

*Draft Order laid before the Scottish Parliament under section 105(3) of the National Health Service (Scotland) Act 1978, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2016 No.**

**PUBLIC HEALTH**

**The National Health Service (Scotland) Act 1978  
(Independent Clinic) Amendment Order 2016**

*Made* - - - - 2016  
*Coming into force* - - 1st April 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 10G and 105(7) of the National Health Service (Scotland) Act 1978(1) and all other powers enabling them to do so.

In accordance with section 10G of that Act, they have consulted with such persons or groups of persons as they considered appropriate.

In accordance with section 105(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(2).

**Citation and commencement**

1. This order may be cited as the National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2016 and comes into force on 1st April 2016.

**Modification of section 10F of the National Health Service (Scotland) Act 1978**

2.—(1) Section 10F (meaning of “independent health care services”) of the National Health Service (Scotland) Act 1978 is modified as follows.

(2) In subsection (2), for the definition of “independent clinic”, substitute—

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(1) 1978 c.29. Section 10G was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8). Section 105(7) was amended by paragraph 5 of Schedule 6 and Schedule 7 to the Health Services Act 1980 (c.53), section 29(1) of and paragraph 24 of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41) and paragraph 60 of Schedule 4 to the Health Act 1999 (c.8). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) Section 105(3) has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

““independent clinic” means, subject to subsection (2A), a clinic which is not comprised in a hospital and in or from which services are provided by a medical practitioner, dental practitioner, registered nurse, registered midwife or dental care professional;”.

(3) After subsection (2), insert—

“(2A) A clinic does not fall within the definition of “independent clinic” in subsection (2) if it—

- (a) is comprised in a post-16 education body;
- (b) is comprised in a school;
- (c) is provided by an employer and services are provided only to the employees of that employer;
- (d) provides general dental services in accordance with an agreement pursuant to section 25 of this Act<sup>(3)</sup>;
- (e) provides primary medical services in accordance with an agreement pursuant to section 17C of this Act<sup>(4)</sup>;
- (f) provides services under a general medical services contract pursuant to section 17J of this Act<sup>(5)</sup>; or
- (g) only provides one or both of the following services—
  - (i) first aid in situations requiring medical treatment or medical care;
  - (ii) therapy effected only through the provider of the therapy and the recipient communicating through speech.

(2B) In the definition of “independent clinic” in subsection (2), “dental care professional” means a person registered in the dental care professionals register under the Dentists Act 1984<sup>(6)</sup>.

(2C) In subsection (2A)—

“post-16 education body” has the same meaning as in section 35(1) of the Further and Higher Education (Scotland) Act 2005<sup>(7)</sup>; and

“school” has the same meaning as in section 135(1) of the Education (Scotland) Act 1980<sup>(8)</sup>.”.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

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(3) Section 25 was relevantly amended by sections 15 and 17 of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).  
 (4) Section 17C was inserted by section 21 of the National Health Service (Primary Care) Act 1997 (c.46) and relevantly amended by section 2 of the Primary Medical Services (Scotland) Act 2004 (asp 1).  
 (5) Section 17J was inserted by section 4 of the Primary Medical Services (Scotland) Act 2004.  
 (6) 1984 c.24.  
 (7) 2005 asp 6. Section 35(1) was relevantly amended by paragraph 8(23) of schedule 1 to the Post-16 Education (Scotland) Act 2013 (asp 12).  
 (8) 1980 c.44. Section 135(1) was relevantly amended by section 2 of the Registered Establishments (Scotland) Act 1987 (c.4) and schedule 3 to the Standards in Scotland’s Schools etc. Act 2000 (asp 6).

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the definition of “independent clinic” in section 10F of the National Health Service (Scotland) Act 1978 to add registered nurses, registered midwives and dental care professionals to the existing health professionals (medical practitioners and dental practitioners) listed in that definition.

This Order also provides for certain exceptions to the definition of “independent clinic”.