

DRAFT SCOTTISH STATUTORY INSTRUMENTS

**2024 No.**

**The National Health Service (Scotland) Act 1978  
(Independent Health Care) Modification Order 2024**

**Modification of the National Health Service (Scotland) Act 1978**

- 3.—(1) Section 10F(1) (meaning of “independent health care services”) is modified as follows.
- (2) In subsection (2)—
- (a) in the definition of “independent clinic”, after “registered midwife” insert “, registered pharmacist, registered pharmacy technician”, and
- (b) for the definition of “independent medical agency” substitute—
- ““independent medical agency” means, subject to subsection (2D), an undertaking which consists of or includes the provision of services, other than in pursuance of this Act, by—
- (a) a medical practitioner;
- (b) a dental practitioner;
- (c) a dental care professional;
- (d) a registered nurse;
- (e) a registered midwife;
- (f) a registered pharmacist; or
- (g) a registered pharmacy technician;”.
- (3) In subsection (2A)—
- (a) at the end of paragraph (f) omit “or”, and
- (b) after paragraph (g) insert—
- “(h) provides pharmaceutical services in accordance with arrangements made pursuant to section 27 of this Act(2); or
- (i) is a registered pharmacy within the meaning of section 74 of the Medicines Act 1968(3).”.
- (4) For subsection (2B) substitute—
- “(2B) In the definitions of “independent clinic” and “independent medical agency” in subsection (2)—

- (1) Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 and amended by [S.S.I. 2016/148](#) and [S.S.I. 2017/67](#).
- (2) Section 27 was amended by section 20(2) of the Health Services Act 1980 (c. 53), section 3(3) of the National Health Service (Amendment) Act 1986 (c. 66), section 66(1) and paragraph 19(7) of schedule 9 of the National Health Service and Community Care Act 1990 (c. 19), section 3 of the Medicinal Products: Prescription by Nurses etc. Act 1992 (c. 28), paragraph 44 of schedule 2 of the National Health Service (Primary Care) Act 1997 (c. 46), section 44(2) and (3) of the Health and Social Care Act 2001 (c. 15), sections 213(7) and 220(2) of the Health and Social Care Act 2012 (c. 7), [S.I. 1987/2202](#), [S.I. 2003/1590](#), [S.I. 2004/1771](#), [S.I. 2005/2011](#), [S.I. 2007/289](#) and [S.I. 2010/231](#), and is to be read with section 17 of the Health and Medicines Act 1988 (c. 49).
- (3) 1968 c. 67. Section 74 was amended by paragraph 1 of Part XII of schedule 1 of the Statute Law (Repeals) Act 1993 (c. 50), [S.I. 2010/231](#) and [S.I. 2016/372](#).

- (a) “dental care professional” means a registered dental care professional and has the same meaning as in section 53 of the Dentists Act 1984<sup>(4)</sup> (interpretation); and
  - (b) “registered pharmacy technician” has the same meaning as in article 3 of the Pharmacy Order 2010<sup>(5)</sup> (interpretation).”.
- (5) After subsection (2C) insert—
- “(2D) An undertaking does not fall within the definition of “independent medical agency” in subsection (2) if it—
- (a) is an independent clinic;
  - (b) is a hospital;
  - (c) is a registered pharmacy within the meaning of section 74 of the Medicines Act 1968;
  - (d) is a nurse agency registered with Social Care and Social Work Improvement Scotland by virtue of section 59 of the Public Services Reform (Scotland) Act 2010<sup>(6)</sup>;
  - (e) is provided by an employer and services are provided only to the employees of that employer; or
  - (f) only provides one or both of the following services—
    - (i) first aid in situations requiring medical treatment or medical care;
    - (ii) therapy effected only through the provider of the therapy and the recipient communicating through speech.”.

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<sup>(4)</sup> 1984 c. 24. Section 53 was relevantly amended by S.I. 2005/2011.

<sup>(5)</sup> S.I. 2010/231, relevantly amended by S.I. 2019/593.

<sup>(6)</sup> 2010 asp 8.