

Changes to legislation: Public Services Reform (Scotland) Act 2010, Cross Heading: National Health Service (Scotland) Act 1978 (c. 29) is up to date with all changes known to be in force on or before 01 November 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 17
HEALTHCARE IMPROVEMENT SCOTLAND: MODIFICATIONS OF ENACTMENTS

National Health Service (Scotland) Act 1978 (c. 29)

1 The National Health Service (Scotland) Act 1978 is amended as follows.

Commencement Information

- I1** Sch. 17 para. 1 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I2 Sch. 17 para. 1 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

2 In section 2A (duty of Health Boards and others to promote health improvement)—
(a) in subsection (1) after “of”, where it second occurs, insert “ HIS and ”,
(b) in subsection (2) for “or the Agency” substitute “ the Agency or HIS ”,
(c) in subsection (3) for “or the Agency” substitute “ , the Agency or HIS ”.

Commencement Information

- I3** Sch. 17 para. 2 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I4 Sch. 17 para. 2 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

3 In the title to that section, for “and the Agency” substitute “ , the Agency and HIS ”.

Commencement Information

- I5** Sch. 17 para. 3 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I6 Sch. 17 para. 3 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

4 In section 2D (equal opportunities), in subsection (1), for “and the Agency” substitute “ , the Agency and (as respects its health service functions only) HIS ”.

Commencement Information

- I7** Sch. 17 para. 4 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I8 Sch. 17 para. 4 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

5 In section 13 (co-operation between Health Boards and other authorities), after “Boards,” insert “ HIS (as respects its health service functions only), ”.

Commencement Information

- I9** Sch. 17 para. 5 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I10 Sch. 17 para. 5 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

6 In section 13A (co-operation in planning of services for disabled persons, the elderly and others), in subsection (1), after “section” where it third occurs insert “ (including HIS) ”.

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Commencement Information

- I11** Sch. 17 para. 6 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I12 Sch. 17 para. 6 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 7 In section 15 (supply of goods and services to local authorities, etc.)—
- (a) after subsection (1), insert—
- “(1A) Paragraphs (b) to (e) of subsection (1) apply to HIS (in respect of the exercise of its health service functions only) as they apply to a Health Board.”,
- (b) in subsection (2), after “subsection (1)”, insert “ (including paragraph (b) as applied by subsection (1A)) ”.

Commencement Information

- I13** Sch. 17 para. 7 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I14 Sch. 17 para. 7 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 8 In section 17A (NHS contracts), after subsection (2)(b) insert—
- “(ba) HIS;”.

Commencement Information

- I15** Sch. 17 para. 8 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I16 Sch. 17 para. 8 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 9 In section 77 (default powers), in subsection (1)—
- (a) the word “or” immediately following paragraph (a) is repealed,
- (b) after paragraph (c) insert “; or
- (d) HIS;”.

Commencement Information

- I17** Sch. 17 para. 9 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I18 Sch. 17 para. 9 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 10 In section 78A (powers in case of service failure)—
- (a) in subsection (4)—
- (i) the word “or” immediately following paragraph (b) is repealed,
- (ii) after paragraph (c) insert “; or
- (d) HIS;”,
- (b) in subsection (5)(a), for “or the Agency” substitute “, the Agency or HIS.”.

Commencement Information

- I19** Sch. 17 para. 10 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I20 Sch. 17 para. 10 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

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- 11 In section 79 (purchase of land and moveable property), in subsection (3), for “or the Agency” substitute “, the Agency or (in connection with the exercise of its health service functions only) HIS”.

Commencement Information

- I21** Sch. 17 para. 11 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I22 Sch. 17 para. 11 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 12 In section 83 (power of Health Boards and local health councils to hold property on trust)—
- (a) in subsection (1), after “Board” insert “, and HIS, ”,
- (b) after that subsection insert—
- “(1ZA) Any reference in subsection (1) to a function of HIS is to be construed as a reference to that body's health service functions only.”.

Commencement Information

- I23** Sch. 17 para. 12 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I24 Sch. 17 para. 12 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 13 In section 84 (power of trustees to make payments to Health Boards)—
- (a) in subsection (1)—
- (i) after “Board”, where it second occurs, insert “ or (in connection with the exercise of its health service functions only) by HIS ”,
- (ii) after “concerned” insert “ or, as the case may be, to HIS ”,
- (b) in subsection (3), after “Board” insert “ or to HIS ”.

Commencement Information

- I25** Sch. 17 para. 13 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I26 Sch. 17 para. 13 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

- 14 In section 84A (power to raise money, etc. by appeals, collections, etc.)—
- (a) in subsection (1), after “Board” insert “ or (in connection with the exercise of its health service functions only) HIS ”,
- (b) in subsection (3), after “power” insert “ or, as the case may be, by or for the benefit of HIS, ”,
- (c) after subsection (4) insert—
- “(4A) Subsection (4) applies (subject to the subsections mentioned there) to HIS in respect of property given in pursuance of this section as it applies to a Health Board in respect of such property given at the instance of the Health Board.”,
- (d) in subsection (5)—
- (i) after “Board”, where it first occurs, insert “ or by HIS ”,
- (ii) at the end insert “ or, as the case may be, of HIS as HIS thinks fit. ”,
- (e) in subsection (6)—

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- (i) after “Board”, where it first occurs, insert “ or by HIS ”,
- (ii) in paragraph (a) after “Board” insert “ or, as the case may be, HIS ”,
- (iii) in paragraph (b) after “Board”, where it first occurs, insert “ or by HIS ”,
- (iv) at the end insert “ or, as the case may be, any of the health service functions of HIS as HIS thinks fit. ”,
- (f) in subsection (7), after “Board” insert “ or, as the case may be, HIS ”.

Commencement Information

- I27** Sch. 17 para. 14 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
I28 Sch. 17 para. 14 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

- 15 In section 85AA (means of meeting expenditure of Health Boards out of public funds)—
- (a) in subsection (3)—
 - (i) after “Board”, where it first occurs, insert “ and to HIS ”,
 - (ii) after “Board”, where it second occurs, insert “ or, as the case may be, HIS ”,
 - (b) in subsection (4)(a) after “functions” insert “ or, as the case may be, by HIS of its health service functions, ”,
 - (c) in subsection (6) after “Board” insert “ or to HIS ”,
 - (d) in subsection (8)—
 - (i) after “Board”, where it first occurs, insert “ or to HIS ”,
 - (ii) after “subsection” insert “ and HIS, when directions are so given to it, ”.

Commencement Information

- I29** Sch. 17 para. 15 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
I30 Sch. 17 para. 15 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

- 16 In section 85 (expenses of certain bodies)—
- (a) in subsection (1), after paragraph (e) insert—
 - “(ea) HIS;”,
 - (b) after that subsection insert—
 - “(1A) The reference in subsection (1) to the functions of HIS is to be construed as a reference to that body's health service functions only.”.

Commencement Information

- I31** Sch. 17 para. 16 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
I32 Sch. 17 para. 16 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

- 17 In section 85A (financial duties of bodies referred to in section 85)—
- (a) after subsection (1) insert—

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- “(1A) References to “functions” in subsection (1) are, in the application of that subsection to HIS, to be construed as references to HIS’s health service functions only.”,
(b) in subsection (4)(a), after “Board” insert “ , HIS ”.

Commencement Information

- I33** Sch. 17 para. 17 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
I34 Sch. 17 para. 17 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

- 18 In section 85B (schemes for meeting losses and liabilities etc. of certain health service bodies)—
(a) in subsection (2), after paragraph (e) insert—
“(ea) HIS;”,
(b) after that subsection insert—
“(2A) The reference—
(a) in paragraph (a) of subsection (1) to property of HIS is to be construed as a reference to property held by HIS in connection with the exercise of its health service functions;
(b) in paragraph (b) of that subsection to the functions of HIS is to be construed as a reference to the health service functions of that body.”,
(c) in subsection (3)(a), after “Agency” insert “ HIS ”,
(d) in subsection (4)(b), after “Agency” insert “ , HIS ”.

Commencement Information

- I35** Sch. 17 para. 18 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
I36 Sch. 17 para. 18 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

- 19 In section 86 (accounts of Health Boards and the Agency)—
(a) in subsection (1)—
(i) after paragraph (b) insert—
“(ba) HIS;”,
(ii) after “them” insert “ (in the case of HIS, in connection with the exercise of that body’s health service functions only) ”,
(b) in each of subsections (3) and (4), for “and (b)” substitute “ , (b) and (ba) ”.

Commencement Information

- I37** Sch. 17 para. 19 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
I38 Sch. 17 para. 19 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

- 20 In section 87 (regulation of financial arrangements of Health Boards)—
(a) in subsection (1), after “Agency” insert “ HIS ”,
(b) after subsection (3) add—
“(4) In relation to HIS, the references—

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- (a) in subsection (1) to payments;
- (b) in subsection (2) to arrangements and affairs; and
- (c) in subsection (3) to affairs,

are to be construed as references to payments, arrangements and affairs for or in connection with the exercise by HIS of its health service functions only.”.

Commencement Information

- I39** Sch. 17 para. 20 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)
I40 Sch. 17 para. 20 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

- 21 In section 105 (orders, regulations and directions), in subsection (3)—
- (a) after “under”, where it first occurs, insert “ section 10O, section 10Z7 or ”,
 - (b) after “under”, where it second occurs, insert “ section 10G, 10Z16(3) or ”.

Commencement Information

- I41** Sch. 17 para. 21 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)
I42 Sch. 17 para. 21 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

- 22 In section 108 (interpretation and construction), after the definition of “health service hospital” insert—
- ““HIS” has the meaning indicated in section 10A;”.

Commencement Information

- I43** Sch. 17 para. 22 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)
I44 Sch. 17 para. 22 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- Pt. 5 Ch. 3A inserted by [2019 asp 6 s. 12\(2\)](#)