

## **POLICY NOTE**

### **THE NATIONAL HEALTH SERVICE (FUNCTIONS OF THE COMMON SERVICES AGENCY) (SCOTLAND) AMENDMENT ORDER 2014**

#### **SSI 2014/100**

1. This Order is made in exercise of the powers conferred by section 10 of the National Health Service (Scotland) Act 1978 and amends the National Health Service (Functions of the Common Services Agency) (Scotland ) Order 2008 (“the Functions Order”).

#### **Policy Objectives**

2. The purpose of the Functions Order is to delegate certain health functions conferred on the Scottish Ministers by statute to the Common Services Agency (CSA), and to provide that the CSA is to perform certain other health functions determined by the Scottish Ministers. The Order is the mechanism by which Scottish Ministers give the CSA authority to carry out those functions

3. Following a recent review of the functions of the CSA, the Scottish Ministers propose to amend the Functions Order to confer additional functions, many of which are currently held by the Scottish Ministers, on the Agency. This will allow the Agency to carry out a broader range of activities and to participate in research and development projects and innovative arrangements to enhance the service provided at present.

4. The proposed amendments to the Functions Order would make the following changes to the powers of the CSA:

- Clarify the power of CSA to commission clinical services on a national basis, removing any doubt as to the legal basis for the provision of this service by NSS National Procurement.
- Update references in the Functions Order to Health Protection England to reflect the abolition of that body. Health Protection England, which has now been replaced with a new executive agency of the Department of Health called Public Health England, previously exercised certain functions in relation to Scotland. Certain functions of the CSA are currently defined so as to specifically exclude the functions of Health Protection England. There is a need to update these references to ensure the Functions Order remains accurate.
- Enable the CSA to make arrangements for vaccination and immunisation against any disease. This is an expansion of the current power, carried out by NSS Health Protection Scotland, to immunise against yellow fever.
- Delegate to CSA the full range of powers which Ministers enjoy under section 44 of the National Health Service (Scotland ) Act 1978 so that NSS Scottish National Blood Transfusion Service can provide supplies of blood, as well as cell and tissue samples, to bodies which are not part of the health service. This will allow greater participation in research and development related to these materials.

- Provide a clear power for NSS to participate in Research and Development activities including clinical trials. The Scottish Ministers have such powers by virtue of section 47 of the 1978 Act, and wish to allow the CSA to exercise these powers on their behalf.
- Expand the power of the CSA to lease, or purchase, property or land. The CSA is currently able to carry out transactions in relation to property or land as required for its own functions. The Scottish Ministers propose to expand this power to allow the CSA to lease or purchase property (including equipment) or land for the use of other health service bodies.
- Provide the CSA with the power to form companies. The Scottish Ministers currently have this power under the 1978 Act, and have already conferred it on Health Boards. This proposed amendments would allow CSA to form or participate in forming, companies jointly with, and on an equal basis to, Health Boards.

### **Consultation**

5. Under section 10(4) of the National Health Service (Scotland) Act 1978, the Scottish Ministers are required to consult with Health Boards, and such other interests as appear to them to be concerned, before making an Order to amend the functions of the Common Services Agency. The Scottish Government consulted with key stakeholders regarding this proposal in March 2014. Stakeholders were allowed 2 weeks to comment and the consultation ended on Friday 28th March 2014. There were 3 responses to the consultation. All of the responses broadly supported the Scottish Government's proposal to amend the functions of the Common Services Agency.

### **Impact Assessment**

6. The Cabinet Secretary for Health & Wellbeing confirms that an equality impact assessment is not required as there are no equality impact issues.

### **Financial Effect**

7. The Cabinet Secretary for Health & Wellbeing confirms that no BRIA is necessary as the instrument has no financial effects on local government or on business.

Scottish Government  
April 2014