

POLICY NOTE

THE NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978 (INDEPENDENT CLINIC) AMENDMENT ORDER 2017

SSI 2017/67

The above instrument was made in exercise of the powers conferred by sections 10G and 105(7) of the National Health Service (Scotland) Act 1978. The instrument is subject to affirmative procedure.

Policy Objectives

Independent clinics were brought within the regulation of Healthcare Improvement Scotland through a series of SSIs which came into force on 1 April 2016. Those SSIs, among other things, amended and commenced provisions in the National Health Service (Scotland) Act 1978. The policy was to ensure that where certain healthcare professionals are working independently from the NHS, they do so in a clinic which is registered.

The policy behind this instrument, which makes further amendments to the independent clinic definition, is to ensure all clinics directly provided by the Common Services Agency, NSS, health boards or special health boards are exempt from regulation by Healthcare Improvement Scotland. This provides assurance that services such as medical practitioners operating in blood donor centres outside hospitals, or registered nurses working in NHS 24 services, or dentists working for a Health Board outside hospitals, are exempt from regulation. These NHS services are exempted as all their services are governed by the clinical governance systems of their Boards.

Consultation

To comply with the requirements of section 10G of the National Health Service (Scotland) Act 1978 the following bodies have been consulted during the autumn and winter of 2016/7.

- NHS health boards, special boards and the Common Services Agency
- The Association of Independent Healthcare Organisations
- The professional healthcare regulators
- The Healthcare Improvement Scotland Independent Healthcare Programme Board

The consultation identified the need to ensure that the communication on who is regulated continues to be disseminated but there was broad acceptance to the amendment. A full list of those consulted and who agreed to the release of this information is published on the Scottish Government website, it includes:

- NHS Boards
- Regulatory & Professional Bodies
- Independent Healthcare Providers

Impact Assessments

The requirement for an Equality Impact Assessment has been considered and it has been decided that no such Assessment is required. Consideration of a Child Rights and Wellbeing Impact Assessment (CRWIA) was undertaken and found that there is no likely direct or indirect impact on children or young people, and therefore no CRWIA was considered necessary.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been considered and is not required for this additional legislation. The Cabinet Secretary for Health and Sport has confirmed that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Healthcare Quality and Improvement Directorate

January 2017