

SCHEDULE

(introduced by section 16)

MINOR AND CONSEQUENTIAL MODIFICATIONS

PART 1

THE 1978 ACT AND INSTRUMENTS MADE UNDER IT

The 1978 Act

- 1 (1) The 1978 Act is amended as follows.
- (2) In section 2 (health boards: regulations and directions)—
 - (a) in subsection (5), after “this Act” insert “or by or under the 2021 Act”,
 - (b) in subsection (6), after “functions” insert “(other than functions conferred on them by or under the 2021 Act)”.
- (3) In section 2B(1) (duty to encourage public involvement), after “responsible” insert “and services which it has the function of providing to individuals under the 2021 Act”.
- (4) In section 10H (standards and outcomes)—
 - (a) in subsection (1)(a), after “health service” insert “or under the 2021 Act”,
 - (b) in subsection (4), after “health service” insert “or under the 2021 Act”.
- (5) In section 17A(1) (NHS contracts), after “enactment” insert “(including the 2021 Act)”.
- (6) In section 36(1) (accommodation and services), in paragraph (b), after “under this Act” insert “or under the 2021 Act”.
- (7) In section 76(1) (inquiries), after “this Act” insert “or under the 2021 Act”.
- (8) In section 77(1) (default powers), after “this Act” insert “or by or under the 2021 Act”.
- (9) In section 78 (emergency powers)—
 - (a) after “this Act”, where it first occurs, insert “or under the 2021 Act”,
 - (b) after “this Act”, where it second occurs, insert “, or by or under the 2021 Act,”.
- (10) In section 78A (powers in case of service failures)—
 - (a) in subsection (1)(a), after “this Act” insert “, or under or by virtue of the 2021 Act,”,
 - (b) in subsection (2), after “this Act” insert “or, as the case may be, under or by virtue of the 2021 Act”.
- (11) In section 79 (purchase of land and moveable property)—
 - (a) in subsection (1), after “under this Act”, where it first occurs, insert “or under the 2021 Act”,
 - (b) in subsection (1A), after “under this Act” insert “or under the 2021 Act”.
- (12) In section 108(1) (interpretation), before the definition of “the Agency” insert—

Status: This is the original version (as it was originally enacted).

““the 2021 Act” means the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021;”.

The Functions of Health Boards (Scotland) Order 1991

- 2 (1) The [Functions of Health Boards \(Scotland\) Order 1991 \(S.I. 1991/570\)](#) is amended as follows.
- (2) In article 1(2) (interpretation), after the definition of “the Act” insert—
 ““the 2021 Act” means the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021;”.
- (3) In article 2 (persons for whose health care each Health Board is responsible)—
- (a) in paragraph (1), after sub-paragraph (b) (and before “and” following that sub-paragraph and preceding sub-paragraph (c)) insert—
 “(ba) in so far as the health care consists of providing services (other than the services mentioned in sub-paragraph (b) (i) in conjunction with provision of the service mentioned in section 1(1)(a) of the 2021 Act, of persons (not falling within sub-paragraph (a)(i) or (ii)) to whom the Health Board is providing that service, regardless of the person’s place of ordinary residence;”;
- (b) after paragraph (3), insert—
 “(3A) For the purposes of paragraph (1)(ba), services are provided in conjunction with provision of the service mentioned in section 1(1) (a) of the 2021 Act if they are provided—
 (a) to a person at the same time as that service is provided to the person, or
 (b) to a person to whom that service has been provided on the person returning, at the request or on the recommendation of the health board, for follow-up care to care provided as mentioned in sub-paragraph (a).”.
- (4) In article 3 (duty of health boards to exercise functions)—
- (a) in paragraph (1), for the words “those persons for whose health care each Health Board is responsible” substitute “the persons mentioned in paragraph (1A)”,
- (b) after paragraph (1), insert—
 “(1A) The persons referred to in paragraph (1) are—
 (a) in so far as a function specified in article 4 relates to functions conferred on the Health Board by the 2021 Act, those persons in relation to whom the functions conferred by that Act are exercisable by each Health Board;
 (b) otherwise, those persons for whose health care each Health Board is responsible.”.
- (5) In article 4(c) (duty of Scottish Ministers under section 36 of the 1978 Act to be exercised by health boards), after “under the Act” insert “or under the 2021 Act”.

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

*The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme)
(Scotland) Regulations 2000*

- 3 (1) The [National Health Service \(Clinical Negligence and Other Risks Indemnity Scheme\) \(Scotland\) Regulations 2000 \(S.S.I. 2000/54\)](#) are amended as follows.
- (2) In regulation 1(2) (interpretation), in the definition of “relevant function”, after subparagraph (i) of paragraph (a) insert—
- “(ia) a function conferred by the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021”.

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—

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

““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—
 - “(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—

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

- “(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)—
- (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”.