

## SCHEDULE MINOR AND CONSEQUENTIAL MODIFICATIONS

### PART 2

#### OTHER ENACTMENTS

##### *Patient Rights (Scotland) Act 2011*

- 4 (1) The Patient Rights (Scotland) Act 2011 is amended as follows.
- (2) In section 3 (patient rights)—
- (a) in subsection (2)(c), after “wellbeing” insert “(including, where the health care being provided includes a service provided under the 2021 Act, decisions mentioned in subsection (3A))”,
  - (b) after subsection (3), insert—
    - “(3A) The decisions referred to in subsection (2)(c) are—
      - (a) a decision about whether to undergo a forensic medical examination (and whether any such examination should take place without the incident in connection with which the examination would be carried out having been reported to a constable),
      - (b) a decision about whether to make a request under section 8(1)(a) of the 2021 Act.”.
- (3) In section 18 (patient advice and support service), after subsection (6), insert—
- “(7) In this section and section 19, references to the health service include reference to the services provided under the 2021 Act.”.
- (4) In section 23(1) (interpretation)—
- (a) after the definition of “the 1978 Act”, insert—
    - ““the 2021 Act” means the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021;”,
  - (b) in the definition of “health care”, after “health service” insert “or under the 2021 Act”,
  - (c) in the definition of “health service function”—
    - (i) the words from “any” to the end become paragraph (a),
    - (ii) after that paragraph, insert—
      - “(b) the functions conferred by the 2021 Act;”,
  - (d) after the definition of “health service function”, insert—
    - ““patient” includes (except in sections 8 to 13) a person in relation to whom a Health Board is exercising the functions conferred by the 2021 Act;”.
- (5) In the schedule (health care principles)—
- (a) in paragraph 7—
    - (i) the existing words become sub-paragraph (1),
    - (ii) after that sub-paragraph, insert—

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*Status: This is the original version (as it was originally enacted).*

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- “(2) Sub-paragraph (1) does not apply in relation to the exercise of functions conferred by the 2021 Act.”,
- (b) in paragraph 12, after “wellbeing” insert “(including, where the health care being provided includes a service provided under the 2021 Act, decisions mentioned in section 3(3A))”,
  - (c) in paragraph 15, after “wellbeing” insert “or, where the health care being provided includes a service provided under the 2021 Act, about matters relevant to the provision of that service”.

*Victims and Witnesses (Scotland) Act 2014*

- 5 (1) The Victims and Witnesses (Scotland) Act 2014 is amended as follows.
- (2) Before section 9 insert—

**“8A Certain medical examinations: additional information to be provided**

- (1) Subsection (2) applies where a person is, or is to be, referred to a health board for a forensic medical examination as mentioned in section 2(2)(a)(i) of the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021.
- (2) The chief constable of the Police Service of Scotland must ensure that, in addition to a constable informing the person of the matters mentioned in sections 3C(1) and 3D(1), a constable informs the person that—
  - (a) the person may request from the health board—
    - (i) a copy of the Victims’ Code for Scotland, and
    - (ii) information relating to the rights of victims,
  - (b) the person may request the health board to refer the person to providers of victim support services, and
  - (c) the person may contact providers of victim support services directly without being referred as mentioned in paragraph (b).
- (3) In this section—
  - “health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
  - “victim support services” has the meaning given by section 3D(5).”
- (3) In section 9 (requests as to medical examiner in relation to certain medical examinations)—
  - (a) for subsection (1), substitute—
    - “(1) This section applies where a forensic medical examination is to be carried out by virtue of section 2 of the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021.”,
  - (b) in subsection (2)—
    - (i) the words “in relation to the complaint” are repealed,
    - (ii) for the words from “in pursuance of” to “the person”, where it second occurs, substitute “, the person must be given”,
    - (iii) for the word “gender” substitute “sex”,
  - (c) in subsection (3)—

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- (i) the words “the constable must ensure that” are repealed,
  - (ii) after “is”, where it second occurs, insert “to be”.
- (4) In section 29A(1) (exercise of functions where victim is a child), after “6” insert “, 8A”.