,</p> <p>(ib) in the place corresponding to the entry inserted by paragraph (a)(ib), insert “Duty to have risk escalation process in place”,></p> <p>Jeane Freeman</p> <p>61 In section 5, page 8, line 39, leave out <Duty> and insert <Duties></p> <p>Jeane Freeman</p> <p>62 In section 5, page 9, line 4, at end insert—</p> <p><(ia) after the entry inserted by sub-paragraph (i), insert “Section 12IAA”,</p> <p>(ib) after the entry inserted by sub-paragraph (ia), insert “Section 12IAB”,></p> <p>Jeane Freeman</p> <p>63 In section 5, page 9, line 5, leave out <(i)> and insert <(ib)></p> <p>Jeane Freeman</p> <p>64 In section 5, page 9, line 11, at end insert—</p> <p><(ia) in the place corresponding to the entry inserted by paragraph (a)(ia), insert “Duty to have real-time staffing assessment in place”,</p> <p>(ib) in the place corresponding to the entry inserted by paragraph (a)(ib), insert “Duty to have risk escalation process in place”,></p> <p>Jeane Freeman</p> <p>65 In section 5, page 9, line 24, leave out <Duty> and insert <Duties></p>
<p>Purpose & Effect</p>	<p>Amendment 17</p> <p>This amendment inserts new sections 12IAA and 12IAB, which place a duty on Health Boards, relevant Special Health Boards and the Agency to have in place arrangements for the real-time, dynamic assessment of staffing requirements, and identification of risks to the health, wellbeing and safety of patients or the provision of high-quality health care caused by staffing (and to staff wellbeing if it impacts on those two matters).</p> <p>It sets out that there must be a procedure for any member of staff to identify such a risk, and that there must be a procedure for the mitigation of such risks, by the person with lead clinical professional responsibility in that area. Where this is not possible, it puts a duty on</p>

Health Boards and the Agency to have in place a procedure for the escalation of the risk to the appropriate decision-maker within the organisation, who must seek appropriate clinical advice in reaching any decision, where necessary.

Decisions must be notified to all those involved in identifying the risk; those involved in attempting to mitigate the risk; those involved in reporting the risk; and those who gave clinical advice. Any of these individuals may record disagreement with the decision reached.

Every Health Board, relevant Special Health Board, and the Agency would also be under a duty to raise awareness of these procedures amongst staff.

Amendment 17A

This sets out that the arrangements put in place by Health Boards and the Agency for the real-time assessment of its compliance with the general duty under section 12IAA must include a procedure not only for the identification of risks by any member of staff, but also for the notification of these risks to an individual with lead clinical professional responsibility.

Amendment 17B

This sets out that the arrangements put in place by Health Boards and the Agency for the real-time assessment of its compliance with the general duty under section 12IAA must include a procedure for the mitigation of risks by *an* individual with lead clinical professional responsibility, rather than *the* individual.

Amendment 17C

This sets out that under section 12IAA(2)(c) Health Boards and the Agency must not only raise awareness among staff about the assessment procedures, but that 'steps must be taken by the Health Board or Agency to raise awareness of, and enable and encourage employees to make use of' these procedures.

Amendment 17D

This amendment sets out that, as soon as reasonably practicable after the end of each financial year, every Health Board and the Agency must publish, and submit to the Scottish Ministers, information on the operation of the real-time staffing assessment and steps taken to mitigate any risk identified in the assessment.

Amendment 17E

This sets out that the arrangements put in place by Health Boards and the Agency for the escalation of risk under section 12IAB must include a procedure for the initial reporting of a risk by *an* individual with lead clinical professional responsibility, rather than *the* individual.

Amendment 17F

This sets out that the arrangements put in place by Health Boards and the Agency for the escalation of risk under section 12IAB must include a requirement for any decision-maker to not only seek, but to *have regard to*, appropriate clinical advice.

Amendment 17G

This sets out that the arrangements put in place by Health Boards and the Agency for the escalation of risk under section 12IAB must include a requirement for any decision-maker who has had a risk escalated onto them to not only seek, but to *have regard to*, appropriate clinical advice.

Amendment 17H

This sets out that under section 12IAB(2) Health Boards and the Agency must not only raise awareness among staff about the escalation procedures, but that 'steps must be taken by the Health Board or Agency to raise awareness of, and enable and encourage employees to make use of' these procedures.

Amendment 17I

This amendment sets out that, as soon as reasonably practicable after the end of each financial year, every Health Board and the Agency must publish, and submit to the Scottish Ministers, information on the operation of the risk escalation process and steps taken to mitigate any risk identified in the assessment.

Amendment 107

This amendment inserts a new section 12IDA, Risk Assessment Protocol, into the National Health Service (Scotland) Act 1978. It sets out that every Health Board and the Agency must establish a risk management protocol, the purpose of which is to identify, monitor and assess risk associated with complying with the general duty in section 12IA.

This protocol must:

- set out the steps to be taken by the Health Board or the Agency to mitigate any risk associated with complying with the general duty;

- set out the steps which may be taken by employees of the Health Board or the Agency to mitigate these risks;
- set out the steps which may be taken by employees of the Health Board or the Agency in seeking local resolution;
- set out the steps to be taken by the Health Board or the Agency to enable and encourage employees to escalate risks;
- be developed, and from time to time reviewed, by the designated person (defined as an employee designated by the Health Board or the Agency to manage the risk management protocol).

As soon as reasonably practicable after the end of each financial year, every Health Board and the Agency must publish, and submit to the Scottish Ministers, information on the operation of the risk management protocol and steps taken to mitigate any risk identified in the protocol.

Subsection (5) defines a number of terms used in the section.

Amendment 123

This amendment inserts a new section 121DB, Role of designated persons, into the National Health Service (Scotland) Act 1978. This sets out that every Health Board and the Agency must designate people from nursing and midwifery, medical and allied health professional settings to carry out functions, in relation to their respective workforces, to enable the Board or Agency to comply with the general duty in 12IA. The Health Board and the Agency must consult, and have due regard to the professional advice and judgement of, the designated persons and, at least once every three months, the designated persons must report to the Health Board or the Agency on the extent to which, in their opinion, the Health Board or Agency is complying with the duties set out in the Bill. The Health Board or Agency must, in seeking to comply with the duties in the Bill, take account of these reports.

Where, in the professional judgment of one or more of the designated persons, the Health Board or agency is not complying with the duties, the designated person may provide the Health Board or Agency with a report setting out why it considers that to be the case.

Where a decision made by the Health Board or Agency is thought, by one or more of the designated persons, to be incompatible with the duties, that designated person may require the Health Board or Agency to formally record their professional judgment on the decision.

A designated person may delegate functions to any person that they feel is suitably qualified and competent.

Every Health Board and the Agency must provide the designated persons with sufficient staff and resources to carry out their functions.

Scottish Ministers must, by regulations, prescribe the qualifications and experience required for a person to be designated.

The amendment also places a duty on Health Boards and the Agency, at 12IDB(1)(d) to make arrangements for the purposes of informing patients and staff of staffing levels.

Amendment 39

This amendment inserts references to new sections 12IAA – Duty to have a real-time staffing assessment in place - and 12IAB – Duty to have risk escalation process in place – into section 12IE – Reporting on Staffing. In doing so it places a duty on every Health Board and the Agency to include in their annual reporting details of how they have carried out their duties under these new sections.

Amendment 41

This amendment clarifies that the guidance issued by the Scottish Ministers, about the carrying out of duties under sections 12IA to 12IE, which every Health Board and the Agency must have regards to, may, in particular, include provision about procedures for the identification, mitigation and escalation of risks caused by staffing levels in arrangements put in place under sections 12IAA and 12IAB.

Amendments 48, 49, 50, 52, 53, 54, 55, 56, 58, 59, 60, 62, 63 and 64

These amendments insert references to new sections 12IAA – Duty to have a real-time staffing assessment in place - and 12IAB – Duty to have risk escalation process in place – into section 5 – Application of duties to certain Special Health Boards. In doing so they apply the provisions set out in these new sections to certain Special Health Boards – the State Hospital Board, NHS 24, the National Waiting Times Centre Board and the Scottish Ambulance Service Board– by amending their governing secondary legislation.

The relevant duties are to be applied to these Special Health Boards, in particular, because they provide clinical health care services to patients (as opposed to providing general support services).

Amendment 51

This amendment changes the reference in 5(3)(b), in relation to the State Hospital, from ‘Duty’ to ‘Duties’ to clarify that all three duties at section 2 are captured.

Amendment 57

This amendment changes the reference in 5(6)(b), in relation to the Scottish Ambulance Service, from 'Duty' to 'Duties' to clarify that all three duties at section 2 are captured.

Amendment 61

This amendment changes the reference in 5(9)(b), in relation to NHS 24, from 'Duty' to 'Duties' to clarify that all three duties at section 2 are captured.

Amendment 65

This amendment changes the reference in 5(12)(b), in relation to the National Waiting Times Centre, from 'Duty' to 'Duties' to clarify that all three duties at section 2 are captured.

GROUP 6 – DUTY TO ENSURE APPROPRIATE STAFFING: AGENCY WORKERS

Amendment number(s)	80
Subject	Duty to Ensure Appropriate Staffing: Agency Workers
Text of amendment(s)	<p style="text-align: center;">Section 4</p> <p>Anas Sarwar</p> <p>80 In section 4, page 2, line 37, at end insert—</p> <p style="text-align: center;"><12IAC Duty to ensure appropriate staffing: agency workers</p> <p>(1) Where, in order to comply with the duty under section 12IA, a Health Board or the Agency secures the services of an agency worker (within the meaning of the Agency Workers Regulations 2010), that Health Board or the Agency (as the case may be) must comply with subsection (2).</p> <p>(2) The maximum amount to be paid to secure the services of that worker during a period must not exceed 150% of the amount that would be paid to a full-time equivalent employee of the Health Board or the Agency to fill the equivalent post for the same period.</p> <p>(3) In exceptional circumstances, a Health Board or the Agency may apply to the Scottish Ministers for authorisation to pay an amount higher than the amount prescribed in subsection (2).</p> <p>(4) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must publish information on—</p> <p style="padding-left: 40px;">(a) the number of applications they received under subsection (3) in that financial year, and</p> <p style="padding-left: 40px;">(b) the number of such applications that were authorised ></p>
Purpose & Effect	<p>Amendment 80 seeks to cap the amount a Health Board can pay per agency shift used at the amount that would be paid to an equivalent NHS employee for shift plus 50%. In exceptional circumstances, a Health Board or the Agency may apply to the Scottish Ministers for authorisation to pay an amount higher than the amount prescribed.</p> <p>Scottish Ministers must publish details of the number of applications they receive and the number of applications that were authorized.</p>

GROUP 7 – DUTY TO ENSURE APPROPRIATE STAFFING: SUFFICIENT NUMBER OF HEALTHCARE PROFESSIONALS

Amendment number(s)	90
Subject	Duty on to ensure appropriate staffing: Sufficient number of healthcare professionals
Text of amendment(s)	<p>Alison Johnstone</p> <p>90 In section 4, page 2, line 37, at end insert—</p> <p style="padding-left: 40px;"><12IAD Duty to ensure appropriate staffing: number of registered healthcare professionals etc.</p> <p style="padding-left: 80px;">(1) The Scottish Ministers must ensure that there is a sufficient number of—</p> <p style="padding-left: 120px;">(a) registered nurses,</p> <p style="padding-left: 120px;">(b) registered midwives,</p> <p style="padding-left: 120px;">(c) medical practitioners, and</p> <p style="padding-left: 120px;">(d) such other types of employees as the Scottish Ministers may by regulations prescribe,</p> <p style="padding-left: 80px;">available to every Health Board and the Agency to enable the Health Board and the Agency to comply with the duty in section 12IA.</p> <p style="padding-left: 80px;">(2) In fulfilling their obligations under subsection (1), the Scottish Ministers must have regard to—</p> <p style="padding-left: 120px;">(a) the number of people training for professions mentioned in or by virtue of subsection (1) in Scotland, and</p> <p style="padding-left: 120px;">(b) any information provided to them by a Health Board or the Agency about how it has carried out its duties under this Act.</p> <p style="padding-left: 80px;">(3) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must lay before the Parliament a report setting out—</p> <p style="padding-left: 120px;">(a) how they have complied with subsection (1), and</p> <p style="padding-left: 120px;">(b) how having regard to the things mentioned in subsection (2) enabled Health Boards or the Agency to comply with subsection (1).></p>
Purpose & Effect	<p>Amendment 90</p> <p>This amendment would place a duty on Scottish Ministers to ensure that there are sufficient numbers of registered healthcare professionals available to Health Boards to allow them to comply with their duties under section 12IA. In meeting this duty, Scottish Ministers would be</p>

	required to have regard to the number of people training for healthcare professions. Scottish Ministers would be required to report to the Parliament at the end of each financial year, within a reasonable time, on how they have fulfilled this duty.
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GROUP 8 – DUTY ON HEALTH BOARDS TO ENSURE APPROPRIATE STAFFING: SENIOR NURSES

Amendment number(s)	91
Subject	Duty on Health Boards to Ensure Appropriate Staffing: Senior Nurses
Text of amendment(s)	<p>Alison Johnstone</p> <p>91 In section 4, page 2, line 37, at end insert—</p> <p style="padding-left: 40px;"><12IAE Duty to ensure appropriate staffing: senior registered nurses</p> <p style="padding-left: 80px;">(1) In complying with the duty in section 12IA, every Health Board and the Agency must ensure that a senior registered nurse in each rostered location is non-caseload holding.</p> <p style="padding-left: 80px;">(2) For the purposes of this section—</p> <p style="padding-left: 120px;">“caseload holding” means a registered nurse required to meet the needs of a proportion of the patients in a rostered location,</p> <p style="padding-left: 120px;">“senior registered nurse” means a registered nurse with such level of qualifications, training and experience, role and other requirements as the Scottish Ministers may by regulations prescribe,</p> <p style="padding-left: 120px;">“rostered location” means an area such as a ward, operating theatre or community team providing nursing care.></p>
Purpose & Effect	<p>Amendment 91</p> <p>This amendment places a requirement on Health Boards and the Agency, when complying with the duty in 12IA, to ensure that a senior registered nurse in each rostered location is non-caseload holding.</p>

GROUP 9: DUTY ON HEALTH BOARDS TO ENSURE APPROPRIATE STAFFING: TRAINING

Amendment number(s)	124
Subject	Duty on Health Boards to Ensure Appropriate Staffing: Training
Text of amendment(s)	<p>Alison Johnstone</p> <p>124 In section 4, page 2, line 37, at end insert—</p> <p style="padding-left: 40px;"><12IAF Duty to ensure appropriate staffing: training of staff To comply with the duty under section 12IA, every Health Board or the Agency must ensure that individuals working for the Health Board or the Agency receive—</p> <p style="padding-left: 80px;">(a) appropriate training for the work they are to perform, and (b) suitable assistance, including time off work, for the purpose of obtaining further qualifications appropriate to their work.></p>
Purpose & Effect	This amendment inserts a new section 12IAF – Duty to ensure appropriate staffing: training of staff – into the National Health Service (Scotland) Act 1978. This sets out that, in complying with the general duty, every Health Board and the Agency must ensure that individuals working for them receive appropriate training for the work that they are to perform, and suitable assistance, including time off work, for the purpose of obtaining further qualifications appropriate to their work.

GROUP 10 – COMMON STAFFING: PURPOSE AND FREQUENCY OF USE

Amendment number(s)	18, 93, 22
Subject	Common Staffing Method: Purpose and Frequency of Use
Text of amendment(s)	<p style="text-align: center;">Section 4</p> <p>Jeane Freeman</p> <p>18 In section 4, page 3, line 3, leave out <must follow> and insert <must, no less often than at the frequency specified in regulations by the Scottish Ministers, use></p> <p>Miles Briggs</p> <p>93 In section 4, page 3, line 4, at end insert—</p> <p style="padding-left: 40px;"><(1A) The purpose of the common staffing method is to set a staffing establishment figure for a particular kind of health care provision at a particular location by employees of a particular kind.</p> <p style="padding-left: 40px;">(1B) For the purposes of subsection (1A), “staffing establishment” means the total number of suitably qualified and competent employees of a particular kind required to meet the average workload in a particular location in order to comply with the duty in section 12IA.></p> <p>Jeane Freeman</p> <p>22 In section 4, page 3, line 37, leave out from <and> to the end of line 39</p>
Purpose & Effect	<p>Amendment 18</p> <p>Amendment 18 sets out that Scottish Ministers may prescribe in regulations the minimum frequency at which the common staffing method is to be used (rather than the frequency at which the tools are to be used as part of the common staffing method). Health Boards will have discretion to use it more often if they wish.</p> <p>Amendment 93</p> <p>Amendment 93 sets out that the purpose of the common staffing method is to set a staffing establishment figure for the types of health care listed in 12IC(1). ‘Staffing establishment’ is described as the total number of suitably qualified and competent employees of a particular kind required to meet the average workload in that location in order to comply with the 12IA duty.</p> <p>Amendment 22</p>

	<p>Consequential to amendment 18, amendment 22 removes 12IB(3)(c), which provided Scottish Ministers with a power to prescribe in regulations the frequency at which the staffing level and professional judgement tools are to be used by Health Boards as part of the common staffing method.</p>
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GROUP 11 – COMMON STAFFING METHOD: STEPS AND FACTORS IN METHOD

Amendment number(s)	94, 95, 19, 20, 96, 97, 98, 21, 99, 100, 101, 102
Subject	Common Staffing Method: Steps and Factors in Method
	<p>Miles Briggs 94 In section 4, page 3, line 10, after <relevant> insert <— (i)></p> <p>Miles Briggs 95 In section 4, page 3, line 12, at end insert— <(ii) guidelines published by professional and improvement organisations, (iii) peer-reviewed evidence,></p> <p>Jeane Freeman 19 In section 4, page 3, line 14, at end insert— <(ia) the different skills and levels of experience of its employees,></p> <p>Jeane Freeman 20 In section 4, page 3, line 14, at end insert— <(ib) the role and professional duties, in particular, of any individual with lead clinical professional responsibility for the particular type of health care,></p> <p>David Stewart 96 In section 4, page 3, line 14, at end insert— <() the impact on other health care professions and staff,></p> <p>Miles Briggs 97 In section 4, page 3, line 15, at end insert— <() patient needs, () appropriate clinical advice,></p> <p>Miles Briggs 98 In section 4, page 3, line 17, at end insert—</p>

	<p style="text-align: center;"><() experience gained from using the real-time assessment arrangements under section 12IAA(1) and the risk escalation process under section 12IAB(1),></p> <p>Jeane Freeman</p> <p>21 In section 4, page 3, line 18, after <patients> insert <, and by individuals who have a personal interest in their health care (for example family members and carers within the meaning of section 1 of the Carers (Scotland) Act 2016),></p> <p>Miles Briggs</p> <p>99 In section 4, page 3, line 21, at end insert— <div style="text-align: center;"><(ca) identifies and takes all reasonable steps to mitigate any risks, and></div></p> <p>Miles Briggs</p> <p>100 In section 4, page 3, line 22, leave out <(c)> and insert <(ca)></p> <p>Miles Briggs</p> <p>101 In section 4, page 3, line 22, leave out from <and> to end of line 26</p> <p>Miles Briggs</p> <p>102 In section 4, page 3, line 39, at end insert <and <div style="text-align: center;">() any national care assurance framework, to be taken into account in like manner to the measures referred to in subsection (2)(b).></div></p>
<p>Purpose & Effect</p>	<p>Amendments 94 and 95 These amendments, taken together, set out that, as part of the common staffing method, a Health Board or the Agency must take into account not only any measures for monitoring and improving the quality of health care which are published as standards and outcomes under section 10H(1) by the Scottish Ministers, but also guidelines published by professional and improvement organisations, and peer-reviewed evidence.</p> <p>Amendment 19 This amendment adds ‘the different skills and levels of experience of its employees’ to the list of factors which Health Boards or the Agency must take into account as part of the Common Staffing Method, in addition to the quantitative factors of its current staffing levels and any vacancies.</p> <p>Amendment 20 This amendment adds ‘the role and professional duties, in particular, of any individual with lead clinical professional responsibility for the particular type of health care’ to the list of things which Health Boards or</p>

the Agency must take into account as part of the Common Staffing Method. The effect is that that Boards will have to consider whether - in their particular circumstances, and given the other duties that they are expected to carry out - it is appropriate for clinical team leaders to take on patient casework or not.

Amendment 96

This amendment inserts 'the impact on other health care professions and staff,' into the list of things which Health Boards and the Agency must take into account as part of the common staffing method.

Amendments 97, 99, 100 and 101

These amendments, taken together, remove paragraph (d) from section 12IB(2), which sets out the additional steps to be carried out as part of the common staffing method and places them, instead, paragraph (c) of 12IB(2), which is the list of things which Health Boards and the Agency must take account of as part of the common staffing method.

Amendment 98

This amendment inserts 'experience gained from using the real-time assessment arrangements under section 12IAA(a) and the risk escalation process under section 12IAB(1)' into the list of things which Health Boards and the Agency must take account of as part of the common staffing method.

Amendment 21

This amendment ensures that not only comments by patients themselves, but also comments by individuals who have a personal interest in the patient's health care (for example family members and carers, within the meaning of section 1 of the Carers (Scotland) Act 2016), which relate to the general duty (section 12IA) are taken into account by the Health Board or the Agency as part of the Common Staffing Method.

Amendment 102

This amendment sets out that any national care assurance framework, is to be taken into account in like manner to the measures referred to in (2)(b).

GROUP 12 – COMMON STAFFING METHOD: TYPES OF HEALTH CARE AND EMPLOYEES COVERED

Amendment number(s)	23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 45, 46
Subject	Common Staffing Method: Types of Health care and Employees covered
Text of amendment(s)	<p style="text-align: center;">Section 4</p> <p>Jeane Freeman</p> <p>23 In section 4, page 4, line 3, leave out <a location and by employees of a kind> and insert <any one of the kinds of locations and by any one of the kinds of employees></p> <p>Jeane Freeman</p> <p>24 In section 4, page 4, line 6, leave out <of 15 beds or more> and insert <with 17 occupied beds or more on average></p> <p>Jeane Freeman</p> <p>25 In section 4, page 4, line 8, leave out <Hospitals and community settings> and insert—</p> <p style="text-align: center;"><Hospitals</p> <p style="text-align: center;">Community settings></p> <p>Jeane Freeman</p> <p>26 In section 4, page 4, line 15, leave out <Registered nurses and medical practitioners> and insert—</p> <p style="text-align: center;"><Registered nurses</p> <p style="text-align: center;">Medical practitioners></p> <p>Jeane Freeman</p> <p>27 In section 4, page 4, line 17, leave out <Hospitals and community settings> and insert—</p> <p style="text-align: center;"><Hospitals</p> <p style="text-align: center;">Community settings></p> <p>Jeane Freeman</p> <p>28 In section 4, page 4, line 19, leave out <Mental health and learning disability units in hospitals> and insert—</p>

<Mental health units in hospitals

Learning disability units in hospitals>

Jeane Freeman

- 29** In section 4, page 4, line 22, leave out <Registered midwives and registered nurses> and insert—

<Registered midwives

Registered nurses>

Jeane Freeman

- 30** In section 4, page 4, leave out lines 26 and 27

Jeane Freeman

- 31** In section 4, page 4, line 28, leave out <of 14 beds or fewer> and insert <with 16 occupied beds or fewer on average>

Jeane Freeman

- 32** In section 4, page 5, line 1, leave out <persons> and insert <individuals>

Jeane Freeman

- 33** In section 4, page 5, line 2, leave out <person> and insert <individual>

Jeane Freeman

- 34** In section 4, page 4, line 3, at end insert—

<(2A) But those references do not include individuals who are engaged in a course of studies in order to be admitted to—

(a) the register of members maintained by the Nursing and Midwifery Council under section 60 of the Health Act 1999, or

(b) the register of medical practitioners maintained by the General Medical Council under section 2 of the Medical Act 1983 (with the exception of persons who are already provisionally registered under section 15 of that Act).>

Jeane Freeman

- 35** In section 4, page 5, line 4, leave out <(1) and (2)> and insert <(1) to (2A)>

Jeane Freeman

- 36** In section 4, page 5, line 5, leave out from <(including> to the end of line 6 and insert <, including where and by whom it is provided (for example, so as to add to the third column of the table in subsection (1) employees of a kind included in the register of members maintained by the Health and Care Professions Council under section 60 of the Health Act 1999). >

	<p>Jeane Freeman</p> <p>45 In section 4, page 6, line 25, leave out <a person> and insert <an individual></p> <p>Jeane Freeman</p> <p>46 In section 4, page 6, line 27, leave out <by a Health Board or the Agency (as the case may be)> and insert <by, as the case may be, a Health Board, the Agency or (where an integration scheme under Part 1 of the Public Bodies (Joint Working) (Scotland) Act 2014 applies) a local authority,></p>
<p>Purpose & Effect</p>	<p>Amendment 23 This amendment clarifies that, where multiple types of employees or locations are listed in relation to a type of health care specified in section 12IC(1), the duty to use the common staffing method applies where one or more of the employee or location types are present. It would not apply only where all those listed are present.</p> <p>Amendments 24 Amendment 24 sets out that adult inpatient provision covers locations with 17 occupied beds or more on average, and not 15 beds or more.</p> <p>Amendments 25 and 27 These amendments clarify that, as a consequence of amendment 23, clinical nurse specialist provision and maternity provision covers care provided in hospital and/or community settings, not just settings where care is provided in both.</p> <p>Amendment 26 This amendment clarifies that, as a consequence of amendment 23, emergency care provision covers care provided by nurses and/or medical practitioners, not just settings where care is provided by both.</p> <p>Amendment 28 This amendment clarifies that, as a consequence of amendment 23, mental health and learning disability provision covers care provided in mental health units in hospitals and/or learning disability units in hospitals, not just settings where care is provided in both.</p> <p>Amendment 29 This amendment clarifies that, as a consequence of amendment 23, neonatal provision covers care provided by nurses and/or midwives, not just settings where care is provided by both.</p> <p>Amendment 30 Amendment 30 removes perioperative provision from the health care settings, set out in section 12IC(1) to which the duty to use the common staffing method in section 12IB applies.</p> <p>Amendment 31 Amendment 31 sets out that small ward provision covers locations with 16 occupied beds or fewer on average, and not 14 beds or fewer.</p>

Amendment 32

This amendment changes the reference in 12IC(2) from ‘persons’ to ‘individuals’ to clarify that it is natural persons that are being referred to, rather than legal persons.

Amendment 33

This amendment changes the reference in 12IC(2) from ‘person’ to ‘individual’ to clarify that it is a natural person that is being referred to, rather than a legal person.

Amendment 34

This amendment sets out that student nurses, student midwives and medical students are not included in references to registered nurses, registered midwives and medical practitioners in the health care settings listed in the table in 12IC(1). As a result they are not covered by the common staffing method in section 12IB.

Amendment 35

Amendment 35 is as a consequence of amendment 34, and clarifies that regulations may amend 12IC subsection 2(2A), as inserted by amendment 34.

Amendment 36

The purpose of this amendment is to clarify that the type of employee carrying out health care provision which is covered by the common staffing method may, in future, include allied health professionals. This is achieved by amending section 12IC(3) to refer to employees included in the register of members maintained by the Health and Care Professions Council. The staff groups on the register include: arts therapists; podiatrists; dietitians; occupational therapists (diagnostic and therapeutic); orthoptists; paramedics; physiotherapists; prosthetists and orthotists; radiographers; and speech and language therapists.

Amendment 45

This amendment changes the reference in the definition of ‘appropriate clinical advice’ in 12IG from ‘person’ to ‘individual’ to clarify that it is a natural person that is being referred to, rather than a legal person.

Amendment 46

Amendment 46 extends the definition of ‘employee’ in section 12IG to include those employed by a local authority where an integration scheme under Part 1 of the Public Bodies (Joint Working) (Scotland) Act 2014 applies. This means that where local authorities are delivering health care functions delegated to them under Part 1 of the Public Bodies (Joint Working) (Scotland) Act 2014, the requirement to comply with the common staffing method flows through to cover the local authority employees delivering the health care.

GROUP 13 – COMMON STAFFING METHOD: TRAINING AND CONSULTATION OF STAFF

Amendment number(s)	103, 6, 104, 105, 106
Subject	Common Staffing Method: Training and Consultation of Staff
Text of amendment(s)	<p style="text-align: center;">Section 4</p> <p>Miles Briggs</p> <p>103 In section 4, page 5, line 10, after <encourage> insert <and support></p> <p>Alex Cole-Hamilton</p> <p>6 In section 4, page 5, line 13, after <practice> insert <, and areas for improvement,></p> <p>Miles Briggs</p> <p>104 In section 4, page 5, line 14, after <employees> insert <(including, in particular, employees of a type mentioned in the third column of the table in section 12IC(1))></p> <p>Miles Briggs</p> <p>105 In section 4, page 5, line 14, leave out <on how to use it> and insert <, the real-time assessment arrangements under section 12IAA(1) and the risk escalation process under section 12IAB(1) on how to use them></p> <p>Miles Briggs</p> <p>106 In section 4, page 5, line 16, after <method> insert <, the real-time assessment arrangements under section 12IAA(1) and the risk escalation process under section 12IAB(1)></p>
Purpose & Effect	<p>Amendment 103 In complying with the duty to follow the common staffing method, set out in Section 12ID, every Health Board and the Agency must encourage employees to give views. This amendment sets out that Health Boards should also support their employees to give views in respect of the duty at 12ID.</p> <p>Amendment 6</p>

In complying with the duty to follow the common staffing method, set out in section 12IB, every Health Board and the Agency must, as the Bill is currently written, encourage its employees to give views on its staffing arrangements for the types of health care described in section 12IC (common staffing method: types of health care), and must take into account and use any such views it receives to identify best practice in relation to such staffing arrangements.

This amendment sets out in section 12ID that employee views must also be taken into account in order to identify areas for improvement.

Amendment 104

Amendment 104 amends the provision 12ID(c) to train employees using the common staffing method on how to use it. The amendment inserts after “employees” a specific reference to those employees whose staff groups are mentioned in the table in section 12IC(1) listing the settings where staffing tools exist.

Amendment 105

Section 12ID(c) requires every Health Board and the Agency to train employees using the common staffing method on how to use it. Amendment 105 amends section 12ID(c) to extend this requirement to include training staff on real time assessment arrangements and risk escalation processes.

Amendment 106

Amendment 106 seeks to expand section 12ID(d) to include that employees receive adequate time in respect of the real time assessment arrangements and risk escalation processes.

GROUP 14 – REPORTING ON STAFFING BY HEALTH BOARDS AND THE SCOTTISH MINISTERS

Amendment number(s)	37, 38, 40, 108, 109
Subject	Reporting on Staffing by Health Boards and the Scottish Ministers
Text of amendment(s)	<p>Jeane Freeman</p> <p>37 In section 4, page 5, line 25, leave out <As soon as reasonably practicable after the end> and insert <Before the end of the period of 1 month beginning with the last day></p> <p>Jeane Freeman</p> <p>38 In section 4, page 5, line 27, leave out <information> and insert <a report></p> <p>Jeane Freeman</p> <p>40 In section 4, page 5, line 34, leave out subsection (2) and insert—</p> <p style="padding-left: 40px;"><(2) Following the receipt of such reports from every Health Board and the Agency and before the beginning of the next financial year, the Scottish Ministers must—</p> <p style="padding-left: 80px;">(a) collate the reports submitted to them under subsection (1) into a combined report for the year to which the reports relate,</p> <p style="padding-left: 80px;">(b) lay that combined report before the Scottish Parliament, and</p> <p style="padding-left: 80px;">(c) lay an accompanying statement setting out how they have taken into account and plan to take into account, in their policies for the staffing of the health service, the information included in the combined report.></p> <p>Monica Lennon</p> <p>108 In section 4, page 5, line 36, at end insert—</p> <p style="padding-left: 40px;"><() Information provided under subsection (1) must set out—</p> <p style="padding-left: 80px;">(a) whether each Health Board or the Agency has faced any challenges or risk in carrying out its duties under—</p> <p style="padding-left: 120px;">(i) section 12IA (including reference to the related duties under section 2 of the Health and Care (Staffing) (Scotland) Act 2019 to have regard to guiding principles in health care staffing and planning),</p> <p style="padding-left: 120px;">(ii) section 12IB, and</p> <p style="padding-left: 120px;">(iii) section 12ID, and</p>

(b) the steps the Health Board or the Agency will take to address such challenges.>

Monica Lennon

109 In section 4, page 5, line 36, at end insert—

- (3) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must publish a report (in such manner as they consider appropriate) setting out how each Health Board and the Agency has carried out its duties under—
 - (a) section 12IA (including reference to the related duties under section 2 of the Health and Care (Staffing) (Scotland) Act 2019 to have regard to guiding principles in health care staffing and planning),
 - (b) section 12IB, and
 - (c) section 12ID.
- (4) A report under subsection (3) must set out—
 - (a) whether the Scottish Ministers have identified any challenges or risk faced by the Health Board or the Agency in carrying out its duties under—
 - (i) section 12IA (including reference to the related duties under section 2 of the Health and Care (Staffing) (Scotland) Act 2019 to have regard to guiding principles in health care staffing and planning),
 - (ii) section 12IB, and
 - (iii) section 12ID, and
 - (b) the steps that the Scottish Ministers will take as a result.
- (5) The Scottish Ministers must lay before the Parliament—
 - (a) a summary and evaluation of the information submitted to them under subsection (1), and
 - (b) a report under subsection (3).>

Purpose & Effect

Purpose

Amendment 37 applies to the section 12IE(1) duty on Health Boards and the Agency to publish and submit information to Scottish Ministers on how they have carried out their duties under this legislation. This amendment will create a specific timescale within which Boards must provide this information, within one month from the end of the financial year.

Amendment 38 specifies that the information provided to Ministers under section 12IE(1) must be in the format of a report which sets out

how the Board has carried out its duties. Guidance will set out further detail of what should be included in this report.

Amendment 40 creates an additional duty on Scottish Ministers to collate the reports provided by Health Boards into a combined report and lay this in Parliament alongside a statement setting out how this information has informed Government policies for the staffing of the health service.

Amendment 108 sets out that when complying with the duty to report on staffing in 12IE Health Boards and the Agency must provide information which sets out any challenges or risks it has faced while carrying out its duties under 12IA, 12IB and 12ID and the steps it will take to address these.

Amendment 109 specifies that Scottish Ministers must publish a report, to be laid in Parliament, as soon as reasonably practicable after the end of each financial year setting out how each Health Board and the Agency has carried out its duties under 12IA, 12IB and 12ID. The report must also set out any risks or challenges faced by the Health Board or Agency in carrying out their duties, and steps that Ministers will take as a result.

Effect

Amendments 37-40 taken together have the effect of strengthening the reporting duty applied to Health Boards and the Agency and provide further opportunity for public and parliamentary scrutiny of how the information generated by the common staffing methodology is being used to inform national policies on staffing in NHS services.

Amendments 108 and 109 taken together have the effect of asking Health Boards and the Agency to provide information on any challenges and actions to mitigate any risks. It places a duty on Health Boards and the Agency to report at the end of each financial year on how they have carried out their duties.

GROUP 15 – MINISTERIAL GUIDANCE ON STAFFING BY HEALTH BOARDS

Amendment number(s)	42, 43, 44, 47
Subject	Ministerial Guidance on Staffing by Health Boards
Text of amendment(s)	<p style="text-align: center;">Section 4</p> <p>Jeane Freeman 42 In section 4, page 6, line 12, after <every> insert <relevant></p> <p>Jeane Freeman 43 In section 4, page 6, line 18, leave out <Health Boards and the Agency, and> and insert <the persons mentioned in paragraphs (a) to (e),></p> <p>Jeane Freeman 44 In section 4, page 6, line 18, at end insert— <(fa) such professional regulatory bodies for employees of the persons mentioned in paragraphs (a) to (e) as they consider appropriate, and></p> <p>Jeane Freeman 47 In section 4, page 6, line 31, at end insert— <“relevant Special Health Board” means a Special Health Board which is required, by virtue of an order made under section 2, to comply with any of the duties imposed by sections 12IA to 12IF.”.></p>
Purpose & Effect	<p>Amendment 42 Amendment 42 clarifies that Ministers must consult with every ‘relevant’ Special Health Board before issuing guidance under section 12IF.</p> <p>Amendment 43 This amendment links the trade union and professional bodies with whom Ministers consult to those bodies listed under 12IF(3)(a) to (e). This means that as well as trade union and professional bodies representing Health Boards and the Agency, Ministers must also consult with those representing employees working in relevant Special Health Boards, integration authorities to whom health care functions are delegated through the Public Bodies (Joint Working) (Scotland) Act 2014, and HIS.</p>

Amendment 44

This amendment adds those professional regulatory bodies, which Scottish Ministers consider relevant, to the list of bodies that Scottish Ministers must consult with before issuing guidance to Health Boards and the Agency under section 12IF.

Amendment 47

Amendment 47 is consequential to amendment 42, and defines 'relevant Special Health Board' to mean those to whom the duties imposed by sections 12IA to 12IF apply as a result of section 5.

GROUP 16 – ROLE OF HEALTHCARE IMPROVEMENT SCOTLAND IN RELATION TO STAFFING

Amendment number(s)	66, 66A
Subject	Role of Healthcare Improvement Scotland in Relation to Staffing
Text of amendment(s)	<p>Jeane Freeman</p> <p>66 After section 5, insert—</p> <p style="padding-left: 40px;"><Role of Healthcare Improvement Scotland in relation to staffing</p> <p style="padding-left: 40px;">(1) The National Health Service (Scotland) Act 1978 is amended as follows.</p> <p style="padding-left: 40px;">(2) After section 12IG (as inserted by section 4) insert—</p> <p style="padding-left: 80px;"><i>“HIS functions in relation to staffing</i></p> <p style="padding-left: 40px;">12IH HIS: monitoring and reporting on compliance with staffing duties</p> <p style="padding-left: 40px;">HIS must monitor the discharge, by every Health Board, relevant Special Health Board and the Agency, of their duties under—</p> <p style="padding-left: 80px;">(a) section 12IA (including the related duties under section 2 of the Health and Care (Staffing) (Scotland) Act 2019 to have regard to guiding principles in health care staffing and planning),</p> <p style="padding-left: 80px;">(b) section 12IAA,</p> <p style="padding-left: 80px;">(c) section 12IAB,</p> <p style="padding-left: 80px;">(d) section 12IB,</p> <p style="padding-left: 80px;">(e) section 12ID,</p> <p style="padding-left: 80px;">(e) section 12IE, and</p> <p style="padding-left: 80px;">(f) section 12IF.</p> <p style="padding-left: 40px;">12IJ HIS: monitoring and review of common staffing method</p> <p style="padding-left: 40px;">(1) In respect of each type of health care mentioned in section 12IC, HIS must monitor—</p> <p style="padding-left: 80px;">(a) the effectiveness of the common staffing method described in section 12IB(2), and</p> <p style="padding-left: 80px;">(b) the way in which Health Boards, relevant Special Health Boards and the Agency are using the common staffing method.</p> <p style="padding-left: 40px;">(2) In exercising the duty imposed by subsection (1), HIS must from time to time as it considers appropriate carry out reviews of the matters listed in subsection (1)(a) and (b).</p>

- (3) In carrying out such a review, HIS must—
- (a) consult—
 - (i) the Scottish Ministers,
 - (ii) Social Care and Social Work Improvement Scotland,
 - (iii) every Health Board,
 - (iv) every relevant Special Health Board,
 - (v) every integration authority,
 - (vi) the Agency,
 - (vii) such trade unions and professional bodies as HIS considers to be representative of employees of the persons mentioned in sub-paragraphs (iii) to (vi),
 - (viii) such professional regulatory bodies for employees of the persons mentioned in sub-paragraphs (iii) to (vi) as HIS considers appropriate,
 - (ix) such other providers of health care as HIS considers to have relevant experience of using staffing level tools and professional judgement tools, and
 - (x) such other persons as HIS considers appropriate, and
 - (b) have regard to the guiding principles for health and care staffing set out in section 1 of the Health and Care (Staffing) (Scotland) Act 2019.
- (4) The Scottish Ministers may direct HIS to carry out a review under subsection (2).
- (5) Following a review under subsection (2), HIS may recommend changes to the common staffing method to the Scottish Ministers.
- (6) Where HIS makes such recommendations it must submit to the Scottish Ministers, and then publish, a report setting out—
- (a) a summary of the review it has carried out under subsection (2),
 - (b) its recommendations for changes to the common staffing method, and
 - (c) the reasons for those recommendations.
- (7) In recommending changes to the common staffing method, HIS may take into account the development of a new or revised staffing level tool or professional judgement tool under section 12IK(2).

12IK HIS: monitoring and development of staffing tools

- (1) HIS must—

- (a) monitor the effectiveness of any staffing level tool or professional judgement tool which has been prescribed by the Scottish Ministers under section 12IB(3) (including any new or revised tools which have been developed under this section), and
 - (b) where it considers that any such tool is no longer effective, recommend the revocation or replacement of the tool to the Scottish Ministers.
- (2) HIS may develop and recommend to the Scottish Ministers new or revised staffing level tools and professional judgement tools for use in relation to any kind of health care provision.
- (3) In developing such tools, HIS must collaborate with—
- (a) the Scottish Ministers,
 - (b) Social Care and Social Work Improvement Scotland,
 - (c) every Health Board,
 - (d) every relevant Special Health Board,
 - (e) every integration authority,
 - (f) the Agency,
 - (g) such trade unions and professional bodies as HIS considers to be representative of employees of the persons mentioned in paragraphs (c) to (f),
 - (h) such professional regulatory bodies for employees of the persons mentioned in paragraphs (c) to (f) as HIS considers appropriate,
 - (i) such other providers of health care as HIS considers to have relevant experience of using staffing level tools and professional judgement tools, and
 - (j) such other persons as HIS considers appropriate.
- (4) In undertaking such collaboration, HIS and those other persons must have regard to the guiding principles for health and care staffing set out in section 1 of the Health and Care (Staffing) (Scotland) Act 2019.
- (5) The Scottish Ministers may direct HIS to develop a new or revised staffing level tool or professional judgement tool for use in relation to a particular kind of health care provision specified in the direction.

12IL HIS: duty to consider multi-disciplinary staffing tools

- (1) When HIS is developing a new or revised staffing level tool or professional judgement tool under section 12IK, it must consider whether the tool should apply to more than one professional discipline.

- (2) HIS may at any time recommend to the Scottish Ministers that a staffing level tool or professional judgement tool which has been prescribed by the Scottish Ministers under section 12IB(3) should apply to more than one professional discipline.

12IM HIS: duty on Health Boards to assist staffing functions

Every Health Board, relevant Special Health Board and the Agency must give such assistance to HIS as it requires in the performance of its functions under sections 12IH to 12IL.

12IN HIS: power to require information

- (1) HIS may, in pursuance of its functions under sections 12IH to 12IL, serve a notice on a Health Board, relevant Special Health Board or the Agency requiring the Board or the Agency (as the case may be)—
- (a) to provide HIS with information about any matter specified in the notice, and
 - (b) to provide that information by a date specified in the notice.
- (2) A notice under subsection (1) must explain why, and in pursuance of which function, the information is required.
- (3) A Health Board, relevant Special Health Board or the Agency (as the case may be) must comply with any such notice served on it.

12IO HIS: ministerial guidance on staffing functions

- (1) The following persons must have regard to any guidance issued by the Scottish Ministers about the operation of sections 12IH to 12IN—
- (a) HIS,
 - (b) every Health Board,
 - (c) every relevant Special Health Board, and
 - (d) the Agency.
- (2) Before issuing such guidance, the Scottish Ministers must consult the persons listed in paragraphs (b) to (k) of section 12IK(3) (reading the references to HIS as if they were references to the Scottish Ministers).
- (3) The Scottish Ministers must publish any guidance issued under this section.

12IP Interpretation of sections 12IH to 12IO

In sections 12IH to 12IO—

	<p>“employee” has the meaning given by section 12IG, “integration authority” has the meaning given by section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014, “relevant Special Health Board” has the meaning given by section 12IG, “staffing level tool” and “professional judgement tool” are to be construed in accordance with section 12IB(3).”.</p> <p>(3) In section 10C (health service functions)—</p> <p>(a) after subsection (3), insert—</p> <p>“(3A) HIS is to exercise the functions in relation to staffing conferred by virtue of sections 12IH to 12IL and section 12IN.”,</p> <p>(b) at the end of subsection (5), insert “, and by virtue of sections 12IH to 12IL and section 12IN.”,</p> <p>(c) in subsection (6), for “and section 10D” insert “, section 10D, sections 12IH to 12IL and section 12IN.”,</p> <p>(d) in subsection (7), for “and section 10D” insert “, section 10D, sections 12IH to 12IL and section 12IN.”.</p> <p>(4) In section 10I(1) (inspections of services provided under the health service)—</p> <p>(a) the word “or” at the end of paragraph (a) is repealed,</p> <p>(b) at the end of paragraph (b), insert “, or</p> <p>(c) in pursuance of its functions under sections 12IH to 12IL and section 12IN.”.></p> <p>Miles Briggs</p> <p>66A As an amendment to amendment 66, line 92, at end insert—</p> <p><() The Scottish Ministers may by regulations require that assumptions on certain matters (for example, as to staff absence and bed occupancy levels) must be made by HIS in the process of making a recommendation to them under subsection (2).></p>
<p>Purpose & Effect</p>	<p>Amendment 66 inserts a new section 5A – Role of Healthcare Improvement Scotland in relation to staffing – into the Bill. This section amends the National Health Service (Scotland) Act 1978 by inserting new sections 12IH to 12IP into it as well as making consequential amendments to sections 10C and 10I of the Act.</p> <p><u>Section 12IH</u> sets out that Healthcare Improvement Scotland (HIS) must monitor the discharge, by every Health Board, relevant Special Health Board (meaning a Special Health Board that provides clinical health care services to patients) and the Agency, of their duties under all parts of the Bill.</p>

Section 12IJ places a duty on HIS to monitor the effectiveness of the common staffing method (CSM), as set out in section 12IB(2), and the way in which Health Boards, relevant Special Health Boards and the Agency are using it. It must then, from time to time, as it considers appropriate, carry out reviews of the CSM. Subsection (3) sets out who HIS must consult in carrying out such a review and requires HIS to have regard to the guiding principles in undertaking this task.

Subsection (4) provides that the Scottish Ministers have the power to direct HIS to carry out a review of the CSM.

Following a review, HIS may recommend changes to the CSM to the Scottish Ministers by submitting, and publishing, a report which sets out a summary of the review; its recommendations for changes to the CSM; and the reasons for those recommendations. In recommending changes to the CSM, HIS may take into account the development of a new or revised staffing level tool or professional judgement tool under section 12IK(2). Scottish Ministers may, by regulations already provided for under section 12IB(4), amend the CSM.

Section 12IK places a duty on HIS to monitor the effectiveness of any staffing level tool or professional judgement tool which has been prescribed by the Scottish Ministers under section 12IB(3). This would include any new or revised tool developed under this section.

It also provides that HIS may develop, and recommend to Scottish Ministers, new or revised staffing level tools and professional judgement tools for use in relation to any kind of health care provision. Scottish Ministers may then, by regulations already provided for under section 12IB(3)(a) or (b), prescribe the use of said tools. Subsection (3) lists those whom HIS must collaborate with in developing such tools. In undertaking such collaboration, HIS and those it is collaborating with must have regard to the guiding principles.

Scottish Ministers may direct HIS to develop a new or revised staffing level tool or professional judgment tool.

Section 12IL places a duty on HIS, when developing a new or revised staffing level tool or professional judgement tool, to consider whether the tool should apply to more than one professional discipline. It also gives HIS a power to recommend to Scottish Ministers that an existing staffing level tool or professional judgement tool, prescribed under section 12IB(3), should apply to more than one professional discipline.

Section 12IM requires Health Boards, relevant Special Health Boards and the Agency to give HIS such assistance as it requires in performing its functions under sections 12IH to 12IL.

Section 12IN gives HIS a power, in pursuance of its functions under new sections 12IH to 12IL, to serve a notice on a Health Board, relevant Special Health Board or the Agency requiring it to provide HIS with information about any matter specified in the notice, by a specified date. This notice must explain why the information is required, and what function HIS is performing. Every Health Board, relevant Special Health Board and the Agency must comply with any such notice.

Section 12IO sets out that HIS, every Health Board, every relevant Special Health Board and the Agency must have regard to any guidance issued by the Scottish Ministers about the operation of sections 12IH to 12IN and that, prior to issuing such guidance, Scottish Ministers must consult with those listed in section 12IF(3).

Section 12IP defines key terms for the purposes of sections 12IH to 12IO.

Subsections (3) and (4) of the new section to the Bill make consequential amendments to the 1978 Act to bring these new functions within the ambit of HIS' "health service functions" for the purpose of the Act; and to extend the existing powers of HIS to inspect services to the pursuance of these new functions.

Amendment 66A

This amendment to amendment 66 inserts, into section 12IK, a power for Scottish Ministers to lay regulations requiring assumptions to be made by HIS, in the process of making a recommendation to Scottish Ministers on the development of new or revised staffing level tools and professional judgement tools, on certain matters (for example, staff absence and bed occupancy levels).

GROUP 17: DUTY ON CARE SERVICE PROVIDERS TO ENSURE APPROPRIATE STAFFING

Amendment number(s)	7, 111, 112, 67
Subject	Duty on Care Service Providers to Ensure Appropriate Staffing
Text of amendment(s)	<p style="text-align: right;">Section 6</p> <p>Alex Cole-Hamilton</p> <p>7 In section 6, page 9, line 32, after <users> insert <and staff></p> <p>Alex Cole-Hamilton</p> <p>111 In section 6, page 9, line 33, after <of> insert <safe and></p> <p>Alex Cole-Hamilton</p> <p>112 In section 6, page 9, line 33, after <care> insert <and services></p> <p>Jeane Freeman</p> <p>67 In section 6, page 9, line 33, insert <and, (c) in so far as it affects either of those matters, the wellbeing of staff.></p>
Purpose & Effect	<p>Amendment 7 Section 6(1) of the Bill as introduced provides that any person who provides a care service must ensure that at all times suitably qualified and competent individuals are working in their service in such numbers as are appropriate for the health, wellbeing and safety of service users. Amendment 7 seeks to expand this duty to apply to the health, wellbeing and safety of staff.</p> <p>Amendment 111 Section 6(1) of the Bill as introduced provides that any person who provides a care service must ensure that at all times suitably qualified and competent individuals are working in their service in such numbers as are appropriate for the health, wellbeing and safety of their service users and the provision of high quality care. Amendment 111 amends section 6(1) to provide that such numbers must be working as are appropriate for the provision of ‘safe’ and high-quality care.</p> <p>Amendment 112 Section 6(1) of the Bill as introduced provides that any person who provides a care service must ensure that at all times suitably qualified and competent individuals are working in their service in such numbers as are appropriate for the health, wellbeing and safety of their service users and the provision of high quality care. Amendment 112 amends</p>

section 6(1) to provide that such numbers must be working as are appropriate for the provision of high-quality care '*and services*'.

Amendment 67

Section 6(1) of the Bill as introduced provides that any person who provides a care service must ensure that at all times suitably qualified and competent individuals are working in their service in such numbers as are appropriate for the health, wellbeing and safety of their service users and the provision of high quality care. Amendment 67 amends section 6(1) to provide that such numbers must be working as are appropriate for the wellbeing of staff, in so far as the wellbeing of staff affects the health, wellbeing and safety of service users and the provision of high quality care.

GROUP 18: CARE SERVICES: RISK MANAGEMENT PROCEDURE

Amendment number(s)	113
Subject	Care Services: Risk Management Procedure
Text of amendment(s)	<p style="text-align: center;"><i>After section 6</i></p> <p>David Stewart</p> <p>113 After section 6, insert—</p> <p style="padding-left: 40px;"><Risk management procedure</p> <p style="padding-left: 40px;">(1) Every person who provides a care service must establish a risk management procedure.</p> <p style="padding-left: 40px;">(2) The purpose of the risk management procedure is to—</p> <p style="padding-left: 80px;">(a) identify,</p> <p style="padding-left: 80px;">(b) monitor,</p> <p style="padding-left: 80px;">(c) assess, and</p> <p style="padding-left: 80px;">(d) set out a process for the escalation of,</p> <p style="padding-left: 40px;">risk associated with complying with the duty in section 6.</p> <p style="padding-left: 40px;">(3) A risk management procedure established under subsection (1) must be developed, and from time to time the operation of the procedure must be reviewed, by the person mentioned in subsection (1).</p> <p style="padding-left: 40px;">(4) In carrying out a review under subsection (3), the person must have regard to the views of individuals working in the care service provided by that person.></p>
Purpose & Effect	<p>Amendment 113</p> <p>This amendment creates a new section that would require every person who provides a care service to have a risk management procedure in place to identify, monitor, assess and escalate risks associated with complying with the section 6 duty to ensure appropriate staffing.</p>

GROUP 19: CARE SERVICES TRAINING OF STAFF

Amendment number(s)	114
Subject	Care Services: Training of Staff
Text of amendment(s)	<p style="text-align: center;">Section 7</p> <p>David Stewart</p> <p>114 In section 7, page 10, line 8, at end insert—</p> <p style="padding-left: 40px;"><() The Scottish Ministers must ensure that adequate resources are allocated to a person who provides a care service to comply with the duties under this section.></p>
Purpose & Effect	<p>Amendment 114</p> <p>Section 7 requires care service providers to ensure their staff receive appropriate training. Amendment 114 seeks to amend section 7 to require Scottish Ministers to ensure adequate resources are allocated to care service providers to enable them to meet all their staff training duties.</p>

GROUP 20: STAFFING METHODS FOR CARE SERVICES: DEVELOPMENT AND REVIEW

Amendment number(s)	115, 116, 72, 73, 74, 76, 79 79A
Subject	Staffing Methods for Care Services: Development and Review
Text of amendment(s)	<p style="text-align: center;">Section 10</p> <p>Miles Briggs 115 In section 10, page 11, line 5, leave out <may> and insert <must></p> <p>Miles Briggs 116 In section 10, page 11, line 5, after <Ministers> insert <evidence-based establishment-setting></p> <p>Jeane Freeman 72 In section 10, page 11, line 12, at end insert— <(ba) the Scottish Social Services Council,></p> <p>Jeane Freeman 73 In section 10, page 11, line 12, at end insert— <(bb) every Health Board,></p> <p>Jeane Freeman 74 In section 10, page 11, line 25, at end insert — <(3A) The Scottish Ministers must publish any guidance issued under subsection (3)(a).></p> <p>Jeane Freeman 76 In section 10, page 12, line 9, after <SCSWIS> insert <under section 82A or 82BA></p> <p>Jeane Freeman 79 In section 10, page 12, line 18, at end insert— <82BA Review and redevelopment of staffing methods</p> <ul style="list-style-type: none"> • (1) SCSWIS may—

- (a) carry out reviews, from time to time as it considers appropriate, of the effectiveness of any staffing method which has been prescribed by the Scottish Ministers under section 82B (including any revised methods which have been developed under this section), and
- (b) where it considers that any such method is no longer effective, recommend the revocation or replacement of the method to the Scottish Ministers.

- (2) SCSWIS may develop and recommend to the Scottish Ministers revised staffing methods for use by persons who provide care services.
- (3) Subsections (2), (3), (4) and (5) of section 82A apply to the redevelopment of staffing methods under this section as they apply to their development under that section.
- (4) The Scottish Ministers may direct SCSWIS to develop a revised staffing method for use in relation to a particular kind of care service specified in the direction.
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82BB Duty to consider multi-disciplinary staffing tools

- (1) When SCSWIS is developing a staffing level tool as part of a staffing method under section 82A or a revised staffing method under section 82BA, it must consider whether the tool should apply to more than one professional discipline.
- (2) SCSWIS may at any time recommend to the Scottish Ministers that a staffing level tool which has been prescribed as part of a staffing method by the Scottish Ministers under section 82B should apply to more than one professional discipline.>

Monica Lennon

79A As an amendment to amendment 79, line 16, at end insert—

<82BAA Review of duty on care service providers to ensure appropriate staffing

- (1) SCSWIS may carry out reviews, from time to time as it considers appropriate, of the effectiveness of the operation of the duty under section 6 of the Health and Care (Staffing) (Scotland) Act 2019.
- (2) Having carried out a review under subsection (1), SCSWIS may publish a report to the Scottish Ministers on the operation of that duty.
- (3) A report under subsection (2) may be published in such manner as SCSWIS considers appropriate.>

Purpose & Effect

Amendment 115

Amendment 115 amends section 82A(1) the development of staffing methods, changing the function for the Care Inspectorate (SCSWIS) from a power to develop and recommend a staffing method for care homes and other such care services as specified by Scottish Ministers, to an obligation to do so.

Amendment 116

Amendment 116 describes in section 82A the staffing method to be developed by the Care Inspectorate as evidence-based and establishment setting.

Amendment 72

Amendment 72 adds the Scottish Social Services Council (SSSC) to the list of persons in section 82A(2) with whom the Care Inspectorate is required to collaborate on the development of staffing methods for care services to recommend to Scottish Ministers.

Amendment 73

Amendment 73 adds every Health Board to the list of persons in section 82A(2) with whom the Care Inspectorate (SCSWIS) is required to collaborate on the development of staffing methods for care services to recommend to Scottish Ministers.

Amendment 74

Amendment 74 ensures any guidance issued by the Scottish Government under section 82A(3)(a) concerning the development of staffing methods for care services is published.

Amendment 79

Amendment 79 inserts a provision which gives the Care Inspectorate (SCSWIS) a power to review and redevelop staffing methods, and to make recommendations to Scottish Ministers on those staffing methods which need to be reviewed and replaced. In doing so SCSWIS must collaborate with the list of persons in section 82A(2), have reference to Ministerial guidance, and develop staffing tools in the same way as if developing a new staffing method under section 82A. It also enables Scottish Ministers to direct the Care Inspectorate to redevelop a staffing method if it believes it necessary.

Amendment 79A

Amendment 79A inserts a power enabling the Care Inspectorate to carry out reviews on the effectiveness of the operation of the general duty to ensure appropriate staffing in section 6. Having carried out a review, the Care Inspectorate may publish a report to the Scottish Ministers on the operation of that duty.

GROUP 21: STAFFING METHODS FOR CARE SERVICES: CONTENT AND FREQUENCY OF USE

Amendment number(s)	117, 118, 119, 120, 75, 121, 77, 78, 122
Subject	Staffing Methods for Care Services: Content and Frequency of Use
Text of amendment(s)	<p>Miles Briggs 117 In section 10, page 11, line 9, at end insert— <() For the purpose of assisting it to develop such methods, SCSWIS must develop indicators of clinical quality in relation to the services mentioned in subsection (1).></p> <p>Miles Briggs 118 In section 10, page 11, line 10, after <methods> insert <and indicators></p> <p>Miles Briggs 119 In section 10, page 11, line 34, leave out <may> and insert <must></p> <p>Miles Briggs 120 In section 10, page 12, line 7, at end insert <and () any guidelines published by professional and improvement organisations that are applicable to care services.></p> <p>Jeane Freeman 75 In section 10, page 12, line 1, after <service> insert <, and by individuals who have a personal interest in their care (for example family members and carers within the meaning of section 1 of the Carers (Scotland) Act 2016),></p> <p>David Stewart 121 In section 10, page 12, line 7, at end insert— <() The Scottish Ministers must ensure that adequate resources are allocated to SCSWIS, and (as the case may be) the persons mentioned in subsection (2) to enable them to develop such methods.></p> <p>Jeane Freeman 77 In section 10, page 12, line 15, at end insert— <(aa) the minimum frequency at which a staffing method is to be used, and></p>

	<p>Jeane Freeman</p> <p>78 In section 10, page 12, line 16, leave out from <and> to the end of line 18</p> <p>Miles Briggs</p> <p>122 In section 10, page 12, line 18, at end insert—</p> <p style="padding-left: 40px;"><(3) Regulations under subsection (1) requiring the use of a staffing method in a care home service where nursing care is provided must in particular require that—</p> <p style="padding-left: 80px;">(a) when using the method, a person who provides a care home service must have due regard to the views of a registered nurse of appropriate seniority,</p> <p style="padding-left: 80px;">(b) before giving views for the purpose of paragraph (a), a registered nurse of appropriate seniority must seek and have due regard to the views of all registered nurses providing that service.</p> <p style="padding-left: 40px;">(4) The Scottish Ministers may by regulations—</p> <p style="padding-left: 80px;">(a) prescribe the meaning of “registered nurse of appropriate seniority” for the purposes of subsection (3), having regard to the experience and training required to assess what is required to ensure appropriate staffing,</p> <p style="padding-left: 80px;">(b) require that, where a registered nurse of appropriate seniority is not employed in a care home service, the person who provides that care home service must secure the services of such a registered nurse for the purposes of subsection (3).></p>
<p>Purpose & Effect</p>	<p>Amendment 117 Amendment 117 adds that to assist with the development of staffing methods for care services, SCSWIS must also develop indicators of clinical quality for care home services for adults.</p> <p>Amendment 118 Amendment 118 adds that SCSWIS should also collaborate with those listed at 82A(2) on the development of clinical indicators for adult care home services for adults.</p> <p>Amendment 119 Section 82A(5) sets out a list of things which a staffing method developed by SCSWIS under section 82A(1) may include. Amendment 119 replaces ‘may’ with ‘must’, meaning that all the aspects in the list at 82A(5) would have to be reflected in any staffing method developed by SCSWIS under section 82A(1).</p> <p>Amendment 120</p>

This amendment sets out that, as part of the development of a staffing method for care services, SCSWIS must take into account guidelines published by professional and improvement organisations.

Amendment 75

Section 82A(5)(f) provides that a staffing method developed by SCSWIS may include, in particular, the taking into account of comments by the users of a care service. Amendment 75 amends section 82A(5)(f) to add that comments by individuals who have a personal interest in the care of service users may be taken into account. This includes, for example, family members and carers (within the meaning of section 1 of the Carers (Scotland) Act 2016).

Amendment 121

This amendment requires that Ministers ensure that adequate resources are allocated to SCSWIS and (as the case may be) the persons mentioned in subsection (2) to enable them to develop staffing methods.

Amendment 77

Scottish Ministers under section 82B can require the use of a staffing method developed by Care Inspectorate (SCSWIS) through regulations. Amendment 77 enables Scottish Ministers within these regulations to specify the minimum frequency at which a staffing method should be used. Care service providers will have discretion to use it more often if they wish.

Amendment 78

Scottish Ministers under section 82B can require the use of a staffing method developed by Care Inspectorate (SCSWIS) through regulations. Amendment 78 removes from section 82B(2) the Scottish Ministers' ability to prescribe the frequency with which staffing level tools are used. The provision is replaced by amendment 77.

Amendment 122

Amendment 122 requires that, if a staffing method is developed for nursing homes, then the views of a senior nurse must be sought when using the method.