

EXECUTIVE NOTE

The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Amendment Regulations 2008 (S.S.I. 2008/60)

1. The above instrument was made in exercise of the powers conferred by sections 2(5), 85B, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978 and all other enabling powers.

Policy Objectives

2. One of the principal objectives of the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) is to enable cost-effective risk pooling and claims management for a broad spectrum of clinical and non-clinical risks incurred by the Scheme Members (ie Health Boards, Special Health Boards, the Common Services Agency and the Mental Welfare Commission).

3. The purpose of the instrument is to change the manner in which the Scheme is funded, moving away from a Scheme funded in advance of the start of the financial year by Members on the basis of estimated contributions assessed by the Scheme actuaries to a method of retrospective funding whereby in-year the Scottish Government meets the costs of the Scheme liabilities and Members contribute their share (based on each Member's risk profile) to reimburse the Scottish Government after the end of each financial year. This change is effective from 2007-08 and Scottish Ministers will, not later than 30th April 2008 reconsider the amount which Members must contribute to the Scheme to meet the liabilities incurred to 31st March 2008.

4. The mandatory requirement for Members to submit a claim within two months of the date the claim is paid has been removed as this matter is better addressed by guidance rather than statute.

5. The opportunity has also been taken to delete regulation 7 paragraph (2) subparagraph (d) of the 2000 regulations since the assessment of operational compliance and/or performance against Risk Standards is no longer a feature of the Scheme and accordingly, the Scheme no longer offers discounts. The Healthcare Risk Management Standards established by CNORIS were integrated with the NHS Quality Improvement Scotland Generic Clinical Governance Standards to form the NHS Quality Improvement Scotland Clinical Governance & Risk Management Standards published in October 2005.

Consultation

6. The Members of the Scheme and others including Audit Scotland were consulted on the changes to the Scheme operation in a consultation exercise that ran for over 8 weeks from Tuesday 7th August to Friday 28th September 2007.

Financial effects

7. The instrument has no financial effects on the Scottish Executive or local government.

**Scottish Government Health Directorates
February 2008**