

SCHEDULE 17

(introduced by section 110(2))

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.
- 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”.
- 3 In the title to that section, for “and the Agency” substitute “, the Agency and HIS”.
- 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”.
- 5 In section 13 (co-operation between Health Boards and other authorities), after “Boards,” insert “HIS (as respects its health service functions only),”.
- 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)”.
- 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))”.
- 8 In section 17A (NHS contracts), after subsection (2)(b) insert—

“(ba) HIS;”.
- 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 - (a) the word “or” immediately following paragraph (a) is repealed,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;”.
- 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 - (i) the word “or” immediately following paragraph (b) is repealed,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.”.
- 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”.
- 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;”,

Status: This is the original version (as it was originally enacted).

- (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.”.
- 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”.
- 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)—
- (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”.
- 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”.
- 16 In section 85 (expenses of certain bodies)—

Status: This is the original version (as it was originally enacted).

- (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.”.
- 17 In section 85A (financial duties of bodies referred to in section 85)—
 - (a) after subsection (1) insert—
 - “(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”.
- 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”.
- 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)”.
- 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—
 - (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.”.
- 21 In section 105 (orders, regulations and directions), in subsection (3)—

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

National Health Service and Community Care Act 1990 (c. 19)

- 23 In the National Health Service and Community Care Act 1990, in subsection (7) of section 60 (removal of Crown immunity), after paragraph (b) insert—
- “(ba) Healthcare Improvement Scotland established under section 10A of that Act;”.

Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)

- 24 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved public bodies)—
- (a) the entry relating to NHS Quality Improvement Scotland is repealed,
 - (b) at an appropriate place, in alphabetical order, insert—
 - “Healthcare Improvement Scotland”.

Scottish Public Services Ombudsman Act 2002 (asp 11)

- 25 In Part 1 of schedule 2 to the Scottish Public Services Ombudsman Act 2002 (listed authorities), after paragraph 4(f) add—
- “(g) Healthcare Improvement Scotland”.

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

- 26 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (specified authorities), under the heading “National Health Service bodies”, at the appropriate place in alphabetical order, insert—
- “Healthcare Improvement Scotland”.

Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)

- 27 The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- 28 In section 7 (duty to bring matters generally to the attention of Scottish Ministers and others), after paragraph (e) insert—
- “(ea) Healthcare Improvement Scotland;”.
- 29 In section 8(3) (duty to bring specific matters to the attention of Scottish Ministers and others etc), after paragraph (j) insert—
- “(ja) Healthcare Improvement Scotland;”.
- 30 In section 9(2) (duty to give advice), after paragraph (d) insert—
- “(da) Healthcare Improvement Scotland;”.
- 31 In section 17(2) (duties of Scottish Ministers, local authorities and others as respects Commission), after paragraph (h) insert—
- “(ha) Healthcare Improvement Scotland;”.

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- 32 In section 34(3) (inquiries under section 33: co-operation), after paragraph (b) insert—
“(ba) Healthcare Improvement Scotland;”.

Smoking, Health and Social Care (Scotland) Act 2005 (asp 13)

- 33 In section 30 of the Smoking, Health and Social Care (Scotland) Act 2005 (implementation of certain decisions under the Regulation of Care (Scotland) Act 2001), subsection (2) is repealed.

Human Tissue (Scotland) Act 2006 (asp 4)

- 34 In section 13 of the Human Tissue (Scotland) Act 2006 (preservation for transplantation), in subsection (5), in the definition of registered independent health care services, for the words from “section 2(5)” to the end of the definition substitute “section 10E of the National Health Service (Scotland) Act 1978 (c. 29) registered under section 10P of that Act;”.

Adult Support and Protection (Scotland) Act 2007 (asp 10)

- 35 In the Adult Support and Protection (Scotland) Act 2007—
(a) in section 5 (co-operation), in subsection (1), after paragraph (b) insert—
“(ba) Healthcare Improvement Scotland;”,
(b) in section 42 (Adult Protection Committees), in subsection (3), after paragraph (b) insert—
“(ba) Healthcare Improvement Scotland;”.

Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)

- 36 In the Protection of Vulnerable Groups (Scotland) Act 2007—
(a) in section 8 (provision of prescribed information to the Scottish Ministers by certain persons)—
(i) in subsection (2), after the entry relating to the General Teaching Council for Scotland in the list of persons to whom the section applies insert—
“Healthcare Improvement Scotland”,
(ii) in subsection (3), after paragraph (a) insert—
“(aa) in relation to Healthcare Improvement Scotland, such functions as are conferred on it by virtue of the National Health Service (Scotland) Act 1978 (c. 29) and any other enactment;”,
(b) in section 19 (information held by public bodies etc.), in subsection (3), after the entry relating to Health Boards and Special Health Boards in the list of persons who may be required to provide information under subsection (1) (b) of that section insert—
“Healthcare Improvement Scotland”,
(c) in section 30 (notice of listing), in subsection (7), after the entry relating to the General Teaching Council for Scotland in the list of persons who are “relevant regulatory bodies” insert—
“Healthcare Improvement Scotland”,

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- (d) in section 94 (meaning of “protected adult”), in subsection (3), after paragraph (b) add—
 - “(c) paragraph (b)(iii) to (vi) of that subsection have the same meanings as in section 10F of the National Health Service (Scotland) Act 1978 (c. 29).”
- (e) in schedule 2 (regulated work with children), in paragraph 10, for “the 2001 Act” substitute “section 10F of the National Health Service (Scotland) Act 1978 (c. 29)”,
- (f) in schedule 3 (regulated work with adults), in paragraph 7—
 - (i) after “of”, where it second occurs, insert “section 10J or 10M of the National Health Service (Scotland) Act 1978 (c. 29) or”,
 - (ii) the words “; and “independent health care service”” are repealed,
 - (iii) at the end add “; and “independent health care service” has the same meaning as in section 10F of the National Health Service (Scotland) Act 1978.”
- (g) in the heading to that paragraph of schedule 3, after the word “Scotland” (inserted by schedule 14), add “and Healthcare Improvement Scotland”.

Public Health etc. (Scotland) Act 2008 (asp 5)

- 37 In the Public Health etc. (Scotland) Act 2008—
- (a) in section 6 (duty of health boards and local authorities to co-operate with certain persons), in subsection (2), after paragraph (d) insert—
 - “(da) Healthcare Improvement Scotland;”
 - (b) in section 117 (disclosure of information), in subsection (8), after paragraph (d) insert—
 - “(da) Healthcare Improvement Scotland;”