

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service (Scotland) Act 1978. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

^{F1}^{F2} SCHEDULE 5A

(introduced by section 10A(5))

HEALTHCARE IMPROVEMENT SCOTLAND

Textual Amendments

- F1** Sch. 5A inserted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 16](#); [S.S.I. 2010/221](#), art. 3(2)(3), [Sch.](#); [S.S.I. 2010/321](#), art. 3, [Sch.](#); [S.S.I. 2011/122](#), art. 2, [Sch.](#)
- F2** Sch. 5A inserted (1.8.2010 for certain purposes, 1.10.2010 for certain purposes and otherwise prosp.) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. 110(1), 134(7), [Sch. 16](#); [S.S.I. 2010/221](#), [art. 3\(2\)\(3\)](#), [Sch.](#); [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)

Status

- 1 (1) Healthcare Improvement Scotland is a body corporate.
- (2) HIS is not to be regarded as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown, nor are its members or its employees to be regarded as civil servants.
- (3) HIS's property is not to be regarded as property of, or held on behalf of, the Crown.

Membership of HIS

- 2 (1) HIS is to consist of the following members—
- (a) a person appointed by the Scottish Ministers to chair HIS;
 - (b) the person appointed under paragraph 2(1)(a) of schedule 11 to the Public Services Reform (Scotland) Act 2010 (asp 8) to chair Social Care and Social Work Improvement Scotland; and
 - (c) no fewer than 10 nor more than 13 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may by order amend sub-paragraph (1)(c) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.
- (3) In appointing members, the Scottish Ministers are to have regard to the desirability of including—
- (a) persons who have experience of, and have shown capacity and capability in, the provision of services provided under the health service or independent health care services;
 - (b) persons who use, or have used services provided under the health service or independent health care services;

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- (c) persons who have such other skills, knowledge or experience as the Scottish Ministers consider to be relevant in relation to the exercise of HIS's functions.

Terms of appointment etc.

- 3 (1) Each member of HIS is to be appointed for such period as the Scottish Ministers think fit.
- (2) A member—
 - (a) holds and vacates office in accordance with the terms and conditions of appointment; but
 - (b) may, by written notice to the Scottish Ministers, resign office as a member.
- (3) A person is, on ceasing to be a member, eligible for reappointment.

Removal of members

- 4 The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—
 - (a) the member—
 - (i) has been adjudged bankrupt;
 - (ii) has granted a trust deed for creditors or a composition contract;
 - (iii) has proposed a voluntary arrangement which has been approved;
 - (b) the member's estate has been sequestrated;
 - (c) the member has been absent from 3 consecutive meetings of HIS without the permission of HIS;
 - (d) the member is otherwise unfit or unable to discharge the functions of a member.

Disqualification from membership

- 5 A person is disqualified from appointment, and from holding office, as a member of HIS if that person is—
 - (a) a member of the Scottish Parliament;
 - (b) a member of the House of Commons;
 - (c) a member of the European Parliament.

Remuneration and allowances for members

- 6 HIS must pay to each of its members such—
 - (a) remuneration; and
 - (b) allowances and expenses,
 as the Scottish Ministers may determine.

Chief executive and other employees

- 7 (1) HIS is to employ a chief executive.
- (2) The chief executive must be a member of HIS.

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- (3) The Scottish Ministers are to make the first appointment of the chief executive on such terms and conditions as the Scottish Ministers may determine.
- (4) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed by HIS on such terms and conditions as HIS may, with such approval, determine.
- (5) HIS may (subject to any directions given under sub-paragraph (6)) appoint such other employees on such terms and conditions as HIS may determine.
- (6) The Scottish Ministers may give directions to HIS as regards—
 - (a) the appointment of employees under sub-paragraph (5); and
 - (b) the terms and conditions of their employment.
- (7) HIS may, with the approval of the Scottish Ministers—
 - (a) pay or make arrangements for the payment;
 - (b) make payments or contributions towards the provision;
 - (c) provide and maintain schemes (whether contributory or not) for the payment, of such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee of HIS, as it may determine.
- (8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of employment.

f³Medical reviewers

Textual Amendments

F3 Sch. 5A para. 7A inserted (8.6.2013) by Certification of Death (Scotland) Act 2011 (asp 11), s. 32(3), sch. 1 para. 2; S.S.I. 2013/159, art. 2, sch.

- 7A
- (1) HIS must appoint persons employed under paragraph 7(5) to exercise the functions of medical reviewers; and when doing so those employees are to be known as medical reviewers.
 - (2) HIS must appoint a person employed under paragraph 7(5) to exercise the functions of the senior medical reviewer; and when doing so that employee is to be known as the senior medical reviewer.
 - (3) A person appointed as a medical reviewer or the senior medical reviewer must—
 - (a) be a medical practitioner;
 - (b) have been so throughout the 5 years prior to appointment; and
 - (c) have such other qualifications, training and experience as may be specified by regulations.
 - (4) A member of HIS may not exercise the functions of—
 - (a) a medical reviewer; or
 - (b) the senior medical reviewer.
 - (5) An employee of HIS (other than a medical reviewer) may not exercise any function of a medical reviewer other than those under section 17.

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- (6) An employee of HIS (other than the senior medical reviewer) may not exercise the functions of the senior medical reviewer (except by virtue of arrangements made under paragraph 11(2C)).
- (7) An appointment as a medical reviewer or the senior medical reviewer does not affect the appointed person's status as employed under paragraph 7(5).]

Committees

- 8 (1) HIS may establish committees for any purpose relating to its functions.
- (2) Subject to section 10Z16, HIS is to determine the composition of its committees.
- (3) HIS may appoint persons who are not members of HIS to be members of a committee.
- (4) A committee of HIS is to comply with any directions given to it by HIS.

Procedure and meetings

- 9 (1) HIS may determine its own procedure and that of its committees, including a quorum for meetings.
- (2) The validity of any proceedings of HIS, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.
- (3) Members of—
 - (a) the Scottish Executive and persons authorised by the Scottish Ministers;
 - (b) Social Care and Social Work Improvement Scotland and persons authorised by it,
 may attend and take part in meetings of HIS or any of its committees, but are not entitled to vote at such meetings.

General powers

- 10 (1) HIS may do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions.
- (2) In particular, HIS may—
 - (a) enter into contracts;
 - (b) with the consent of the Scottish Ministers—
 - (i) borrow money;
 - (ii) acquire and dispose of land;
 - (iii) borrow sums in sterling by way of overdraft for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

Delegation of functions

- 11 (1) HIS may, subject to sub-paragraphs (2) [F4to] (3) authorise—
 - (a) the chief executive;
 - (b) any other employee;
 - (c) any of its committees,

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to exercise such of its functions, and to such extent, as it may determine.

- (2) HIS may not authorise any of the following functions to be exercised by any other person—
- (a) the approval of annual reports and accounts;
 - (b) the approval of any budget or other financial plan.

[HIS may authorise an employee to carry out the functions of a medical reviewer ^{F5}(2A) under section 17.

(2B) Any other function conferred on a medical reviewer or the senior medical reviewer may not, subject to sub-paragraph (2C), be delegated by HIS.

(2C) The senior medical reviewer may, with the approval of HIS, make arrangements for the functions of the senior medical reviewer to be carried out by a medical reviewer where the senior medical reviewer is absent or otherwise unavailable.]

- (3) Sub-paragraph (1) does not affect the responsibility of HIS for the exercise of its functions.

Textual Amendments

- F4** Word in sch. 5A para. 11(1) substituted (8.6.2013) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [sch. 1 para. 3\(a\)](#); S.S.I. 2013/159, art. 2, sch.
- F5** Sch. 5A para. 11(2A)-(2C) inserted (8.6.2013) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [sch. 1 para. 3\(b\)](#); S.S.I. 2013/159, art. 2, sch.

Location of office

- 12 HIS's determination of the location of its office premises is subject to the approval of the Scottish Ministers.

Accounts

- 13 (1) HIS must—
- (a) keep proper accounts and accounting records;
 - (b) prepare in respect of each financial year a statement of accounts; and
 - (c) send a copy of the statement to the Scottish Ministers,
- and must do so in accordance with any directions the Scottish Ministers may give.
- (2) HIS must send the statement of accounts to the Auditor General for Scotland for auditing.

Reports

- 14 (1) As soon as practicable after the end of each financial year, HIS must prepare a report which is—
- (a) to provide information on the discharge of HIS's functions during that year; and
 - (b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.

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(2) HIS must—

- (a) publish the report;
- (b) lay a copy of the report before the Scottish Parliament;
- (c) send a copy of the report to the Scottish Ministers.

(3) HIS may publish such other reports and information on matters relevant to the functions of HIS as it considers appropriate.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10C(3A) inserted by [2019 asp 6 s. 6\(3\)\(a\)](#)
- s. 10I(1)(b)(c) and word inserted by [2019 asp 6 s. 6\(4\)\(b\)](#)
- s. 16A(5) added by [2002 asp 5 Sch. 2 para. 2\(2\)](#)
- s. 19A(2)(b) words repealed by [2003 asp 4 sch. 4 para. 5\(4\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(a) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(b) substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(c) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(e) word substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 70A inserted by [1997 c. 46 s. 26\(2\)](#)
- s. 70A(2) word substituted by [2005 asp 13 s. 14\(3\)](#)
- s. 85AB(7) inserted by [2005 asp 13 sch. 2 para. 2\(18\)\(b\)](#)
- Sch. 11 para. 2(1A) inserted by [2005 asp 13 s. 14\(6\)\(a\)](#)