South Australia

Nurse and Midwife to Patient Ratios Act 2025

An Act to establish nurse and midwife to patient ratios and other staffing requirements in incorporated hospitals, and for other purposes.

Contents

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Nurse and Midwife to Patient Ratios Act 2025*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Interpretation

In this Act—

bed includes cubicle, trolley, cot, treatment chair and birthing suite;

Category 1 hospital site means a hospital site specified in Schedule 1 clause 1 to be a Category 1 hospital site;

Category 2 hospital site means a hospital site specified in Schedule 1 clause 2 to be a Category 2 hospital site;

Category 3 hospital site means a hospital site specified in Schedule 1 clause 3 to be a Category 3 hospital site;

Category 4 hospital site means a hospital site specified in Schedule 1 clause 4 to be a Category 4 hospital site;

Chief Executive means the Chief Executive of the Department and includes a person for the time being acting in that position;

civil penalty order—see section 17;

civil penalty provision means section 7(1) and section 12;

Department means the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of this Act;

emergency situation means either of the following situations:

(a) an identified major incident, major emergency or disaster declared under the *Emergency Management Act 2004*;

(b) a public health incident or a public health emergency declared under the *South Australian Public Health Act 2011*;

enrolled nurse means a person registered under the *Health Practitioner Regulation National Law*—

(a) to practice in the nursing profession as a nurse (other than as a student); and

(b) in the enrolled nurses division of that profession;

hospital site means a site at which activities of an incorporated hospital are undertaken;

incorporated hospital has the same meaning as in the *Health Care Act 2008*;

local dispute means a dispute initiated by way of a notification under section 15;

midwife means a person registered under the *Health Practitioner Regulation National Law* to practise in the midwifery profession as a midwife (other than as a student);

midwife in charge means a midwife who undertakes responsibilities of coordination of a ward or unit during a shift in addition to undertaking any midwifery duties, who must not be the same person as the midwife unit manager;

midwife unit manager means a midwife—

(a) who provides pivotal coordination of patient/client care delivery in a defined patient care area; and

(b) whose main focus is the line management, coordination and leadership of midwifery activities to achieve continuity and quality of patient/client care; and

(c) who is accountable for the outcomes of midwifery practice in the specific practice setting;

minimum staffing requirement means a staffing requirement set out in Schedule 1 Part 3;

nominated mixed ward means a ward named in a notice published under section 8;

nurse means registered nurse or enrolled nurse;

nurse in charge means a registered nurse who undertakes responsibilities of coordination of a ward or unit during a shift in addition to undertaking any nursing duties, who must not be the same person as the nurse unit manager;

nurse unit manager means a registered nurse—

(a) who provides pivotal coordination of patient/client care delivery in a defined patient care area; and

(b) whose main focus is the line management, coordination and leadership of nursing activities to achieve continuity and quality of patient/client care; and

(c) who is accountable for the outcomes of nursing practice in the specific practice setting;

ratio means—

(a) a staffing requirement set out in Schedule 1 Part 2; and

(b) a staffing requirement that applies to a nominated mixed ward in accordance with section 8; and

(c) a staffing requirement that applies under a ratio variation under section 11, subject to any terms of that variation;

registered nurse means a person registered under the *Health Practitioner Regulation National Law*—

(a) to practice in the nursing profession as a nurse (other than as a student); and

(b) in the registered nurses division of that profession;

relevant enterprise agreement means either of the following, as in force at the commencement of this Act:

(a) the *Nursing/Midwifery (South Australian Public Sector) Enterprise Agreement 2022*, approved by SAET under Chapter 3 Part 2 of the *Fair Work Act 1994* on 1 December 2022;

(b) if the enterprise agreement referred to in paragraph (a) is superseded by a subsequent enterprise agreement approved by SAET under Chapter 3 Part 2 of the *Fair Work Act 1994* prior to the commencement of this Act—that subsequent enterprise agreement;

relevant union means an entity that represents or is entitled to represent a nurse or midwife in an incorporated hospital that is—

(a) an employee organisation that is registered, or taken to be registered, under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth; and

(b) an association of employees registered under the *Fair Work Act 1994*;

SAET means the South Australian Employment Tribunal established under the *South Australian Employment Tribunal Act 2014*;

South Australian Employment Court means SAET (constituted as the South Australian Employment Court);

ward means a ward, unit, department or component of a hospital site managed by a nurse or midwife who is undertaking, whether temporarily or permanently, the role of—

(a) a nurse unit manager or equivalent; or

(b) a midwife unit manager or equivalent.

4—Objects of Act

The objects of this Act are—

(a) to establish requirements for a minimum number of nurses or midwives per patient in certain wards of incorporated hospitals; and

(b) to establish other minimum staffing requirements at certain hospital sites or certain wards or for certain beds of incorporated hospitals; and

(c) to protect nurses and midwives, recognising that nursing and midwifery workloads impact on the quality of patient care; and

(d) to meet patient safety requirements in a way that optimises the use of nursing and midwifery resources; and

(e) to further enhance the safety of, and optimise health outcomes for, patients.

5—Act not to affect employment contracts

Nothing in this Act is intended to constitute a term of or to alter or vary, or authorise or require the alteration of, any employment contract.

6—Application of *Fair Work Act 1994*

An enterprise agreement entered into in accordance with Chapter 3 Part 2 of the *Fair Work Act 1994* after the commencement of this Act must not make provision for a minimum staffing level (whether expressed as a ratio or otherwise) applying in the same setting as a ratio or minimum staffing requirement imposed under this Act, and an agreement is void and of no effect to the extent to which it makes such a provision.

Part 2—Staffing requirements in incorporated hospitals

Division 1—Nurse and midwife to patient ratios

7—Application of ratios

(1) An incorporated hospital must ensure that each ward of the hospital to which a ratio applies is staffed in accordance with that ratio.

(2) Except as otherwise provided in this Act, the following apply to an incorporated hospital when staffing a ward in accordance with a ratio:

(a) a ratio must be applied on the basis of the actual number of patients in each ward to which it applies;

(b) if the actual number of patients in a ward is not divisible into a whole number following the application of the relevant ratio, an incorporated hospital must ensure that the ward is staffed with 1 additional nurse or midwife (as the case requires) in order to comply with the ratio;

(c) a ratio may be applied in a flexible way in order to evenly distribute the workload, having regard to the level of care required by patients in a ward;

(d) a nurse or midwife in charge required for the purposes of a ratio may be assigned a patient allocation provided that the total number of nurses or midwives meets the relevant ratio;

(e) a ratio is a minimum requirement only and is not intended to prevent an incorporated hospital from staffing a ward with additional nurses or midwives beyond the number required by the ratio.

Examples—

1 In a ward with 20 patients and a 1:4 ratio, plus a required nurse or midwife in charge, a total of 6 nurses or midwives (as the case requires) are required for the shift to comply with the relevant ratio.

2 For the purposes of paragraph (c), in a ward with 8 patients and a 1:4 ratio, if 3 patients require a higher level of care and 5 patients require a lower level of care then one nurse may be assigned to care for the 3 patients requiring the higher level of care and the other nurse to the other 5 patients.

8—Ratio for mixed wards

(1) An incorporated hospital must, once in every period of 6 months—

(a) nominate each mixed ward of the hospital as a nominated mixed ward for the following 6 month period, starting on a specified date; and

(b) publish on its website a notice of each nomination of a mixed ward which includes the following details:

(i) the name of the mixed ward;

(ii) the date on which the nomination is to take effect;

(iii) the total number of occupied beds in the mixed ward;

(iv) the relevant ratio for each portion of the ward;

(v) the expected number of occupied beds in each portion of the ward during the following 6 month period, determined in accordance with subsection (2);

(vi) any other information prescribed by the regulations.

(2) To determine the expected number of occupied beds in each portion of the ward, the incorporated hospital must take into account—

(a) the portions in the ward and the number of occupied beds in each portion during the preceding 12 months; and

(b) any known or anticipated factors during the following 6 month period (or the remainder of the 6 month period if re-calculating the number of staff required in accordance with subsection (5)) which are likely to—

(i) increase or decrease the number of occupied beds; or

(ii) change the portions in the ward.

(3) An incorporated hospital must staff a nominated mixed ward in accordance with the following:

(a) the number of nurses or midwives (as the case requires) required to staff the ward is the number resulting when the actual number of patients is divided by the individualised mixed ward ratio;

(b) if the resulting number under paragraph (a) is not divisible into a whole number, the incorporated hospital must ensure that the ward is staffed with 1 additional nurse or midwife (as the case requires) in order to comply with the ratio;

(c) if any or all of the relevant ratios applying to a portion of the mixed ward require a nurse in charge or midwife in charge, only 1 nurse in charge or midwife in charge is required for the entire mixed ward.

(4) If an incorporated hospital fails to nominate a mixed ward as a nominated mixed ward in accordance with subsection (1), the mixed ward as a whole must be staffed in accordance with the relevant ratio applying to a portion of the ward that would require the highest number of nurses or midwives until the incorporated hospital nominates the mixed ward.

(5) If the configuration of a nominated mixed ward changes during a specified 6 month period, resulting in significantly different portions or significantly different numbers of occupied beds in its portions, an incorporated hospital must—

(a) make a new nomination in relation to the mixed ward for the remainder of the 6 month period; and

(b) publish on its website a notice of the nomination which includes the information required under subsection (1)(b)).

(6) In this section—

individualised mixed ward ratio means the ratio to be applied to a mixed ward, determined as follows:

(a) determine the number of staff (excluding any nurse in charge or midwife in charge) required for each portion by applying the relevant ratio for that portion to the expected number of occupied beds published on the incorporated hospital's website in accordance with subsection (1)(b)(v);

(b) add the number of staff required for each portion together;

(c) divide the number of occupied beds, as determined in accordance with subsection (2), by the total number of staff determined in accordance with paragraph (b);

mixed ward means a ward comprised of different portions of patients or beds;

portion, in relation to a mixed ward, means a group—

(a) of patients on the ward requiring a specific type of clinical service; or

(b) of beds on the ward comprising a specific patient care area;

relevant ratio, in relation to a portion, means the ratio that would apply to the portion of the ward if it were itself a ward of the incorporated hospital.

9—No breach in circumstances of emergency

(1) An incorporated hospital will not be in breach of section 7(1) by a failure to meet a required ratio on a ward if—

(a) the failure to meet the ratio occurred due to a need for increased patient numbers on the ward arising out of an emergency situation that could not reasonably have been anticipated; and

(b) the hospital has determined that the staffing level is safe and adequate to provide appropriate patient care.

(2) An incorporated hospital must notify any relevant union if a ward is not to be staffed in accordance with a ratio because of the application of subsection (1).

Division 2—Variations from ratios

10—Quality of care paramount

In any proposal under this Division to vary a ratio—

(a) the primary consideration is the impact on the quality of patient care; and

(b) any other considerations are as prescribed.

11—Agreement to vary a ratio

(1) The Chief Executive and a relevant union may enter into an agreement to vary a ratio applying to a specified ward.

(2) An agreement under subsection (1) may only be implemented if the agreement is made in accordance with any prescribed procedures.

(3) An incorporated hospital that complies with an agreement under subsection (1) is taken to comply with the relevant ratio.

(4) The Chief Executive must, as soon as reasonably practicable after entering into an agreement to vary a ratio under this section, cause a statement of the ratio as varied to be published by notice in the Gazette.

Division 3—Other staffing requirements

12—Minimum staffing requirements

An incorporated hospital must ensure that each hospital site of the incorporated hospital to which a minimum staffing requirement under Schedule 1 Part 3 applies is staffed in accordance with that requirement.

Division 4—Effect of existing enterprise agreement

13—Relevant enterprise agreement of no effect

(1) Subject to section 14, a relevant enterprise agreement has no force or effect for the purposes of this Act or any other Act or law to the extent that it provides for a minimum staffing level (whether expressed as a ratio or otherwise) applying in the same setting as a ratio or minimum staffing requirement imposed under this Act.

(2) Proceedings may not be commenced under the *Fair Work Act 1994* in relation to any dispute arising out of the application or interpretation of a relevant enterprise agreement to the extent that it provides a minimum staffing level referred to in subsection (1).

14—Preservation of existing higher staffing level requirements

(1) If a relevant enterprise agreement provides for a minimum staffing level that requires—

(a) a higher number of nurses or midwives to patients than an applicable ratio for the same setting under this Act; or

(b) a higher number of nurses or midwives than an applicable minimum staffing requirement for the same setting under this Act,

the minimum staffing level under the agreement applies instead of any ratio or minimum staffing requirement that would apply under this Act as if it were a ratio or minimum staffing requirement imposed by this Act.

(2) A staffing requirement which applies in accordance with subsection (1) will continue to apply despite the expiry of a relevant enterprise agreement.

Part 3—Dispute resolution

15—Local dispute resolution

(1) An eligible nurse or eligible midwife who works at a hospital site of an incorporated hospital to which a ratio or minimum staffing requirement applies, or a relevant union as a representative of the nurse or midwife, may initiate a local dispute by notifying the incorporated hospital of a reportable matter.

(2) A local dispute must be resolved in accordance with—

(a) procedures developed by the incorporated hospital for the resolution of a local dispute at the hospital; and

(b) any policy or directive of the Chief Executive under the *Health Care Act 2008*; and

(c) any prescribed procedures.

(3) The procedures, policies or directives referred to in subsection (2) must be determined with the approval of the relevant union.

(4) The parties to a local dispute must act in good faith and in a timely manner during the resolution of the dispute.

(5) If a party to a local dispute incurs costs in resolving that dispute, that party must bear their own costs.

(6) In this section—

eligible midwife means a midwife employed by an employing authority to work in an incorporated hospital under section 34 of the *Health Care Act 2008*;

eligible nurse means a nurse employed by an employing authority to work in an incorporated hospital under section 34 of the *Health Care Act 2008*;

reportable matter means—

(a) an alleged breach of a ratio or minimum staffing requirement at the hospital site; or

(b) a dispute in relation to a determination by an incorporated hospital under section 9(1)(b) as to whether a staffing level is safe and adequate to provide appropriate patient care.

16—Dispute resolution by South Australian Employment Tribunal

(1) If the parties to a local dispute are unable to resolve the dispute in accordance with section 15, a party to the dispute may apply to SAET (constituted as an industrial relations commission) for resolution of the matter.

(2) SAET (constituted as an industrial relations commission) may deal with the dispute in any way it thinks fit for the prompt settlement of the dispute, including—

(a) by means of mediation, conciliation or arbitration; or

(b) by making a recommendation or expressing an opinion.

(3) Without limiting subsection (2), if SAET deals with the dispute by arbitration, SAET may make any order it considers appropriate for the prompt settlement of the dispute.

(4) A person who makes an application under subsection (1) must notify the Chief Executive of that application as soon as practicable, and in any case not more than 7 days after the application is made.

Part 4—Civil penalties

17—Civil penalty for breach of ratio or other staffing requirement

(1) If, on application, the South Australian Employment Court is satisfied that—

(a) an incorporated hospital has contravened a civil penalty provision; and

(b) the conduct constituting the contravention was deliberate and part of a systematic pattern of conduct,

the Court may make an order (a ***civil penalty order***) that the hospital is to pay a civil penalty, not exceeding $10 000, that the Court considers is appropriate.

(2) An application under this section may only be made—

(a) within 12 months after the date of the alleged contravention; and

(b) by—

(i) an eligible nurse or eligible midwife who works at the hospital site of the incorporated hospital at which the contravention is alleged to have occurred; or

(ii) a relevant union.

(3) For the purpose of subsection (1)(b), proof that the incorporated hospital expressly, tacitly, or impliedly authorised the conduct constituting the contravention will be taken to be proof that the employer's conduct constituting the contravention was deliberate.

(4) For the purpose of subsection (1)(b), in determining whether the incorporated hospital's conduct constituting the contravention was part of a systematic pattern of conduct—

(a) a court may have regard to the following matters (without limitation):

(i) the number of contraventions committed by the hospital;

(ii) the period over which the contraventions occurred;

(iii) the number of wards affected by the contraventions;

(iv) the hospital's response, or failure to respond, to any complaints made about the contraventions; and

(b) subsection (5) does not apply.

(5) Two or more contraventions of a civil penalty provision are taken to constitute a single contravention if the contraventions were committed by the same incorporated hospital and arose out of a course of conduct by the hospital.

(6) Subsection (5) does not apply to a contravention of a civil penalty provision that is committed by an incorporated hospital after the South Australian Employment Court has imposed a civil penalty on the hospital for an earlier contravention of the provision.

(7) A civil penalty ordered by the South Australian Employment Court must be paid to the Treasurer and credited to the Consolidated Account.

(8) The civil penalty may be recovered as a debt due to the person to whom the penalty is payable.

(9) In this section—

eligible midwife has the same meaning as in section 15;

eligible nurse has the same meaning as in section 15.

18—Civil penalty rules and procedure

(1) The contravention of a civil penalty provision is not an offence.

(2) The South Australian Employment Court must apply the rules of evidence and procedure for civil proceedings under the *Fair Work Act 1994* when hearing proceedings for a civil penalty order.

19—Costs

(1) Subject to subsection (2), if a party to proceedings for a civil penalty order incurs costs, that party must bear their own costs.

(2) A party to proceedings for a civil penalty order may be ordered to pay costs incurred by another party to the proceedings if the South Australian Employment Court is satisfied that the party—

(a) has acted unreasonably—

(i) in bringing the proceedings before the Court; or

(ii) in relation to any other aspect of the conduct of the proceedings before the Court; or

(b) has acted frivolously or vexatiously in bringing or in relation to the conduct of the proceedings before the Court.

Part 5—Miscellaneous

20—Certain information to be included in annual report

An incorporated hospital must include the following information in the hospital's annual report under section 37 of the *Health Care Act 2008*:

(a) a summary of notifications made to the hospital under section 15(1);

(b) a summary of any applications made to SAET under section 16(1);

(c) details of any orders or recommendations made or opinions expressed by SAET under section 16 in relation to the incorporated hospital during the previous financial year;

(d) the action taken by the incorporated hospital during the previous financial year in response to an order, recommendation or opinion referred to in paragraph (c);

(e) a summary of any applications made to the South Australian Employment Court under section 17;

(f) details of any civil penalty orders made against the hospital under section 17.

21—Regulations

(1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) amend Schedule 1 Part 1 to—

(i) specify additional sites of incorporated hospitals that are to be Category 1, 2, 3 or 4 hospital sites; or

(ii) change the category of an existing Category 1, 2, 3 or 4 hospital site; or

(iii) remove a hospital site from a category; and

(b) amend Schedule 1 Part 2 to—

(i) include additional wards to which a ratio is to apply under section 7, and to specify the ratios that will apply in relation to such additional wards; or

(ii) remove wards listed in that Part; and

(c) make any other amendment to Schedule 1 that is necessary for or consequential to an amendment made under a preceding paragraph.

(3) The regulations may—

(a) be of general or limited application; and

(b) make different provision according to the matters or circumstances to which they are expressed to apply; and

(c) refer to or incorporate, wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body or person, either as in force at the time the regulations are made or as in force from time to time; and

(d) make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act or on the making of regulations under this Act; and

(e) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or any other specified person or body.

Schedule 1—Staffing requirements at incorporated hospitals

Part 1—Categories of incorporated hospital sites

1—Category 1 hospital sites

The following hospital sites are Category 1 hospital sites:

(a) Flinders Medical Centre;

(b) Lyell McEwin Hospital;

(c) Royal Adelaide Hospital;

(d) Women's and Children's Hospital.

2—Category 2 hospital sites

The following hospital sites are Category 2 hospital sites:

(a) Modbury Hospital;

(b) Noarlunga Hospital;

(c) The Queen Elizabeth Hospital.

3—Category 3 hospital sites

The following hospital sites are Category 3 hospital sites:

(a) Riverland General Hospital (Berri);

(b) Mount Gambier and Districts Health Service;

(c) Whyalla Hospital and Health Service;

(d) Port Lincoln Health Service;

(e) Gawler Health Service;

(f) Mount Barker District Soldiers' Memorial Hospital;

(g) Murray Bridge Soldiers' Memorial Hospital;

(h) Port Augusta Hospital and Regional Health Service;

(i) Port Pirie Regional Health Service;

(j) Southern Fleurieu Health Service.

4—Category 4 hospital sites

The following hospital sites are Category 4 hospital sites:

(a) Naracoorte Health Service;

(b) Wallaroo Hospital and Health Service.

Part 2—Nurse and midwife to patient ratios

5—Acute stroke wards

(1) The staffing requirement at an incorporated hospital for an acute stroke ward is—

(a) 1 nurse for every 3 patients; and

(b) 1 nurse in charge.

(2) In this clause—

acute stroke ward means a multi-day inpatient ward, or part of such a ward—

(a) in which comprehensive care and monitoring of patients with strokes in the hyperacute or the acute phase is provided; and

(b) that has the capacity to provide thrombolysis.

6—Antenatal wards

The staffing requirement at an incorporated hospital for an antenatal ward is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 midwife for every 4 patients; and

(ii) 1 midwife in charge or nurse in charge;

(b) on the night shift—1 midwife for every 6 patients.

7—Birthing suites

(1) The staffing requirement for a birthing suite at an incorporated hospital for labour and birth is 1 midwife for every patient.

(2) In this clause—

patient does not include a newborn infant.

8—Coronary care units

(1) The staffing requirement at an incorporated hospital for a ward that is a coronary care unit is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 nurse for every 2 patients; and

(ii) 1 nurse in charge;

(b) on the night shift—1 nurse for every 3 patients.

(2) In this clause—

coronary care unit means a unit of specialised critical care beds dedicated to acute care, treatment and monitoring of patients with serious or unstable cardiac diseases.

9—General medical and surgical wards

(1) The staffing requirement for a general medical and surgical ward at a Category 1 hospital site is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 nurse for every 4 patients; and

(ii) 1 nurse in charge;

(b) on the night shift—

(i) 1 nurse for every 8 patients; and

(ii) 1 nurse in charge.

(2) The staffing requirement for a general medical and surgical ward at a Category 2 hospital site is as follows:

(a) on the morning shift—

(i) 1 nurse for every 4 patients; and

(ii) 1 nurse in charge;

(b) on the afternoon shift—

(i) 1 nurse for every 5 patients; and

(ii) 1 nurse in charge;

(c) on the night shift—

(i) 1 nurse for every 8 patients; and

(ii) 1 nurse in charge.

(3) The staffing requirement for a general medical and surgical ward at a Category 3 hospital site is as follows:

(a) on the morning shift—

(i) 1 nurse for every 5 patients; and

(ii) 1 nurse in charge;

(b) on the afternoon shift—

(i) 1 nurse for every 6 patients; and

(ii) 1 nurse in charge;

(c) on the night shift—

(i) 1 nurse for every 10 patients; and

(ii) 1 nurse in charge.

(4) The staffing requirement for a general medical and surgical ward at a Category 4 hospital site is as follows:

(a) on the morning shift—

(i) 1 nurse for every 6 patients; and

(ii) 1 nurse in charge;

(b) on the afternoon shift—

(i) 1 nurse for every 7 patients; and

(ii) 1 nurse in charge;

(c) on the night shift—1 nurse for every 10 patients.

(5) In this clause—

general medical and surgical ward means a multi-day inpatient care area, including an acute ward, in which any of the following are cared for:

(a) patients with an acute or chronic illness or injury;

(b) patients waiting for surgery;

(c) patients recovering from surgery.

10—Geriatric evaluation and management units

(1) The staffing requirement at an incorporated hospital for a ward that is a geriatric evaluation and management unit is as follows:

(a) on the morning shift—

(i) 1 nurse for every 5 patients; and

(ii) 1 nurse in charge;

(b) on the afternoon shift—

(i) 1 nurse for every 6 patients; and

(ii) 1 nurse in charge;

(c) on the night shift—

(i) 1 nurse for every 10 patients; and

(ii) 1 nurse in charge.

(2) In this clause—

geriatric evaluation and management unit means a specialist patient care area providing restorative care for people with chronic or complex conditions associated with ageing, cognitive problems, chronic illness, and disability.

11—Haematology wards

(1) The staffing requirement at an incorporated hospital for a haematology ward is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 nurse for every 3 patients; and

(ii) 1 nurse in charge;

(b) on the night shift—

(i) 1 nurse for every 5 patients; and

(ii) 1 nurse in charge.

(2) In this clause—

haematology ward means a multi-day inpatient ward, or part of such a ward, that is dedicated to the care of patients with blood cancers and related diseases primarily affecting bone marrow or blood cells and in which—

(a) treatment is provided involving complex and high dose chemotherapy regimens and stem cell transplants; and

(b) symptoms including, but not limited to, sepsis, febrile neutropenia, tumour lysis syndrome and disseminated intravascular coagulopathy are managed.

12—High dependency units

(1) The staffing requirement for a high dependency unit at a Category 1 hospital site is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 nurse for every 2 patients; and

(ii) 1 nurse in charge, unless the unit is co-located with an intensive care unit;

(b) on the night shift—1 nurse for every 2 patients.

(2) The staffing requirement for a high dependency unit at a Category 2 or Category 3 hospital site is 1 nurse for every 2 patients.

13—Neonatal intensive care units

(1) The staffing requirement at an incorporated hospital for a ward that is a neonatal intensive care unit is as follows:

(a) 1 nurse for every 2 patients; and

(b) 1 nurse in charge.

(2) In this clause—

neonatal intensive care unit means a specialist ward, or part of such a ward, that has the capacity to provide continuous life support and in which comprehensive multidisciplinary care is provided to newborn infants who are critically unwell.

14—Oncology wards

(1) The staffing requirement at an incorporated hospital for an oncology ward is as follows:

(a) on the morning shift and afternoon shift—

(i) 1 nurse for every 4 patients; and

(ii) 1 nurse in charge;

(b) on the night shift—

(i) 1 nurse for every 8 patients; and

(ii) 1 nurse in charge.

(2) In this clause—

oncology ward means a multi-day inpatient ward, or part of such a ward—

(a) dedicated to the care and non-surgical treatment of patients with cancer (other than those receiving treatment in a haematology ward); and

(b) that has the capacity to administer complex chemotherapy.

15—Palliative care inpatient units

The staffing requirement at an incorporated hospital for a ward that is a palliative care inpatient unit is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 nurse for every 4 patients; and

(ii) 1 nurse in charge;

(b) on the night shift—

(i) 1 nurse for every 6 patients; and

(ii) 1 nurse in charge.

16—Postnatal wards

(1) The staffing requirement at an incorporated hospital for a postnatal ward is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 midwife or nurse for every 4 patients; and

(ii) 1 midwife in charge;

(b) on the night shift—

(i) 1 midwife or nurse for every 6 patients; and

(ii) 1 midwife in charge.

(2) In this clause—

patient does not include a newborn infant.

17—Rehabilitation inpatient units

(1) The staffing requirement at an incorporated hospital for a ward that is a rehabilitation inpatient unit is as follows:

(a) on the morning shift and the afternoon shift—

(i) 1 nurse for every 5 patients; and

(ii) 1 nurse in charge;

(b) on the night shift—1 nurse for every 10 patients.

(2) In this clause—

rehabilitation inpatient unit means a unit which provides reablement interventions to optimise function and reduce disability in individuals with health conditions, which operates in consideration of personal and environmental factors.

18—Special care nurseries

(1) The staffing requirement at an incorporated hospital for a ward that is a special care nursery is as follows:

(a) 1 nurse or midwife for every 3 patients; and

(b) 1 nurse in charge or midwife in charge.

(2) In this clause—

special care nursery means a ward in which care is provided solely to newborn infants who are unwell but who do not require the level of care and treatment provided to newborn infants in a neonatal intensive care unit, and includes—

(a) special care baby units; and

(b) special care high dependency units; and

(c) convalescent and low dependency units.

Part 3—Minimum staffing requirements

19—Small hospitals

(1) A small hospital of an incorporated hospital must be staffed with at least 1 registered nurse and 1 other nurse or midwife on all shifts.

(2) In this clause—

small hospital means a hospital site at which health services are provided that is not a Category 1, Category 2, Category 3 or Category 4 hospital site.

20—State aged care

(1) A State aged care bed at a hospital site (other than a Category 1 or Category 2 hospital site) of an incorporated hospital must be staffed in accordance with a staffing requirement imposed in relation to a Commonwealth aged care bed under the Commonwealth Act as if the State aged care bed was a Commonwealth aged care bed.

(2) In this clause—

Commonwealth Act means the *Aged Care Act 2024* of the Commonwealth;

Commonwealth aged care bed means an aged care bed the provision of which is a funded aged care service under the Commonwealth Act;

State aged care bed means an aged care bed other than a Commonwealth aged care bed.

Schedule 2—Related amendments and transitional provisions

Part 1—Related amendment to *Fair Work Act 1994*

1—Amendment of section 79—Approval of enterprise agreement

After subsection (2) insert:

(2a) SAET must refuse to approve an enterprise agreement if the agreement makes provision for a minimum staffing level (whether expressed as a ratio or otherwise) applying in the same setting as a ratio or minimum staffing requirement imposed under the *Nurse and Midwife to Patient Ratios Act 2025*.

Part 2—Transitional provision

2—Moratorium on applications to SAET

(1) A party to a local dispute under section 15 may not apply to SAET for resolution of a matter under section 16 during the moratorium period.

(2) A person may not apply to the South Australian Employment Court for a civil penalty order under section 17 during the moratorium period.

(3) Section 13 has no effect during the moratorium period.

(4) An incorporated hospital must act in good faith and take all reasonable measures to comply with a ratio or minimum staffing requirement during the moratorium period.

(5) In this clause—

moratorium period means a period of 2 years commencing from the day on which this Act is assented to by, or on behalf of, the Crown.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2025	44	*Nurse and Midwife to Patient Ratios Act 2025*	5.11.2025	22.8.2026 (*Gazette 6.8.2026 p2547*)