

PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Schedule 16 - Healthcare Improvement Scotland: Establishment Etc.

453. **Schedule 16** is introduced by section 110(1) and inserts schedule 5A into the National Health Service (Scotland) Act 1978. Inserted schedule 5A (Healthcare Improvement Scotland) makes the further provision for the establishment etc. of HIS as follows.

Paragraph 1 – Status

454. HIS is a corporate body but not a Crown body.

Paragraph 2 – Membership of HIS

455. The membership of HIS is to consist of: a chairing member, the chair of Social Care and Social Work Improvement Scotland and no fewer than 10 or more than 13 other members. All members of HIS are to be appointed by Scottish Ministers.
456. Sub-paragraph (2) gives the Scottish Ministers power to substitute, by order made by statutory instrument, different numbers of minimum and maximum members in sub-paragraph (1)(c).
457. Sub-paragraph (3) provides that it is desirable to include as members persons with experience of the provision of any social service, persons who use or have used any social service or persons with other relevant skills, knowledge or experience.

Paragraph 3 – Terms of appointment etc.

458. Each member of HIS is to be appointed for such a period as the Scottish Ministers think fit. A member of HIS holds and vacates office in accordance with the terms and conditions of appointment but may resign office as a member by giving written notice to Scottish Ministers, however once a person ceases to be a member of HIS they are eligible to be reappointed as a member for another term.

Paragraph 4 – Removal of members

459. The Scottish Ministers have the power to remove a member of HIS from office if they are satisfied that the member is insolvent (see sub-paragraphs (a) and (b)), has been absent from three consecutive meetings without permission, or is otherwise unfit or unable to discharge the functions of a member of HIS.

Paragraph 5 – Disqualification from membership

460. This Paragraph provides that members of the Scottish Parliament, members of the House of Commons and members of the European Parliament are disqualified from appointment and from holding office as members of HIS.

Paragraph 6 – Remuneration and allowances for members

461. HIS is to pay its members remuneration, allowances and expenses as determined by the Scottish Ministers.

Paragraph 7 – Chief Executive and other employees

462. HIS is to employ a chief executive and sub-paragraph (2) provides that the chief executive must be a member of HIS. The chief executive is to be appointed and their terms and conditions determined, with the approval of the Scottish Ministers, by HIS.
463. HIS may appoint employees other than the chief executive and can determine their terms and conditions. The Scottish Ministers may give directions to HIS in relation to the appointment of employees and their terms and conditions of employment (see sub-paragraph (5)).
464. Sub-paragraph (6) gives HIS power to arrange, with approval from the Scottish Ministers, pensions, allowances or gratuities in relation to employees of HIS. The reference in sub-paragraph (6) to pensions, allowance and gratuities includes a reference to pensions, allowance and gratuities by way of compensation for loss of employment (see sub-paragraph (7)).

Paragraph 8 – Committees

465. HIS may establish committees for any purpose relating to its functions. Other than the provision at Section 10Z10 to establish the Scottish Health Council as a committee, HIS may determine the composition of its own committees and appoint persons who are not members of HIS to those committees (sub-paragraphs (2) and (3)). A committee of HIS is to comply with any directions given to it by HIS (see sub-paragraph (4)).

Paragraph 9 – Procedure and meetings

466. HIS may determine its own procedure and the procedure of its committees, including any necessary quorum. The validity of any proceedings of HIS or any of its committees is not affected by any irregularity in the membership of HIS.
467. Sub-paragraph (3) provides that members of the Scottish Government, persons authorised by the Scottish Ministers, and members of Social Care and Social Work Improvement Scotland and persons authorised by it may attend and take part in meetings of HIS or any of its committees, but are not entitled to vote at such meetings. This will enable for instance a member of SCSWIS to attend a meeting when their chair person is unable to do so.

Paragraph 10 – General powers

468. Paragraph 10 provides for the general legal powers of HIS.
469. Sub-paragraph (1) gives HIS wide power to do anything related to the exercise of its functions. Without prejudice to the generality of this power, sub-paragraph (2) sets out particular powers of HIS.

Paragraph 11 – Delegation of functions

470. HIS has powers to delegate functions to its chief executive, its staff or any of its committees, with the exception of approval of annual reports and accounts and approval

*These notes relate to the Public Services Reform (Scotland) Act
2010 (asp 8) which received Royal Assent on 28 April 2010*

of any budget or financial plan (see sub-paragraph (2)) Any delegation under sub-paragraph (1) does not affect the responsibility of HIS for the exercise of its functions (see sub-paragraph (3)).

Paragraph 12 – Location of office

471. Paragraph 12 requires HIS to obtain the approval of the Scottish Ministers before determining the location of its office premises.

Paragraph 13 – Accounts

472. Sub-paragraph (1) requires HIS to keep accounts, to prepare a statement of accounts each financial year and to send a copy of it to Scottish Ministers, and to do so in accordance with any directions the Scottish Ministers may give.
473. Sub-paragraph (2) requires HIS to send its annual statement of accounts to the Auditor General for Scotland for auditing.

Paragraph 14 – Reports

474. HIS is required to prepare an annual report. Sub-paragraph (2) requires HIS to publish its annual report, lay a copy before the Scottish Parliament and send a copy to the Scottish Ministers.
475. HIS may publish other reports and information on matters relevant to its functions.