

**Fairer Scotland Duty
Assessment not required declaration**

Policy Title:	<p>The National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 (“the Modification Order”)</p> <p>The Public Services Reform (Scotland) Act 2010 (Commencement No. 8) Order 2024 (“the Commencement Order”)</p> <p>The Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 (“the Inspection Regulations”)</p> <p>The Healthcare Improvement Scotland (Fees) Regulations 2024 (“the Fees Regulations”)</p>
<p>Directorate:</p> <p>Division:</p> <p>Team:</p>	<p>Directorate of the Chief Operating Officer</p> <p>Healthcare Quality and Improvement</p> <p>Quality and Safety Team</p>
Policy lead responsible for taking the decision	Lorraine Alcock, Team Lead

Rationale for decision
<p>Background</p> <p>The amendments to the regulation of independent healthcare are comprised of four Scottish Statutory Instruments.</p> <p><u>The Modification Order has the following purposes:</u></p> <ol style="list-style-type: none"> 1. To enable Healthcare Improvement Scotland (“HIS”) to regulate independent clinics where services are provided by pharmacists and pharmacy technicians (outside of NHS contracts).

2. To amend the definition of Independent Medical Agencies (“IMAs”) to be aligned with the list of healthcare professionals in the definition of independent clinic, including the addition of pharmacists and pharmacy technicians.
3. To enable HIS to cancel the registration of independent healthcare services that fail to pay their continuation fees.

The Commencement Order:

This SSI will commence the provisions in the National Health Service (Scotland) Act 1978 that permit HIS to regulate independent medical agencies, which includes online only independent healthcare services based in Scotland.

The Inspection Regulations:

These regulations will allow inspectors, authorised to carry out inspections by HIS under section 10K of the National Health Service (Scotland) Act 1978, to inspect medical records. Currently, the ability to inspect medical records as part of inspections undertaken by HIS is restricted to medical practitioners, registered nurses, pharmacists, and registered dentists.

The Fees Regulations:

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 health care 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.

Rationale

The SSIs required serious consideration as to whether a FSDA was required. We considered whether each individual SSI was likely to have any potential impact, whether that be positive or negative, direct or indirect, on inequalities of outcome caused by socio-economic disadvantage. Due to the lack of data collected around who accesses independent healthcare clinics and medical agencies, we are not aware of any published data to analyse.

For the Modification Order, we broadly considered two types of services offered by pharmacists and pharmacy technicians:

1. completely optional services or treatments that are not provided by the NHS, and
2. services or treatments only offered under particular NHS arrangements.

The likelihood of socio-economically disadvantaged individuals making the conscious decision to use optional and non-essential treatments paid for by themselves was deemed unlikely.

The second SSI is the Commencement Order, for the IMA provisions, and not related to issues of inequalities of outcome caused by socio-economic disadvantage.

The Inspection Regulations would only impact the inspectors who can access medical records during the course of a HIS inspection. The proposed changes widen the opportunities for professionals working or moving into the sector who are able to undertake inspection of medical records on behalf of HIS.

The final SSI is the Fees Regulations. We do not perceive the amendments to the proposed fee increases to have any impact on the inequalities experienced by socio-economically disadvantaged groups in Scotland. The changes will directly impact the providers of independent healthcare services, any impact on users of their services would be minimal and limited. Should there be any indirect impact on users of their services, we consider the impact of this would not relate to issues of inequalities of outcome caused by socio-economic disadvantage.

We do not perceive any likely material impact on inequalities experienced by socio-economically disadvantaged groups as a result of any these SSIs. As noted above, all the proposed changes made by the SSIs should only impact those who seek independent healthcare services, and pay for it at their own expense.

An assessment under the Fairer Scotland Duty is not required because the changes made by the SSIs should not have any direct implications for inequalities arising from socio-economic disadvantage.

I confirm that the decision to not carry out a Fairer Scotland assessment has been authorised by:

Name and job title of Deputy Director (or equivalent)	Date authorisation given
Lynne Nicol Deputy Director - Healthcare Quality and Improvement	11 April 2024