

Child Rights and Wellbeing Screening Sheet for amendments to the regulation of independent healthcare through the following SSIs:

- The National Health Service (Scotland) Act 1978
(Independent Health Care) Modification Order 2024
- The Public Services Reform (Scotland) Act 2010
(Commencement No. 8) Order 2024
- The Healthcare Improvement Scotland (Inspections)
Amendment Regulations 2024
- The Healthcare Improvement Scotland (Fees) Regulations
2024

1. Brief Summary

The package of SSIs comprising:

- The National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 (“the Modification Order”),
- The Public Services Reform (Scotland) Act 2010 (Commencement No. 8) Order 2024 (“the Commencement Order”),
- The Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 (“the Inspections Regulations”), and
- The Healthcare Improvement Scotland (Fees) Regulations 2024 (“the Fees Regulations”);

Together these make provisions in relation to the regulation of independent healthcare. The effects can be summarised as:

1. Enabling HIS to regulate independent clinics where services are provided by pharmacists and pharmacy technicians. In response to the consultation in 2020, 90% of respondents agreed that services provided by pharmacists who undertake independent healthcare services outwith the terms of an NHS contract should be regulated by Healthcare Improvement Scotland. We are aware that some pharmacy professionals are offering non-surgical cosmetic procedures and other services, such as travel advice or weight loss clinics, in premises other than registered pharmacies.
2. Enabling HIS to de-register independent healthcare services that fail to pay their continuation fees. Currently, HIS have no meaningful recourse against providers who fail to pay fees owed. The Scottish Government are currently providing £260,000 as recurring funding to HIS for their regulation of independent healthcare. Making this regulatory change would be an important step in moving to a self-funded model.
3. Enabling HIS to regulate independent medical agencies, including online-only independent healthcare services based in Scotland. This is achieved by bringing into force HIS functions in relation to independent medical agencies (“IMAs”) by virtue of the Commencement Order. As part of the proposal to commence HIS’ functions in relation to IMAs, the definition of IMAs will be amended to be aligned with the list of healthcare professionals in the definition of an independent clinic, including the addition of pharmacists and pharmacy technicians. This amendment is being made by virtue of the Modification Order. The amendments will come into force on the same day as the provisions in the Commencement Order are commenced.
4. Adding to the inspectors who are able to inspect medical records. The Inspection Regulations allow inspectors, authorised by HIS under section 10K of the National Health Services (Scotland) Act 1978, to inspect medical records. Currently, the ability to inspect medical records as part of inspections undertaken by HIS is restricted to “health professionals” (i.e. medical

practitioners, registered nurses, pharmacists, and registered dentists). This amendment provides HIS with a larger pool of inspectors.

5. This SSI will enable HIS under Section 10Z5 of the National Health Service (Scotland) Act 1978 (“the 1978 Act”) to prescribe the maximum fees which HIS may impose in respect of Independent Medical Agencies “IMAs” (IMAs; not previously included as a service in fees regulations); and raise the maximum fees which may be imposed by HIS on all independent healthcare services in respect of applications for registration or cancellation of registration of independent healthcare services; the annual continuation of any such registration; and applications for the variation or removal of a condition of registration. In prescribing the maximum fees, HIS will have regard to its reasonable expenses in being able to carry out its functions, as required under section 10Z5(3) of the 1978 Act. It is important for patient safety reasons that healthcare is adequately regulated and this SSI will form part of measures to commence provisions in the 1978 Act in respect of IMAs.

The Scottish Government wants all health care provided to people in Scotland to be safe, effective, and reliable. To achieve this vision, independent healthcare services provided in Scotland need to be effectively regulated, and regulation should reflect the current landscape of provision, which includes an increasing number of services provided online.

2. What aspects of the policy/measure will affect children and young people up to the age of 18?

- The regulation of independent clinics where services are provided by pharmacists and pharmacy technicians.
- Regulation of independent medical agencies (including online).

3. What likely impact – direct or indirect – will the policy/measure have on children and young people?

Indirect. The changes are unlikely to affect children or young people directly unless they/or their parents actively use the independent services which will be regulated under the proposed amended legislation.

4. Which groups of children and young people will be affected?

No specific group will be affected. The changes will affect everyone accessing independent healthcare services equally.

5. Is a Children’s Rights and Wellbeing Impact Assessment required?

A Children’s Rights and Wellbeing Impact Assessment will not be carried out. The proposed legislation is aimed at the regulation of independent businesses, not specifically at children or young people.

There is a small possibility that children and young people could be indirectly impacted by the proposed changes to independent health care services due to parents or guardians choosing to access independent healthcare. Additionally, the amendments to fees has the potential to reduce the availability of services, indirectly impacting choice of providers by the parents or guardians.

However, the proposed changes are more likely to have a positive impact by increasing patient safety for everyone using independent healthcare services.

6. Sign & Date

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