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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 127**

**HEALTH SERVICES  
SOCIAL CARE**

**The Health and Care (Staffing) (Scotland)  
Act 2019 Amendment Regulations 2023**

*Made* - - - - - *26th April 2023*

*Coming into force* - - - - - *12th May 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 14(1) and (2) of the Health and Care (Staffing) (Scotland) Act 2019<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 14(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

1. These Regulations may be cited as the Health and Care (Staffing) (Scotland) Act 2019 Amendment Regulations 2023 and come into force on 12 May 2023.

2. In these Regulations—

“the 1978 Act” means the National Health Service (Scotland) Act 1978<sup>(2)</sup>,

“the 2010 Act” means the Public Services Reform (Scotland) Act 2010<sup>(3)</sup>.

**Amendment of the Health and Care (Staffing) (Scotland) Act 2019**

3.—(1) The Health and Care (Staffing) (Scotland) Act 2019 is amended in accordance with paragraphs (2) to (4).

(2) In section 4(2) (NHS duties in relation to staffing)—

(a) in inserted section 12IC(2)(d) of the 1978 Act (duty to have real-time staffing assessment in place), after “(a)” insert “, (b)”,

(b) in inserted section 12ID(2)(h) of the 1978 Act (duty to have risk escalation process in place), for “(f)” substitute “(g)”,

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(1) 2019 asp 6.

(2) 1978 c. 29.

(3) 2010 asp 8.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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(c) in inserted section 12IL(e)(ii) of the 1978 Act (training and consultation of staff), for “(b) and (c)” substitute “(b), (c) and (d)”.

(3) In section 5(5)(c) (application of duties to certain Special Health Boards), in each place it occurs for “12IA, 12IC and 12ID” substitute “12IA, 12IC, 12ID, 12IE, 12IF, 12IH and 12II”.

(4) In section 12(2) (functions of SCSWIS in relation to staffing methods), in inserted section 82C(3) of the 2010 Act (review and redevelopment of staffing methods), after “(5)” insert “, (6)”.

St Andrew’s House,  
Edinburgh  
26th April 2023

*MICHAEL MATHESON*  
A member of the Scottish Government

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## EXPLANATORY NOTE

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

These Regulations amend the Health and Care (Staffing) (Scotland) Act 2019 (“the Act”).

The Health and Care (Staffing) (Scotland) Bill (“the Bill”) became the Act on 6 June 2019. During the Bill’s parliamentary passage, amendments were made to certain provisions concerning functions carried out by Health Boards, Special Health Boards, the Common Services Agency for the Scottish Health Service and Social Care and Social Work Improvement Scotland. To ensure the amendments were properly reflected throughout the Bill cross-references to the amendments required to be inserted into other Bill provisions and in certain instances those cross-references were not completed. Other cross-references required updating to reflect the amendments and in certain instances those updates were not made. These Regulations make provision for omitted and erroneous cross-references.

Section 4 of the Act (NHS duties in relation to staffing) inserts new sections into the National Health Service (Scotland) Act 1978 (“the 1978 Act”). Regulation 3(2) amends section 4 to make provision for omitted and erroneous cross-references in inserted sections 12IC(2)(d) (duty to have real-time staffing assessment in place), 12ID(2)(h) (duty to have risk escalation process in place) and 12IL(e) (ii) (training and consultation of staff) of the 1978 Act.

Regulation 3(3) makes provision for omitted cross-references in section 5(5)(c) of the Act which amends the Scottish Ambulance Service Board Order 1999 ([S.I. 1999/686](#)).

Section 12 of the Act (functions of SCSWIS in relation to staffing methods) inserts new sections into the Public Services Reform (Scotland) Act 2010 (“the 2010 Act”). Regulation 3(4) amends section 12 to make provision for an omitted cross-reference in inserted section 82C(3) of the 2010 Act.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.