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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2011 No.**

**The Public Services Reform (Joint Inspections) (Scotland) Regulations 2011**

**Interviews and examinations**

7. An authorised person may conduct any interview or examination with regard to the following matters if authorised person considers it necessary or expedient for the purposes of carrying out an inspection:—

- (a) the provision, organisation or co-ordination of the service;
- (b) the premises from which the service is provided; and
- (c) the treatment of service users.

(2) Without prejudice to the generality of paragraph (1), an authorised person may in private interview—

- (a) the manager of the service or the premises;
- (b) any person involved in the provision, co-ordination or organisation of the service;
- (c) any person otherwise connected with the provision of the service;
- (d) any person employed at the premises;
- (e) any service user who consents to be interviewed; or
- (f) any carer or relative of a service user who consents to be interviewed.

(3) An interview is in private for the purposes of paragraph (2) even if conducted in the presence of—

- (a) a guardian, continuing attorney or welfare attorney of the person interviewed; or
- (b) some other person provided that the person interviewed so wishes and the authorised person does not object.

(4) If the authorised person is a registered medical practitioner or a registered nurse and has reasonable cause to believe that a service user is not receiving proper care, the authorised person may in private and only with the service user's consent, conduct an examination of the service user.

(5) If the authorised person is a registered dentist and has reasonable cause to believe that a service user is not receiving proper dental care, the authorised person may in private and only with the service user's consent, conduct an examination of the service user.

(6) An examination is in private for the purposes of paragraphs (4) and (5) of this regulation even if conducted in the presence of a third party provided that—

- (a) the person examined so wishes and the authorised person does not object; or
- (b) the authorised person so wishes and the person examined consents.

(7) In this regulation—

“continuing attorney” has the same meaning as in section 15 (creation of continuing power of attorney) of the Adults with Incapacity (Scotland) Act 2000<sup>(1)</sup>;

“guardian” means a guardian appointed under section 58 (disposal of application) of the Adults with Incapacity (Scotland) Act 2000;

“registered dentist” means a person registered in the register maintained under section 14 (the dentists register and the registrar) of the Dentists Act 1984<sup>(2)</sup>;

“registered nurse” means an individual registered in the register maintained under article 5 (establishment and maintenance of the register) of the Nurses and Midwives Order 2001<sup>(3)</sup> by virtue of qualifications in nursing;

“welfare attorney” has the same meaning as in section 16 (creation and exercise of welfare power of attorney) of the Adults with Incapacity (Scotland) Act 2000.

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(1) 2000 asp 4.

(2) 1984 c.24.

(3) S.I. 2002/253.