

SCHEDULE 2

Article 2

MODIFICATIONS RELATING TO HEALTHCARE IMPROVEMENT SCOTLAND

PART 1

MODIFICATIONS OF PRIMARY LEGISLATION

Social Work (Scotland) Act 1968 (c. 49)

1. For section 13A(2A) of the Social Work (Scotland) Act 1968(1) (residential accommodation with nursing), substitute—

“(2A) In subsection (2)(a) above, “independent health care service” and “private psychiatric hospital” have the same meanings as in section 10F of the National Health Service (Scotland) Act 1978 (c.29).”.

National Health Service (Scotland) Act 1978 (c.29)

2. In section 12I of the National Health Service (Scotland) Act 1978(2) (duty in relation to governance of staff), after “Special Health Board and of” insert “HIS and”.

Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47)

3. In paragraph 9(4) of Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987(3) (patients in homes), for the words from “a” to the end, substitute—

“—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

within the meaning given to those expressions by section 10F(2) of the National Health Service (Scotland) Act 1978 (c.29).”.

Children (Scotland) Act 1995 (c.36)

4. For section 36(3)(c) of the Children (Scotland) Act 1995(4) (welfare of certain children in hospitals and nursing homes etc.), substitute—

- “(c) any person providing—
- (i) an independent hospital;
 - (ii) a private psychiatric hospital;
 - (iii) an independent clinic; or
 - (iv) an independent medical agency,

(1) 1968 c.49; section 13A(2A) was inserted by the 2001 Act, schedule 3, paragraph 4(3).

(2) 1978 c.29. Section 12I was inserted by the National Health Service Reform (Scotland) Act 2004 (asp 7), section 3.

(3) 1987 c.47. Paragraph 9(4) of schedule 1A was amended by S.S.I. 2005/465.

(4) 1995 c.36; section 36(3)(c)(i) was amended by S.S.I. 2005/465.

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within the meaning given to those expressions by section 10F(2) of the National Health Service (Scotland) Act 1978 (c.29); and”.

Adults with Incapacity (Scotland) Act 2000 (asp 4)

5.—(1) The Adults with Incapacity (Scotland) Act 2000(5) is amended as follows.

(2) In section 35 (application of Part 4)—

(a) in subsection (3)(b)(6), after “Public Services Reform (Scotland) Act 2010 (asp 8)” insert “or section 10P(1) of the National Health Service (Scotland) Act 1978, as the case may be”; and

(b) in subsection (6)(7) after paragraph (a) insert—

“(b) the National Health Service (Scotland) Act 1978 (c.29) have the same meanings in that subsection as in that Act.”.

(3) In section 40(1)(a)(8) (supervisory bodies) after paragraph (i) insert—

“(ii) registered under the National Health Service (Scotland) Act 1978, Healthcare Improvement Scotland;”.

(4) After paragraph 1(d) of Schedule 1(9) (managers of an establishment) insert—

“;

(e) in relation to an independent hospital or private psychiatric hospital (as defined in section 10F(2) of the National Health Service (Scotland) Act 1978 (c.29)), the person identified under section 10P(2)(b) of that Act in the application for registration of the service.”.

Community Care and Health (Scotland) Act 2002 (asp 5)

6. In section 22(1) of the Community Care and Health (Scotland) Act 2002(10) (interpretation), in the definition of “NHS body”—

(a) omit the “or” immediately following paragraph (c); and

(b) after paragraph (d) insert—

“or

(e) Healthcare Improvement Scotland, established by section 10A(1) of that Act;”.

Freedom of Information (Scotland) Act 2002 (asp 13)

7. In Part 4 of schedule 1 to the Freedom of Information (Scotland) Act 2002(11) (Scottish public authorities in respect of the National Health Service)—

(a) after paragraph 27 (a health board) insert—

“27A. Healthcare Improvement Scotland.”; and

(b) paragraph 32C (NHS Quality Improvement Scotland)(12) is repealed.

(5) 2000 asp 4.

(6) Section 35(3)(b) was amended by the 2001 Act, schedule 3, paragraph 23(2)(c).

(7) Section 35(6) was inserted by the 2001 Act, schedule 3, paragraph 23(2)(d).

(8) Section 40(1)(a) was amended by the 2001 Act, schedule 3, paragraph 23(3)(a).

(9) Schedule 1 was relevantly amended by the 2001 Act, schedule 3, paragraph 23(6).

(10) 2002 asp 5; section 22 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003, section 28(2)(b).

(11) 2002 asp 13.

(12) Paragraph 32C was inserted by S.S.I. 2008/297.

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

8.—(1) The Mental Health (Care and Treatment) (Scotland) Act 2003(**13**) is amended as follows.

(2) After section 3(3)(f) (equal opportunities), insert—

“(fa) (as respects its health service functions only) Healthcare Improvement Scotland;”.

(3) After section 281(5)(l) (correspondence of certain persons detained in hospital), insert—

“(1a) Healthcare Improvement Scotland;”.

(4) In section 298 (removal to a place of safety from a public place)—

(a) in subsection (5)(a)(ii), after “care service” insert “ or, independent health care service”; and

(b) in subsection (6), after the definition of “care service”, insert—

““independent health care service” means any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

as each of those terms is defined in section 10F(2) of the National Health Service (Scotland) Act 1978 (c.29);”.

(5) In section 329(1)(**14**) (interpretation)—

(a) for the definition of “independent health care service” substitute—

““independent health care service” means any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

as each of those terms is defined in section 10F(2) of the [National Health Service \(Scotland\) Act 1978 \(c.29\)](#); and”; and

(b) in the definition of “managers”, in paragraph (c), for the words from “Part 1” to the end of that paragraph, substitute “section 10Q(1) of the National Health Service (Scotland) Act 1978 (c.29), the person identified under section 10P(2)(b) of that Act in the application for registration”.

Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)

9. In the Antisocial Behaviour etc. (Scotland) Act 2004(**15**)—

(a) in section 81(3)(b) (interpretation of Part 7)—

- (i) sub-paragraph (iii) is repealed;
- (ii) the “or” immediately following sub-paragraph (iii) is repealed; and
- (iii) after sub-paragraph (iv) insert—

(13) 2003 asp 13.

(14) Section 329(1) was amended by [S.S.I. 2005/465](#).

(15) 2004 asp 8.

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- “(v) an independent hospital (as defined in subsection (2) of section 10F of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#));
 - (vi) a private psychiatric hospital (as defined in that section);
 - (vii) an independent clinic (as defined in that section); or
 - (viii) an independent medical agency (as defined in that section);”;
- (b) in section 83(6)(a) (application for registration)—
- (i) sub-paragraph (iii) is repealed;
 - (ii) the “or” immediately following sub-paragraph (iii) is repealed; and
 - (iii) after sub-paragraph (iv) insert—
- “(v) an independent hospital (as defined in subsection (2) of section 10F of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#));
 - (vi) a private psychiatric hospital (as defined in that section);
 - (vii) an independent clinic (as defined in that section); or
 - (viii) an independent medical agency (as defined in that section);”.

Housing (Scotland) Act 2006 (asp 1)

10. In section 126(1)(b) of the Housing (Scotland) Act 2006(**16**) (houses in multiple occupation exempt from licensing requirement), after “Public Services Reform (Scotland) Act 2010” insert “or, as the case may be, under section 10Q(1) of the National Health Service (Scotland) Act [1978 \(c.29\)](#)”.

Sexual Offences (Scotland) Act 2009 (asp 9)

11. In section 44 of the Sexual Offences (Scotland) Act 2009(**17**) (interpretation of section 43), for the definition of “independent health care service” substitute—

““independent health care service” means any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

as each of those terms is defined in section 10F(2) of the National Health Service (Scotland) Act [1978 \(c.29\)](#),”.

PART 2

MODIFICATIONS OF SUBORDINATE LEGISLATION

Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1988

12. In regulation 2 of the Abolition of Domestic Rates (Domestic and Part Residential Subjects) (Scotland) Regulations 1988(**18**) (interpretation), in the definition of “private hospital” for the words from “a” to the end, substitute—

(16) [2006 asp 1](#).

(17) [2009 asp 9](#).

(18) [S.I. 1988/1477](#); which was relevantly amended by [S.S.I. 2005/445](#).

“—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

within the meaning given to those expressions by section 10F(2) of the National Health Service (Scotland) Act 1978;”.

Common Services Agency (Membership and Procedure) Regulations 1991

13. In the Common Services Agency (Membership and Procedure) Regulations 1991**(19)**—

- (a) in regulation 1(2) (interpretation) after paragraph (c) insert—
 - “(ca) “HIS” means Healthcare Improvement Scotland established under section 10A of the Act;”;
- (b) in regulation 2(3) (remuneration of membership) after “Board” insert “, HIS”;
- (c) in regulation 3 (resignation and removal of members)—
 - (i) in paragraph (3)(a) after “Agency” insert “or HIS”; and
 - (ii) in paragraph (4) after “Agency,” insert “of HIS”; and
- (d) in regulation 4(1)(e) (disqualification) after “Agency” insert “, under HIS”.

Functions of Health Boards (Scotland) Order 1991

14. In article 5(4) of the Functions of Health Boards (Scotland) Order 1991**(20)** (qualifications to the exercise of functions by Health Boards)—

- (a) omit the “or” immediately following paragraph (c);
- (b) after paragraph (d) insert—
 - “; or
 - (e) HIS.”.

National Health Service Superannuation Scheme (Scotland) Regulations 1995

15. In regulation A2(4) of the National Health Service Superannuation Scheme (Scotland) Regulations 1995**(21)** (interpretation) in the definition of “employing authority”—

- (a) after “Special Health Board” insert “, Healthcare Improvement Scotland”; and
- (b) for “section 2 and section 10” substitute “sections 2, 10 and 10A”.

Fees in the Registers of Scotland Order 1995

16. In the Fees in the Register of Scotland Order 1995**(22)**—

- (a) in article 2(d) (interpretation), after paragraph (d) insert—

(19) S.I. 1991/564; which was relevantly amended by S.S.I. 2005/550.

(20) S.I. 1991/570; to which there are amendments not relevant to these Regulations.

(21) S.I. 1995/365. Regulation 2(4) of Part A was relevantly amended by S.S.I. 2008/92, 2009/19 and 2010/22.

(22) S.I. 1995/1945.

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

“(da) “Healthcare Improvement Scotland” means the body established by section 10A of the National Health Service (Scotland) Act 1978;” and

(b) in Schedule 1 (table of fees in the Registers of Scotland)—

(i) in paragraph A(10) of Part I(23) (fees to register interests in land other than heritable securities in the Land Register of Scotland) after “Special Health Board” insert “, Healthcare Improvement Scotland”; and

(ii) after paragraph A(7)(c) of Part II (fees for recording a conveyance in the General Register of Sasines) insert—

“(d) on behalf of Healthcare Improvement Scotland, completing title as transferee in terms of an order under section 109 of the Public Services Reform (Scotland) Act 2010.”.

National Health Service (Scotland) (Injury Benefits) Regulations 1998

17. In regulation 2(1) of the National Health Service (Scotland) (Injury Benefits) Regulations 1998(24) (interpretation), in the definition of “employing authority” after paragraph (a) insert—

“(aa) Healthcare Improvement Scotland established by section 10A of the National Health Service (Scotland) Act 1978;”.

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

18. In regulation 3 of the National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000(25) (members of the Clinical Negligence and Other Risks Indemnity Scheme)—

(a) omit the “and” immediately following paragraph (d); and

(b) after paragraph (e) insert—

“; and

(f) Healthcare Improvement Scotland”.

Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000

19. In article 2(2)(a) of the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000(26) (interpretation), after “Public Services Reform (Scotland) Act 2010” insert—

“or, as the case may be, under the National Health Service (Scotland) Act 1978”.

NHS 24 (Scotland) Order 2001

20. In article 4(4) of the NHS 24 Order 2001(27) (functions of NHS 24)—

(a) omit the “or” immediately following sub-paragraph (c); and

(23) Paragraph A(10) of Part I of Schedule 1 was amended by [S.S.I. 2006/600](#).

(24) [S.I. 1998/1594](#); which was relevantly amended by [S.S.I. 2005/445](#), [512](#) and [2008/92](#).

(25) [S.S.I. 2000/54](#); regulation 3 was amended by [S.S.I. 2000/168](#) and [2002/239](#). Section 85B(2A) of the National Health Service (Scotland) Act 1978, as inserted by paragraph 18 of Schedule 17 to the 2010 Act, limits the participation of HIS in the Clinical Negligence and Other Risks Indemnity Scheme to HIS’s health service functions.

(26) [S.S.I. 2000/177](#); article 2(2)(a) was amended by [S.S.I. 2002/161](#).

(27) [S.S.I. 2001/137](#); to which there are amendments not relevant to this Order.

- (b) after sub-paragraph (d) insert—
 - “; or
- (e) Healthcare Improvement Scotland”.

Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002

21. In Schedule 1 to the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002**(28)** (bodies required to publish race equality schemes), at the appropriate place insert—

“Healthcare Improvement Scotland”.

NHS Education for Scotland Order 2002

22. In article 4(4) of the NHS Education for Scotland Order 2002**(29)** (functions of NHS Education for Scotland)—

- (a) omit the “or” immediately following sub-paragraph (c); and
- (b) after sub-paragraph (d) insert—
 - “; or
- (e) Healthcare Improvement Scotland”.

National Waiting Times Centre Board (Scotland) Order 2002

23. In article 4(4) of the National Waiting Times Centre Board (Scotland) Order 2002**(30)** (functions of the National Waiting Times Centre Board)—

- (a) omit the “or” immediately following sub-paragraph (c);
- (b) after sub-paragraph (d) insert—
 - “; or
- (e) Healthcare Improvement Scotland”.

National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003

24. In regulation 2(1) of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003**(31)** (interpretation), in the definition of “employing authority”—

- (a) after “Special Health Board”, insert “Healthcare Improvement Scotland”; and
- (b) for “2 and 10” substitute “2, 10 and 10A”.

National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

25. In paragraph 11 of Part 1 of Schedule 5 to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004**(32)** (standards for out of hours services), for “NHS Quality Improvement Scotland” substitute “Healthcare Improvement Scotland”.

(28) S.S.I. 2002/62. Schedule 1 was amended by S.S.I. 2003/331, 556 and 2006/129 and 467.

(29) S.S.I. 2002/103; to which there are amendments not relevant to this Order.

(30) S.S.I. 2002/305; to which there are amendments not relevant to this Order.

(31) S.S.I. 2003/344; which was relevantly amended by S.S.I. 2005/445 and 512.

(32) S.S.I. 2004/115; to which there are amendments not relevant to this Order.

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

National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004

26. In paragraph 2 of Schedule 4 to the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(33) (standards for out of hours services), for “NHS Quality Improvement Scotland” substitute “Healthcare Improvement Scotland”.

Mental Health (Conflict of Interest) (Scotland) (No. 2) Regulations 2005

27. In regulation 1(2) of the Mental Health (Conflict of Interest) (Scotland) (No. 2) Regulations 2005(34) (interpretation), for the definition of “independent health care service” substitute—

““independent health care service” means any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

as each of those terms is defined in section 10F(2) of the National Health Service (Scotland) Act 1978..”.

Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005

28. In Part I of Schedule 1 to the Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005(35), at the appropriate place insert—

“Healthcare Improvement Scotland”.

National Health Service Central Register (Scotland) Regulations 2006

29. In the first entry (any entry information) in the table in Schedule 2 of the National Health Service Central Register (Scotland) Regulations 2006(36) (information which may be provided from the register and persons to whom it may be provided), in column 2 at the appropriate place insert—

“Healthcare Improvement Scotland;”.

Sex Discrimination (Public Authorities) (Statutory Duties) (Scotland) Order 2007

30. In Part I of Schedule 1 to the Sex Discrimination (Public Authorities) (Statutory Duties) (Scotland) Order 2007(37), at the appropriate place insert—

“Healthcare Improvement Scotland”.

National Health Service Pension Scheme (Scotland) Regulations 2008

31. In regulation 1(1) of Part 2A of the National Health Service Pension Scheme (Scotland) Regulations 2008(38) (interpretation), in paragraph (a) of the definition of “employing authority”—

- (a) after “Special Health Board” insert “, Healthcare Improvement Scotland”; and
- (b) for “and 10” substitute “, 10 and 10A”.

(33) S.S.I. 2004/116; to which there are amendments not relevant to this Order.

(34) S.S.I. 2005/380.

(35) S.S.I. 2005/565. Part I of Schedule 1 was amended by S.S.I. 2006/129, 2007/195 and 2009/248.

(36) S.S.I. 2006/484; to which there are amendments not relevant to these Regulations.

(37) S.S.I. 2007/32. Part I of Schedule 1 was amended by S.S.I. 2009/248.

(38) S.S.I. 2008/224; which was relevantly amended by S.S.I. 2010/22.

National Health Service (Functions of the Common Services Agency) (Scotland) Order 2008

32. In the National Health Service (Functions of the Common Services Agency) (Scotland) Order 2008⁽³⁹⁾—

- (a) in article 1(2) (interpretation), after the definition of “Health Board”, insert ““HIS” means Healthcare Improvement Scotland established by section 10A of the Act;”; and
- (b) in article 2 (functions of the agency) paragraphs (b), (c), (d), (f), (i) and (k), immediately before “Health” the first time it occurs, insert “HIS”.

National Health Service (Appointment of Consultants) (Scotland) Regulations 2009

33. In regulation 2(1) of the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009⁽⁴⁰⁾ (interpretation), in the definition of “Board”, after “section 10 of the Act” insert “and Healthcare Improvement Scotland established under section 10A of the Act”.

Public Health etc. (Scotland) Act 2008 Designation of Competent Persons Regulations 2009

34. In regulation 4(a) of the Public Health etc. (Scotland) Act 2008 Designation of Competent Persons Regulations 2009⁽⁴¹⁾ (definition of work experience in health protection), after “board” insert—

“, Healthcare Improvement Scotland”.

Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010

35. For regulation 4 of the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010⁽⁴²⁾ (prescribed services) substitute—

“4. For the purposes of section 94(1)(b)(iii), (iv), (v) and (vi) of the Act, a prescribed service is a service which concerns the treatment, care and support of, and provision of advice and assistance to, individuals in relation to their health and well-being, provided by—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

within the meaning given to those expressions by section 10F(2) of the National Health Service (Scotland) Act 1978.”.

Protection of Vulnerable Groups (Scotland) Act 2007 (Unlawful Requests for Scheme Records) (Prescribed Circumstances) Regulations 2010

36. For regulation 2(c) of the Protection of Vulnerable Groups (Scotland) Act 2007 (Unlawful Requests for Scheme Records) (Prescribed Circumstances) Regulations 2010⁽⁴³⁾ (interpretation), substitute—

- “(c) “independent health care service” means any of the following—
 - (i) an independent hospital;

⁽³⁹⁾ S.S.I. 2008/312.

⁽⁴⁰⁾ S.S.I. 2009/166; to which there are amendments not relevant to this Order.

⁽⁴¹⁾ S.S.I. 2009/301.

⁽⁴²⁾ S.S.I. 2010/161.

⁽⁴³⁾ S.S.I. 2010/194.

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

- (ii) a private psychiatric hospital;
 - (iii) an independent clinic; or
 - (iv) an independent medical agency,
- as each of those terms is defined in section 10F(2) of the National Health Service (Scotland) Act 1978.”.

Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010

37. In the Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010⁽⁴⁴⁾—

- (a) in regulation 9(2) (information sharing)—
 - (i) omit the “or” immediately following sub-paragraph (a);
 - (ii) after sub-paragraph (b) insert—
“, or
 - (c) (in respect of the exercise of its health service functions only) Healthcare Improvement Scotland (established by section 10A of the National Health Service (Scotland) Act 1978)”; and
- (b) in regulation 10(2) (requests for information under Council Regulation (EC) No. 2201/2003)—
 - (i) omit the “or” immediately following sub-paragraph (c);
 - (ii) after sub-paragraph (d) insert—
“, or
 - (e) (in respect of the exercise of its health service functions only) Healthcare Improvement Scotland (established by section 10A of the National Health Service (Scotland) Act 1978)”.

Healthcare Improvement Scotland (Inspections) Regulations 2011

38. In the definition of “registered nurse” in regulation 2(1) of the Healthcare Improvement Scotland (Inspections) Regulations 2011⁽⁴⁵⁾ (interpretation), for “Nurses and Midwives” substitute “Nursing and Midwifery”.

Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011

39. In paragraph (e) of the definition of “health care professional” in regulation 1(2) of the Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011⁽⁴⁶⁾ (citation, commencement and interpretation), for “Nurses and Midwives” substitute “Nursing and Midwifery”.

⁽⁴⁴⁾ S.S.I. 2010/213.

⁽⁴⁵⁾ S.S.I. 2011/184.

⁽⁴⁶⁾ S.S.I. 2011/182.