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SCOTTISH STATUTORY INSTRUMENTS

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**2024 No. 43**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Common Staffing Method) (Scotland) Regulations 2024**

<i>Made</i>	- - - -	<i>7th February 2024</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th February 2024</i>
<i>Coming into force</i>	- -	<i>1st April 2024</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 12IJ(1) and (3) and 105(7) of the National Health Service (Scotland) Act 1978(1), and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Common Staffing Method) (Scotland) Regulations 2024 and come into force on 1 April 2024.

(2) In these Regulations, “the 1978 Act” means the National Health Service (Scotland) Act 1978.

**Frequency of use of common staffing method**

2. For the purposes of section 12IJ(1) of the 1978 Act, the frequency at which the common staffing method must be used, is no less often than once in each financial year.

**Staffing level tools**

3. For the purposes of section 12IJ(3)(a) of the 1978 Act, the staffing level tool for each kind of health care provision described in the first column of the table in the schedule, is listed in the corresponding entry in the second column of the table.

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(1) 1978 c. 29. Section 12IJ was inserted by section 4(1) and (2) of the Health and Care (Staffing) (Scotland) Act 2019 (asp 6) and section 105(7) was amended by the Health Services Act 1980 (c. 53), schedule 6, paragraph 5(1) and schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 29(1) and schedule 9, Part 1, paragraph 24 and the Health Act 1999 (c. 8), schedule 4, paragraph 60. Section 108(1) contains definitions of “regulations” and “prescribed” which are each relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

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### **Professional judgement tool**

4. For the purposes of section 12IJ(3)(b) of the 1978 Act, the professional judgement tool for each kind of health care provision described in the first column of the table in the schedule, is the Professional Judgement Tool Version 2(2).

St Andrew's House,  
Edinburgh  
7th February 2024

*MICHAEL MATHESON*  
A member of the Scottish Government

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(2) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.

## SCHEDULE

Regulations 3 and 4

## STAFFING LEVEL TOOLS

<i>Column 1</i>	<i>Column 2</i>
<i>Kind of health care provision</i>	<i>Staffing level tool</i>
Adult inpatient provision by registered nurses in hospital wards with 17 occupied beds or more on average	Adult Inpatient Staffing Level Tool Version 3 (3)
Clinical nurse specialist provision (for adults) by registered nurses who work as clinical nurse specialists in hospitals or in community settings	Clinical Nurse Specialist Staffing Level Tool Version 2 (4)
Clinical nurse specialist provision (for children) by registered nurses who work as clinical nurse specialists in hospitals or in community settings	Community Children's and Children's Specialist Nurse Staffing Level Tool Version 2 (5)
Community nursing provision by registered nurses	Community Nurse Staffing Level Tool Version 2 (6)
Community children's nursing provision by registered nurses	Community Children's and Children's Specialist Nurse Staffing Level Tool Version 2
Emergency care provision by registered nurses or by medical practitioners in emergency departments in hospitals	Emergency Care Provision Staffing Level Tool Version 3 (7)
Maternity provision by registered midwives in hospitals or in community settings	Maternity Staffing Level Tool Version 2 (8)
Mental health and learning disability provision by registered nurses in mental health or learning disability units in hospitals	Mental Health and Learning Disability Staffing Level Tool Version 2 (9)
Neonatal provision by registered midwives or by registered nurses in neonatal units in hospitals	Neonatal Staffing Level Tool Version 2 (10)
Paediatric inpatient provision by registered nurses in paediatric wards in hospitals	SCAMPS - Scottish Children's Acuity Measurement in Paediatric Settings Version 2 (11)

- (3) Version 3 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (4) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (5) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (6) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (7) Version 3 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (8) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (9) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
- (10) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.
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<i>Column 1</i>	<i>Column 2</i>
<i>Kind of health care provision</i>	<i>Staffing level tool</i>
Small ward provision by registered nurses in hospital wards with 16 occupied beds or fewer on average	Small Wards Staffing Level Tool Version 2 (12)

## EXPLANATORY NOTE

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

These Regulations make provision in relation to the common staffing method, introduced into the National Health Service (Scotland) Act 1978 (“1978 Act”) by section 4 of the Health and Care (Staffing) (Scotland) Act 2019 (“2019 Act”).

Section 12IJ of the 1978 Act sets out a duty for geographical Health Boards and the Common Services Agency for the Scottish Health Service (“Agency”) to follow a common methodology when determining staffing provision for the types of health care mentioned in section 12IK of the 1978 Act. That duty will extend to certain Special Health Boards by virtue of section 5 of the 2019 Act. Section 12IJ(2) provides information on what constitutes the common staffing method, including the steps which are to be followed. The 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. Those tools are designed to provide quantitative information in order to assist in determining the appropriate staffing level based on patient needs. “Staffing level tool” and “professional judgement tool” are defined in section 12IJ(3) of the 1978 Act.

Regulation 2 of these Regulations specifies, for the purposes of section 12IJ(1) of the 1978 Act, that the frequency at which a Health Board or the Agency must use the common staffing method in relation to health care of a type mentioned in section 12IK of the 1978 Act, is no less often than once in each financial year.

Regulation 3 and the schedule prescribe, for the purposes of section 12IJ(3)(a) of the 1978 Act, the staffing level tool to be used in determining the appropriate staffing levels for each of the kinds of health care provision listed in column 1 of the table in the schedule. Each staffing level tool can be opened and used by those who have been granted access (“registered users”) via an IT platform currently hosted by the Scottish Standard Time System (“SSTS”)- a system used within the NHS. Registered users can access the IT platform at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>.

Regulation 4 prescribes, for the purposes of section 12IJ(3)(b) of the 1978 Act, the professional judgement tool to be used in determining the appropriate staffing levels for each of the kinds of health care provision listed in column 1 of the table in the schedule. As for the staffing level tools, the professional judgement tool can be accessed by registered users via the IT platform currently hosted by the SSTS at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>.

(12) Version 2 was developed by Healthcare Improvement Scotland and was made available online at <https://workforce.mhs.scot.nhs.uk/eyou/Authentication/Login.aspx>, in 2024, to those granted access.

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