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SCOTTISH STATUTORY INSTRUMENTS

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**2024 No. 20 (C. 3)**

**HEALTH SERVICES  
SOCIAL CARE**

**The Health and Care (Staffing) (Scotland) Act  
2019 (Commencement No. 2) Regulations 2024**

<i>Made</i>	- - - -	<i>23rd January 2024</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>25th January 2024</i>
<i>Coming into force</i>	- -	<i>6th February 2024</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 15(2) and (3)(b) of the Health and Care (Staffing) (Scotland) Act 2019<sup>(1)</sup>.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Health and Care (Staffing) (Scotland) Act 2019 (Commencement No. 2) Regulations 2024, and come into force on 6 February 2024.

(2) In these Regulations—

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

“the 2019 Act” means the Health and Care (Staffing) (Scotland) Act 2019.

**Appointed days**

**2.**—(1) The day appointed for the coming into force of section 4(1) and (2) of the 2019 Act (NHS duties in relation to staffing), insofar as it inserts section 12IJ(1) to (4) (duty to follow common staffing method), section 12IK(1) to (3) (common staffing method: types of health care) and the definition of “health care” in section 12IO (interpretation of sections 12H to 12IN) into the 1978 Act, and only insofar as necessary for the purpose of enabling the Scottish Ministers to make regulations under section 12IJ(1) and (3), is 6 February 2024.

(2) The day appointed for the coming into force of the provisions of the 2019 Act, insofar as not already in force, is 1 April 2024.

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(1) 2019 asp 6.  
(2) 1978 c. 29.

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**Status:** This is the original version (as it was originally made).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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St Andrew's House,  
Edinburgh  
23rd January 2024

*MICHAEL MATHESON*  
A member of the Scottish Government

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## EXPLANATORY NOTE

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

The Bill for the Health and Care (Staffing) (Scotland) Act 2019 (“2019 Act”) received Royal Assent on 6 June 2019. Sections 14, 15 and 16 of the Act came into force on the day following Royal Assent.

Regulation 2(1) of these Regulations provides that the day appointed for the coming into force of section 4(1) and (2) of the 2019 Act, only insofar as necessary to enable the Scottish Ministers to make regulations under section 12IJ(1) and (3) of the 1978 Act, is 6 February 2024. Section 4(1) and (2) of the 2019 Act inserts sections 12IA to 12IO into the National Health Service (Scotland) Act 1978 (“1978 Act”). Under section 12IJ(1), Health Boards and the Common Services Agency for the Scottish Health Service must, no less often than at the frequency specified in regulations made by the Scottish Ministers, use the common staffing method set out in section 12IJ(2) when determining staffing provision for certain types of health care (health care of a type mentioned in section 12IK of the 1978 Act). The common staffing method includes, among other things, the use of a “staffing level tool” and “professional judgement tool” in determining the appropriate staffing levels for particular kinds of health care provision. Under section 12IJ(3)(a), the Scottish Ministers may, by regulations, prescribe a “staffing level tool” designed to provide quantitative information relating to workload, based on patient needs, in order to assist in determining the appropriate staffing levels for a particular kind of health care provision. The Scottish Ministers may also prescribe, under section 12IJ(3)(b), a “professional judgement tool” designed to provide quantitative information relating to professional judgement in order to assist in determining the appropriate staffing levels for a particular kind of health care provision. Section 12IJ(4) provides a definition of “staffing establishment” for the purposes of section 12IJ(2). Section 12IK specifies the types of health care provision, in conjunction with the location where it is provided and the type of employee carrying out the provision, that are covered by the section 12IJ duty to follow the common staffing method. Section 12IO of the 1978 Act contains a definition which is relevant to section 12IJ(1) and (3).

Regulation 2(2) provides that the day appointed for the coming into force of the provisions of the 2019 Act, insofar as not already in force on that day, is 1 April 2024.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

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

The following provisions of the Health and Care (Staffing) (Scotland) Act 2019 have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument number</i>
Section 1(2) (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>
Section 3(3) and (4) (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>
Section 4(1) and (2) (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>
Section 5(1), (2), (4), (5), (7), (8), (10) and (11) (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>
Section 6(1) and (2) (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>
Section 10(1) to (3) (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument number</i>
Section 11 (partially)	15 May 2023	<a href="#">S.S.I. 2023/131</a>