National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART III

OTHER SERVICES AND FACILITIES

36 Accommodation and services.

(1) It shall be the duty of the Secretary of State to provide throughout Scotland, to such extent as he considers necessary to meet all reasonable requirements, accommodation and services of the following descriptions—

(a) hospital accommodation, including accommodation at state hospitals;

(b) premises other than hospitals at which facilities are available for any of the services provided under this Act **[**F1or under the 2021 Act**]**;

(c) medical, nursing and other services, whether in such accommodation or premises, in the home of the patient or elsewhere.

(2) Where accommodation or premises provided under this section afford facilities for the provision of F2. . . general dental or general ophthalmic services, or of pharmaceutical services, they shall be made available for those services on such terms and conditions as the Secretary of State may determine.

Textual Amendments

F1 Words in s. 36(1)(b) inserted (1.4.2022) by Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 (asp 3), s. 20(2), **sch. para. 1(6)** (with s. 3); S.S.I. 2022/24, reg. 2

F2 Words in s. 36(2) omitted (1.2.2006) by virtue of The Primary Medical Services (Scotland) Act 2004 (Modification of the National Health Service (Scotland) Act 1978) Order 2006 (S.S.I. 2006/30), {art. 2(4)}

Modifications etc. (not altering text)

C1 S. 36 restricted (1.1.2003) by S.S.I. 2002/533, **reg. 5(3)**

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C2 S. 36(1): functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(c)** (with art. 4(4))

37 Prevention of illness, care and after-care.

The Secretary of State shall make arrangements, to such extent as he considers necessary to meet all reasonable requirements, for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons.

Modifications etc. (not altering text)
C3 S. 37: functions tranferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(d)** (with art. 4(4))

38 Care of mothers and young children.

It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary, for the care, including in particular medical and dental care, of expectant mothers and nursing mothers and of young children.

[F3 38A Breastfeeding

(1) The Scottish Ministers shall make arrangements, to such extent as they consider necessary to meet all reasonable requirements, for the purpose of supporting and encouraging the breastfeeding of children by their mothers.

(2) The Scottish Ministers shall have the power to disseminate, by whatever means, information promoting and encouraging breastfeeding.**]**

Textual Amendments
F3 S. 38A inserted (19.3.2005) by Breastfeeding etc. (Scotland) Act 2005 (asp 1), **ss. 4**, 5

[F4 38B Detection of vision problems in children

(1) It is the duty of the Scottish Ministers, to such extent as they consider necessary to meet all reasonable requirements, to provide for the detection of vision problems in children.

(2) In this section, "children" means persons under the age of 16 years.**]**

Textual Amendments
F4 S. 38B inserted (17.10.2005) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 11**, 43(3); S.S.I. 2005/492, **art. 3(a)**, Sch. 1

39 Medical and dental inspection, supervision and treatment of pupils and young persons.

(1) It shall be the duty of the Secretary of State to provide for the medical F5 inspection, at appropriate intervals, and for the medical F5 supervision **[**F6and treatment**]**, of all pupils in attendance at any school under the management of an education authority

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[F7or at any self-governing school**]**, and of all young persons in attendance at any F8 other educational establishment under such management.

[F9(2) It is also the Secretary of State's duty to provide, to such extent as he considers necessary to meet all reasonable requirements—

(a) for the dental inspection of such pupils and young persons as are mentioned in subsection (1);

(b) for their dental treatment; and

(c) for their education in dental health.**]**

(3) It shall be the duty of every education authority **[**F10and of every board of management**]** to make arrangements for encouraging and assisting pupils and young persons to take advantage of facilities for medical **[**F11treatment made available under subsection (1) and dental treatment made available for the purpose of**]** subsection (2); but where, in the case of any pupil or young person, his parent gives notice to the authority that he objects to the pupil or young person availing himself of the said facilities, the pupil or young person shall not be encouraged or assisted to do so.

(4) It shall be the duty of every education authority **[**F12and of every board of management**]** to afford sufficient and suitable facilities for the medical F13 inspection, supervision and treatment, described in **[**F14subsection (1) and for the dental inspection, treatment and education described in subsection (2)**]**.

(5) Expressions used in this section and in the Education (Scotland) Act M1**[**F15**]**1980**]** have in this section the same meanings as in that Act.

Textual Amendments

F5 Words repealed by Health and Medicines Act 1988 (c. 49, SIF 113:2), ss. 10(2)(a)(i), 25(2), **Sch. 3**

F6 Words inserted by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 10(2)(a)(ii)**

F7 Words in s. 39(1) repealed (31.12.2004) by 2000 asp 6, ss. 60(2), 61(3), **Sch. 3**; S.S.I 2004/528, {art. 2}

F8 Words repealed by Self Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), **Sch. 11**

F9 S. 39(2) substituted by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 10(2)(b)**

F10 Words in s. 39(3) repealed (31.12.2004) by 2000 asp 6, ss. 60(2), 61(3), Sch. 3; S.S.I. 2004/528, **art. 2**

F11 Words substituted by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 10(2)(c)**

F12 Words in s. 39(4) repealed (31.12.2004) by 2000 asp 6, ss. 60(2), 61(3), Sch. 3; S.S.I. 2004/528, **art. 2**

F13 Words repealed by Health and Medicines Act 1988 (c. 49, SIF 113:2), ss. 10(2)(d)(i), 25(2), **Sch. 3**

F14 Words substituted by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 10(2)(d)(ii)**

F15 Words substituted by Education (Scotland) Act 1980 (c. 44), **Sch. 4 para. 17**

Modifications etc. (not altering text)

C4 S. 39 extended by Education (Scotland) Act 1980 (c. 44), **s. 57**

Marginal Citations

M1 1980 c. 44.

40 Vaccination and immunisation.

[F16(1) The Scottish Ministers may make arrangements for the vaccination or immunisation of persons against any disease.**]**

F17(2) . . . . . .

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(3) The **[**F18Scottish Ministers**]** may, either directly or by another person, supply free of charge to **[**F19persons**]** providing services under this section, vaccines, sera or other preparations for vaccinating or immunising persons against any disease.

Textual Amendments

F16 S. 40(1) substituted (24.9.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 4(2)(a)**, 59(1)

F17 S. 40(2) repealed (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), {**Sch. para. 1(15)**; S.S.I. 2004/58, **art. 2(3)**}

F18 Words in s. 40(3) substituted (24.9.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 4(2)(b)(i)**, 59(1)

F19 Word in s. 40(3) substituted (24.9.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 4(2)(b)(ii)**, 59(1)

41 Family planning.

It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances or appliances.

Modifications etc. (not altering text)

C5 S. 41: functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(e)** (with art. 4(4))

42 Health education.

The Secretary of State shall have power to disseminate, by whatever means, information relating to the promotion and maintenance of health and the prevention of illness.

Modifications etc. (not altering text)

C6 By S.I. 1990/2639, **art. 4(1)(a)** certain functions of the Secretary of State specified in s. 42 are made exercisable (1.4.1991) by Health Education Board for Scotland

C7 S. 42: functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(f)** (with art. 4(4))

43 Control of spread of infectious disease.

The Secretary of State may provide or secure the provision of a service, which may include the provision of laboratories, for the control of the spread of infectious disease; and he may allow persons to make use of services provided at such laboratories on such terms (including terms as to the payment of charges) and on such conditions as he may determine.

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44 Supplies of blood and other substances.

(1) Where the Secretary of State has acquired supplies of human blood for the purpose of carrying out blood transfusion, or supplies of any other substances or preparations not readily obtainable or has acquired any part of a human body for the purpose of, or in the course of providing, any service under this Act, he may make arrangements for making such supplies available to medical practitioners and other persons who require them or for supplying that part to any person on such terms (including terms as to the payment of charges) and on such conditions as he may determine.

(2) Subsection (1) is subject to section 54 (restriction of powers).

45 Ambulances.

It shall be the duty of the Secretary of State to make such provision as he thinks necessary for securing that ambulances and other means of transport are available for the conveyance of persons suffering from illness or of expectant or nursing mothers or of other persons for whom such transport is reasonably required in order to avail themselves of any service under this Act.

Modifications etc. (not altering text)
C8 S. 45 excluded by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), **ss. 11(2)**, 17(2)

46 Provision of vehicles for persons suffering from physical defect or disability.

(1) The Secretary of State may provide invalid carriages for persons appearing to him to be suffering from severe physical defect or disability, and, at the request of such a person, may provide for him a vehicle other than an invalid carriage.

(2) The Secretary of State shall have power, in the case of an invalid carriage or other vehicle provided by him for, or belonging to, any such person as is mentioned in subsection (1), on such terms and subject to such conditions as he may determine—

(a) to adapt the vehicle for the purpose of making it suitable for the circumstances of that person;

(b) to maintain and repair the vehicle;

(c) to take out insurance policies relating to the vehicle and pay the duty, if any, with which the vehicle is chargeable under the [M2]Vehicles (Excise) Act 1971;

(d) to provide a structure for the keeping of the vehicle therein and provide all material and execute all works necessary for the erection of the structure.

(3) The Secretary of State may, on such terms and subject to such conditions as he may determine, make payments by way of grant towards costs incurred by any such person as is mentioned in subsection (1) in respect of all or any of the following matters in relation to an invalid carriage or other vehicle provided by the Secretary of State for, or belonging to, that person, that is to say—

(a) the taking of any such action as is referred to in subsection (2);

(b) the purchase of fuel for the purposes of the vehicle, so far as the cost of the purchase is attributable to duties of excise payable in respect of fuel; and

(c) the taking of instruction in the driving of the vehicle.

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(4) Regulations made by the Secretary of State may provide for any incidental or supplementary matter for which it appears to him necessary or expedient to make provision in connection with the taking of any action under subsection (2) or the making of any payment under subsection (3).

(5) In this section "invalid carriage" means a mechanically propelled vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by such a person.

Marginal Citations
M2 1971 c. 10.

[F20 46A Provision of communication equipment

The Scottish Ministers must, to such extent as they consider necessary to meet all reasonable requirements, provide or secure the provision of—

(a) communication equipment, and

(b) support in using that equipment,

to any person who has lost their voice or has difficulty speaking.]

Textual Amendments
F20 S. 46A inserted (19.3.2018) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 33**, 36(2); S.S.I. 2018/26, reg. 2

47 Educational and research facilities.

(1) It shall be the duty of the Secretary of State to make available such facilities, in any premises provided by him under this Act, as appear to him to be reasonably required for undergraduate and post-graduate clinical teaching and research, and for the education and training of persons providing or intending to provide services under this Act.

(2) Without prejudice to the general powers and duties conferred or imposed on the Secretary of State under the M3Scottish Board of Health Act 1919, the Secretary of State may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health service as he thinks fit.

Modifications etc. (not altering text)
C9 S. 47: functions transferred (31.3.2002) by S.S.I. 2002/103, **art. 4(1)(a)** (with art. 4(4))
S. 47: functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(g)** (with art. 4(4))

Marginal Citations
M3 1919 c. 20.

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48 Residential and practice accommodation.

(1) The Secretary of State may provide, on such terms and conditions as may be agreed, residential accommodation for officers employed for the purposes of any of his functions under this Act, or for officers employed by a voluntary organisation for the purposes of any service provided under this Part.

(2) The Secretary of State may, in any case, in view of the special circumstances thereof, provide, on such terms and conditions as may be agreed—

(a) residential accommodation for medical and dental practitioners providing services under Part II;

(b) practice accommodation for such medical and dental practitioners and for such other persons providing services under this Act as he thinks fit.

(3) In subsection (2) "practice accommodation", in relation to a person providing services of any kind, means accommodation suitable for the provision of services of that kind.

Modifications etc. (not altering text)

C10 S. 48: functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(h)** (with art. 4(4))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(5) added by 2002 asp 5 Sch. 2 para. 2(2)
- s. 19A(2)(b) words repealed by 2003 asp 4 sch. 4 para. 5(4) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(a) words substituted by 2003 asp 4 sch. 4 para. 5(5)(a) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(b) substituted by 2003 asp 4 sch. 4 para. 5(5)(b) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(c) words substituted by 2003 asp 4 sch. 4 para. 5(5)(c) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(e) word substituted by 2003 asp 4 sch. 4 para. 5(5)(d) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 70A inserted by 1997 c. 46 s. 26(2)
- s. 70A(2) word substituted by 2005 asp 13 s. 14(3)
- s. 85AB(7) inserted by 2005 asp 13 sch. 2 para. 2(18)(b)
- Sch. 11 para. 2(1A) inserted by 2005 asp 13 s. 14(6)(a)