
SCOTTISH STATUTORY INSTRUMENTS

2005 No.120

NATIONAL HEALTH SERVICE

**The NHS Quality Improvement Scotland (Establishment
of the Scottish Health Council) Regulations 2005**

<i>Made</i>	- - - -	<i>1st March 2005</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>3rd March 2005</i>
<i>Coming into force</i>	- -	<i>1st April 2005</i>

The Scottish Ministers in exercise of the powers conferred by section 105(7) of and paragraph 11(b) of Schedule 1 to the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that regard, hereby make the following Regulations(2):

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the NHS Quality Improvement Scotland (Establishment of the Scottish Health Council) Regulations 2005 and shall come into force on 1st April 2005.

(2) In these regulations—

“the Act” means the National Health Service (Scotland) Act 1978;

“the Board” means the Special Health Board known as NHS Quality Improvement Scotland constituted by the NHS Quality Improvement Scotland Order 2002(3);

“the committee” means the committee to be known as the Scottish Health Council, established by virtue of regulation 2(a) of these Regulations.

Scottish Health Council

2. The Board shall—

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- (1) [1978 c. 29](#) (“the Act”). Section 105(7) was relevantly amended by the Health Services Act [1980 \(c. 53\)](#) (“the 1980 Act”), Schedule 6, paragraph 5 and Schedule 7; the Health and Social Services and Social Security Adjudications Act [1983 \(c. 41\)](#), Schedule 9, Part I, paragraph 24 and the Health Act [1999 \(c. 8\)](#), Schedule 4, paragraph 60. Schedule 1, paragraph 11 of the Act was relevantly amended by the 1980 Act, Schedule 6, paragraph 7(4) and Schedule 7 and by the National Health Service and Community Care Act 1990, Schedule 5, paragraph 7.
- (2) Under section 108(1) of the Act, “regulations” means regulations made by the Secretary of State under that Act. The functions of the Secretary of State so far as they are exercisable in Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).
- (3) [S.S.I. 2002/534](#), as amended by the NHS Quality Improvement Scotland (Amendment) Order 2005 ([S.S.I. 2005/115](#)) (“the 2005 Amendment Order”).

- (a) establish a committee to be known as the Scottish Health Council; and
 - (b) delegate to the committee the function of supporting, ensuring and monitoring—
 - (i) the discharge of the duty under section 2B of the Act (duty to encourage public involvement) by each body to whom that section applies, other than the Board⁽⁴⁾; and
 - (ii) the discharge of the duty under section 2D of the Act (duty to discharge functions in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements)⁽⁵⁾ by each body to whom that section applies, other than the Board, insofar as the discharge of that duty is relevant, and relates directly, to—
 - (aa) the quality of healthcare provided or secured by the National Health Service in Scotland; or
 - (bb) the discharge of the duty under section 2B of the Act.
3. In exercising the functions conferred on it by virtue of paragraph 2(b) of these Regulations, the committee shall comply with such directions as may be given by the Board and directions may be given generally or to meet the circumstances of a particular matter.

St Andrew's House, Edinburgh
1st March 2005

ANDREW P KERR
A member of the Scottish Executive

(4) Section 2B of the Act was inserted by the [National Health Service Reform \(Scotland\) Act 2004 \(asp 7\)](#) ("the 2004 Act"), section 7. The function delegated by virtue of regulation 2(b) of these Regulations was conferred on NHS Quality Improvement Scotland by the 2005 Amendment Order.

(5) Section 2D of the Act was inserted by the 2004 Act, section 4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

NHS Quality Improvement Scotland (“NHS QIS”) is a Special Health Board constituted by the NHS Quality Improvement Scotland Order ([S.S.I. 2002/534](#), as amended by S.S.I. 2005/ (“the 2005 Amendment Order”)).

These Regulations place a duty on NHS QIS to establish a committee to be known as the Scottish Health Council (“the SHC”) and to delegate to the SHC the function of supporting, ensuring and monitoring the discharge of the duty under (i) section 2B of the National Health Service (Scotland) Act 1978 (c. 29) (“the Act”) (duty to encourage public involvement) and (ii) section 2D of the Act (duty to discharge functions in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements) by Health Boards, Special Health Boards and the Common Services Agency for the Scottish Health Service.

The function to be delegated to the SHC by virtue of these Regulations was conferred on NHS QIS by the 2005 Amendment Order. The function of supporting, ensuring and monitoring the discharge of the duty under section 2B of the Act by NHS QIS will be performed by the Scottish Ministers and was not conferred on NHS QIS by the 2005 Amendment Order.

Regulation 3 of these Regulations provides that the SHC shall comply with such directions as may be given by the Board and directions may be given generally or to meet the circumstances of a particular matter.