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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 211**

**NATIONAL HEALTH SERVICE  
PUBLIC HEALTH  
PUBLIC SERVICES REFORM  
SOCIAL CARE**

**The Public Services Reform (Scotland) Act  
2010 (Consequential Modifications) Order 2011**

*Made*       -   -   -   -                      *15th March 2011*  
*Coming into force*       -   -                      *1st April 2011*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 132 of the Public Services Reform (Scotland) Act 2010<sup>(1)</sup> and all other powers enabling them to do so. In accordance with section 133(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 and comes into force on 1st April 2011.

**Consequential Modifications**

2. The modifications specified in Schedules 1, 2 and 3 to this Order have effect.

St Andrew's House,  
Edinburgh  
15th March 2011

*S ROBISON*  
Authorised to sign on behalf of the Scottish  
Ministers

## SCHEDULE 1

## Article 2

MODIFICATIONS RELATING TO SOCIAL CARE  
AND SOCIAL WORK IMPROVEMENT SCOTLAND

## PART 1

## MODIFICATIONS OF PRIMARY LEGISLATION

***Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c.49)***

1. In section 50 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(2) (events occurring in institutions), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Sewerage (Scotland) Act 1968 (c.47)***

2. In section 59(3A) of the Sewerage (Scotland) Act 1968(3) (interpretation), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

3. In the Social Work (Scotland) Act 1968(4)—

- (a) in section 10(3A)(5) (financial and other assistance to voluntary organisations)—
  - (i) for “section 2(11)(b) of the Regulation of Care (Scotland) Act 2001”, substitute “paragraph 8(1)(b) of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
  - (ii) for “Part 1” substitute “Part 5”; and
- (b) after section 13A(2A)(6) (residential accommodation with nursing), insert—
 

“(2B) In subsection (2)(b) above, “care home service” has the same meaning as in paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8).”.

***Water (Scotland) Act 1980 (c.45)***

4. In section 50(1)(bb) of the Water (Scotland) Act 1980(7) (power to require supply by meter), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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- (2) 1965 c.49; section 50 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8) (“the 2001 Act”), schedule 3, paragraph 2.
  - (3) 1968 c.47; section 59(3A) was inserted by the 2001 Act, schedule 3, paragraph 3(b).
  - (4) 1968 c.49.
  - (5) Section 10(3A) was inserted by the Children Act 1975 (c.72), Schedule 2, paragraph 51(b) and amended by the 2001 Act, schedule 3, paragraph 4(2) and S.S.I. 2010/21.
  - (6) Section 13A was inserted by the National Health Service and Community Care Act 1990 (c.19), section 56 and subsection (2A) was inserted by the 2001 Act, schedule 3, paragraph 4(3).
  - (7) 1980 c.45; section 50(1)(bb) was inserted by the 2001 Act, schedule 3, paragraph 8(b) and was amended by the Water Industry (Scotland) Act 2002 (asp 3), schedule 6, paragraph 32.

***Foster Children (Scotland) Act 1984 (c.56)***

**5.** In the Foster Children (Scotland) Act 1984(8)—

- (a) in section 2(2)(d)(9) (children who are not defined as a “foster child” for the purposes of the Act), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 21(1)(10) (interpretation), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Children (Scotland) Act 1995 (c.36)***

**6.** In the Children (Scotland) Act 1995(11)—

- (a) in section 36(3)(d)(12) (welfare of certain children in hospitals and nursing homes etc.), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 38(1)(b)(13) (short-term refuges for children at risk of harm), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Criminal Procedure (Scotland) Act 1995 (c.46)***

**7.** In section 57A(16) of the Criminal Procedure (Scotland) Act 1995(14) (compulsion order), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**8.—**(1) The Adults with Incapacity (Scotland) Act 2000(15) is amended as follows.

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

- (a) in subsection (3)(b)(16), for “section 7(1) of the Regulation of Care (Scotland) Act 2001” substitute “section 59(1) of the Public Services Reform (Scotland) Act 2010”; and
- (b) in subsection (6)(17), for the words from “the” where it first appears to the end substitute—
  - “(a) the Public Services Reform (Scotland) Act 2010 have the same meanings in that subsection as in that Act;”.

(3) For section 40(1)(a)(18) (supervisory bodies), substitute—

- “(a) a registered establishment which is—
  - (i) registered under the Public Services Reform (Scotland) Act 2010, Social Care and Social Work Improvement Scotland;”.

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(8) 1984 c.56.

(9) Section 2(2)(d) was amended by the 2001 Act, schedule 3, paragraph 12(2).

(10) Section 21 was relevantly amended by the 2001 Act, schedule 3, paragraph 12(3)(a).

(11) 1995 c.36.

(12) Section 36(3)(d) was inserted by the 2001 Act, schedule 3, paragraph 19(2)(b).

(13) Section 38(1)(b) was amended by the 2001 Act, schedule 3, paragraph 19(3).

(14) 1995 c.46; section 57A was inserted by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), section 133.

(15) 2000 asp 4.

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

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

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

- (4) In paragraph 1 of schedule 1(**19**) (managers of an establishment)—
- (a) for “the Regulation of Care (Scotland) Act 2001”—
    - (i) the first time it appears, substitute “the Public Services Reform (Scotland) Act 2010”;
    - (ii) the second time it appears, substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”;
  - (b) in sub-paragraph (d)(i), for “section 7(2)(b)” substitute “section 59(2)(b)”;
  - (c) in sub-paragraph (d)(ii), for “section 33(1)” substitute “section 83(1)”;
  - (d) in sub-paragraph (d)(iii), for “section 29(7)(j)” substitute “section 78(2)”.

***Regulation of Care (Scotland) Act 2001 (asp 8)***

9. For section 77 (interpretation) of the Regulation of Care (Scotland) Act 2001(**20**) substitute—

**“77. Interpretation**

In this Act, unless the context otherwise requires—

“care service” has the meaning given by section 47(1) of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#);

“the Council” means the Scottish Social Services Council (which is constituted under section 43 of this Act);

“enactment” has the meaning given by section 126(1) of the Scotland Act [1998 \(c.46\)](#);

“equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 (equal opportunities) of Schedule 5 to the Scotland Act 1998;

“exempt person” means—

- (a) a national of a relevant European State other than the United Kingdom;
- (b) a national of the United Kingdom who is seeking to engage in relevant social work by virtue of an enforceable community right; or
- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable community right, entitled to be treated, as regards the right to engage in relevant social work, no less favourably than a national of a relevant European State;

and in paragraphs (a) to (c), “national”, in relation to a relevant European State, means the same as in the Community Treaties, but does not include a person who, by virtue of Article 2 of Protocol No. 3 (Channel Islands and the Isle of Man) to the Treaty of Accession, is not to benefit from Community provisions relating to the free movement of persons and services;

“the General Systems Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007 ([S.I. 2007/2781](#));

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act [1994 \(c.39\)](#);

“notice” means notice in writing;

“prescribed” means prescribed by order made by the Scottish Ministers;

“regulations” means regulations made by the Scottish Ministers;

(19) Paragraph 1(d) of schedule 1 was amended by the 2001 Act, schedule 3, paragraph 23(6).

(20) [2001 asp 8](#); which was relevantly amended by [S.I. 2007/3101](#).

“relevant European State” means an EEA State or Switzerland;

“social service worker” means a person, other than a person excepted from this definition by regulations, who—

- (a) has an entitling professional qualification in social work (that is to say a qualification which, if the person holding it also satisfies the requirements of subsection (2)(a) and (b) of section 46 of this Act and, except where section 46B of this Act applies, the requirements as to education imposed as mentioned in subsection (2)(c)(i) of that section, entitles that person to be registered in the part for social workers of the register maintained under section 44(1) of this Act); or
- (b) is a visiting social worker from a relevant European State; or
- (c) not being a person mentioned in paragraph (a) or (b) above, is employed in the provision of (or in managing the provision of) a care service; or
- (d) being an employee of Social Care and Social Work Improvement Scotland, is an authorised person by virtue of section 56 of the Public Services Reform (Scotland) Act 2010;

“social worker” means a person described in paragraph (a) of the definition, above, of “social service worker”;

“visiting social worker from a relevant European state” means a person entitled under section 46A of this Act to be registered in the part of the register maintained under section 44(1) of this Act for visiting social workers from relevant European States; and

“voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit.”.

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

**10.** In the Community Care and Health (Scotland) Act 2002<sup>(21)</sup>—

- (a) in section 1(1)(a) (regulations as respects charging and not charging for social care), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 12(5) (carer information strategies), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**11.** In schedule 1 to the Freedom of Information (Scotland) Act 2002<sup>(22)</sup> (Scottish public authorities)—

- (a) the following paragraphs are repealed—
  - (i) 19 (social work inspectors)<sup>(23)</sup>; and
  - (ii) 81 (Scottish Commission for the Regulation of Care); and
- (b) after paragraph 102 (Scottish Water) insert—

“**102A.** Social Care and Social Work Improvement Scotland.”.

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<sup>(21)</sup> 2002 asp 5.

<sup>(22)</sup> 2002 asp 13.

<sup>(23)</sup> Paragraph 19 was amended by the [Joint Inspection of Children’s Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#) (“the 2006 Act”), section 8(2).

***Criminal Justice (Scotland) Act 2003 (asp 7)***

**12.** In the Criminal Justice (Scotland) Act 2003(24)—

- (a) in section 14(6)(a)(ii) (victim statements), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in section 16(8)(25) (victim’s right to receive information), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**13.—**(1) The Mental Health (Care and Treatment) (Scotland) Act 2003(26) is amended as follows.

(2) In section 8(4) (duty to bring specific matters to the attention of the Scottish Ministers and others etc.), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

(3) In section 25(3)(a)(ii) (care and support services etc.), for “section 2(28) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

(4) In section 298(6) (removal to a place of safety from a public place), in the definition of “care service”, for “section 2(1) of the Regulation of Care (Scotland) Act 2001” substitute “section 47(1) of the Public Services Reform (Scotland) Act 2010”.

(5) In section 300(b) (meaning of “place of safety”), for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

(6) In section 329(1)(27) (interpretation), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**14.—**(1) The Antisocial Behaviour etc. (Scotland) Act 2004(28) is amended as follows.

(2) In section 81(3)(b) (interpretation of Part 7)—

- (a) in sub-paragraph (i), for “subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) in sub-paragraph (ii), for “subsection (4) of that section” substitute “paragraph 3 of that schedule”; and
- (c) in sub-paragraph (iv), for “subsection (9) of that section” substitute “paragraph 6 of that schedule”.

(3) In section 83(6)(a) (application for registration)—

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(24) 2003 asp 7.

(25) Section 16(8) was inserted by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 36(b).

(26) 2003 asp 13.

(27) Section 329(1) was relevantly amended by S.S.I. 2005/465.

(28) 2004 asp 8.

- (a) in sub-paragraph (i), for “subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”;
- (b) in sub-paragraph (ii), for “subsection (4) of that section” substitute “paragraph 3 of that schedule”; and
- (c) in sub-paragraph (iv), for “subsection (9) of that section” substitute “paragraph 6 of that schedule”.

***Fire (Scotland) Act 2005 (asp 5)***

**15.** In section 78(5)(b) of the Fire (Scotland) Act 2005(**29**) (meaning of “relevant premises”), for “subsection (3) of section 2 of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Management of Offenders etc. (Scotland) Act 2005 (asp 14)***

**16.** In the Management of Offenders etc. (Scotland) Act 2005(**30**)—

- (a) for section 2(2)(c)(**31**) (co-operation for purposes of inspections) substitute—  
“**(c)** Social Care and Social Work Improvement Scotland.”; and
- (b) for section 6(2)(a)(**32**) (power of Scottish Ministers to require action by community justice authority) substitute—  
“**(a)** Social Care and Social Work Improvement Scotland.”.

***Housing (Scotland) Act 2006 (asp 1)***

**17.** In section 126(1)(b) of the Housing (Scotland) Act 2006(**33**) (houses in multiple occupation which are exempt from licensing requirement), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

***Adoption and Children (Scotland) Act 2007 (asp 4)***

**18.** In section 2(3) of the Adoption and Children (Scotland) Act 2007(**34**) (carrying out of duties imposed by section 1)—

- (a) for “section 2(11)(b) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 8(1)(b) of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (b) for “Part 1” substitute “Part 5”.

***Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)***

**19.** In the Protection of Vulnerable Groups (Scotland) Act 2007(**35**)—

- (a) in the list of persons in section 19(3)(**36**) (information held by public bodies etc.), the entry relating to “social work inspectors” is repealed;

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(29) 2005 asp 5.

(30) 2005 asp 14.

(31) Section 2(2)(c) was amended by the 2006 Act, section 8(3)(a).

(32) Section 6(2)(a) was amended by the 2006 Act, section 8(3)(b).

(33) 2006 asp 1.

(34) 2007 asp 4.

(35) 2007 asp 14.

(36) Section 19(3) was amended by the Public Services Reform (Scotland) Act 2010 (asp 8) (“the 2010 Act”), schedule 14, paragraph 30 and Schedule 17, paragraph 36(b) and S.I. 2010/231.



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

- (b) in section 97(1)(37) (interpretation) the definition of “social work inspector” is repealed;
- (c) in paragraph 1A of schedule 2(38) (regulated work with children), in paragraph (d) of the definition of “responsible person”, for “section 2 of the 2001 Act” substitute “schedule 12 to the 2010 Act”;
- (d) in paragraph 8 of Part 3 of schedule 3 (establishments), for “the 2001 Act” substitute “schedule 12 to the 2010 Act”; and
- (e) in the table in schedule 5(39) (index) the entry relating to “social work inspector” is repealed.

### ***Sexual Offences (Scotland) Act 2009 (asp 9)***

**20.**—(1) The Sexual Offences (Scotland) Act 2009(40) is amended as follows.

(2) In section 44 (interpretation of section 43)—

- (a) in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8) (“the 2001 Act”)” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8) (“the 2010 Act”)”;
- (b) in the definition of “school care accommodation service”, for “section 2(4) of the 2001 Act” substitute “paragraph 3 of schedule 12 to the 2010 Act”; and
- (c) in the definition of “secure accommodation service”, for “section 2(9) of the 2001 Act” substitute “paragraph 6 of schedule 12 to the 2010 Act”.

(3) In section 46(4) (sexual abuse of trust of a mentally disordered person), for the definition of “care service” substitute—

““care service” has the meaning given by subsection (1)(a), (b), (d), (f), (g), (j) and (m) of section 47 of the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#) as read with paragraphs 1, 2, 4, 6, 7, 11 and 19 of schedule 12 to that Act.”.

### ***Public Services Reform (Scotland) Act 2010 (asp 8)***

**21.** In schedule 14 to the Public Services Reform (Scotland) Act 2010 (asp 8)(41) (modifications of enactments in respect of Social Care and Social Work Improvement Scotland), paragraph 35(a) is repealed.

## **PART 2**

### **MODIFICATIONS OF SUBORDINATE LEGISLATION**

### ***Council Tax (Exempt Dwellings) (Scotland) Order 1997***

**22.** In paragraph 25(4) of Schedule 1 to the Council Tax (Exempt Dwellings) (Scotland) Order 1997(42) (prescribed housing support services accommodation), for the definition of “registered” substitute—

(37) Section 97(1) was amended by the Policing and Crime Act 2009 (c.26) (“the 2009 Act”), section 81(3)(n) and the 2010 Act, schedule 14, paragraph 34 and [S.I. 2010/231](#).

(38) Paragraph 1A will be inserted upon the commencement of article 4 of [S.S.I. 2010/240](#).

(39) Schedule 5 was amended by the 2009 Act, section 81 and [S.I. 2010/231](#).

(40) [2009 asp 9](#).

(41) [2010 asp 8](#).

(42) [S.I. 1997/728](#); which was relevantly amended by [S.S.I. 2007/215](#).



““registered” means that Social Care and Social Work Improvement Scotland has granted an application for registration of a prescribed housing support service under section 60 of the Public Services Reform (Scotland) Act 2010 (grant or refusal of registration).”.

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

**23.** In article 2(2)(a) of the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000<sup>(43)</sup> (interpretation), for “the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

***Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001***

**24.** In the Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001<sup>(44)</sup>—

(a) in regulation 1(2) (interpretation)—

(i) the definition of “the Commission” is revoked;

(ii) omit the “and” immediately following the definition of “public body”; and

(iii) after the definition of “public body” insert—

““SCSWIS” means Social Care and Social Work Improvement Scotland, established by section 44 of the Public Services Reform (Scotland) Act 2010; and”;

(b) in regulation 2(3) (appointments)—

(i) for “convenor” substitute “chair”; and

(ii) for “the Commission” substitute “SCSWIS”.

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

**25.** In the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002<sup>(45)</sup>—

(a) in article 2A(2)<sup>(46)</sup> (race equality schemes), for sub-paragraph (b) substitute—

“(b) Social Care and Social Work Improvement Scotland;”;

(b) in article 5A(2)<sup>(47)</sup> (monitoring by employers), for sub-paragraph (f) substitute—

“(f) Social Care and Social Work Improvement Scotland;”.

***Community Care (Assessment of Needs) (Scotland) Regulations 2002***

**26.** In regulation 1(2) of the Community Care (Assessment of Needs) (Scotland) Regulations 2002<sup>(48)</sup> (interpretation), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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<sup>(43)</sup> S.S.I. 2000/177; which was relevantly amended by S.I. 2002/161.

<sup>(44)</sup> S.S.I. 2001/303.

<sup>(45)</sup> S.I. 2002/62.

<sup>(46)</sup> Article 2A was inserted by S.S.I. 2004/521.

<sup>(47)</sup> Article 5A was inserted by S.S.I. 2003/566.

<sup>(48)</sup> S.S.I. 2002/304.

***Housing (Scotland) Act 2001 (Housing Support Services) Regulations 2002***

27. In regulation 2 of the Housing (Scotland) Act 2001 (Housing Support Services) Regulations 2002(**49**) (interpretation) for “Regulation of Care (Scotland) Act 2001” substitute “Public Services Reform (Scotland) Act 2010”.

***Housing (Scotland) Act 2001 (Payments out of Grants for Housing Support Services) Order 2003***

28. In the Housing (Scotland) Act 2001 (Payments out of Grants for Housing Support Services) Order 2003(**50**)—

- (a) in article 2 (interpretation)—
  - (i) for the definition of “the 2001 Act” substitute—
    - ““the 2010 Act” means the Public Services Reform (Scotland) Act 2010;”;
  - (ii) in the definition of “care home service” for “2001 Act” substitute “2010 Act”;
- (b) in Part I of Schedule 1 (conditions for making payments out of grant)—
  - (i) in paragraph 1 for “Part 1 of the 2001 Act” substitute “Part 5 of the 2010 Act”;
  - (ii) in paragraph 2(a) for “section 7(1) of the 2001 Act” substitute “section 59(1) of the 2010 Act”;
  - (iii) in paragraph 2(b) for “Part 1” substitute “Part 5”; and
  - (iv) in paragraph 3(**51**) for “2001 Act” substitute “2010 Act”.

***Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003***

29. In the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(**52**)—

- (a) in article 2(1) (interpretation)—
  - (i) in the definition of “the 2001 Act” paragraphs (a) and (b) are revoked;
  - (ii) after that definition insert—
    - ““the 2010 Act” means the Public Services Reform (Scotland) Act 2010, and the following expressions have the meaning given—
    - (a) by section 44 of that Act, “Social Care and Social Work Improvement Scotland”; and
    - (b) by section 47 of that Act, “care service”;
- (b) in paragraph 9 of Schedule 1(**53**) (proceedings), for “the Scottish Commission” to the end substitute “Social Care and Social Work Improvement Scotland under Part 5 of the 2010 Act”; and
- (c) in Part 2 of Schedule 4 (excepted offices and employments)(**54**)—
  - (i) paragraph 26 is revoked; and
  - (ii) in paragraph 33 for “the Scottish Commission for the Regulation of Care” substitute “Social Care and Social Work Improvement Scotland”.

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(49) [S.S.I. 2002/444](#).

(50) [S.S.I. 2003/140](#).

(51) Paragraph 3 of Schedule 1 was amended by [S.S.I. 2004/108](#), [348](#) and [2005/322](#).

(52) [S.S.I. 2003/231](#).

(53) Paragraph 9 of Schedule 1 was amended by [S.S.I. 2007/75](#).

(54) Paragraph 19 of Part 2 of Schedule 4 was inserted by [S.S.I. 2007/75](#).

***National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003***

**30.** In regulation 2 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003<sup>(55)</sup> (interpretation), in paragraph (a) of the definition of “capital limit”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**31.** In regulation 2(1) of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(56)</sup> (interpretation), in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Mental Health Tribunal for Scotland (Appointment of General Members) Regulations 2004***

**32.** In regulation 2(f) of the Mental Health Tribunal for Scotland (Appointment of General Members) Regulations 2004<sup>(57)</sup> (general members), for “subsection (1)(a)” to “Act 2001” substitute “subsection (1)(a), (b), (d), (f), (g) and (j) of section 47 of the Public Services Reform (Scotland) Act 2010”.

***Building (Scotland) Regulations 2004***

- 33.** In regulation 2(1) of the Building (Scotland) Regulations 2004<sup>(58)</sup> (interpretation)—
- (a) in the definition of “residential care building”, for “Regulation of Care (Scotland) Act 2001” substitute “Public Services Reform (Scotland) Act 2010”; and
  - (b) in the definition of “sheltered housing complex”, for “Regulation of Care (Scotland) Act 2001” substitute “Public Services Reform (Scotland) Act 2010”.

***Mental Health (Advance Statements) (Prescribed Class of Persons) (Scotland) (No. 2) Regulations 2004***

- 34.** In regulation 1(2) of the Mental Health (Advance Statements) (Prescribed Class of Persons) (Scotland) (No. 2) Regulations 2004<sup>(59)</sup> (interpretation)—
- (a) in the definition of “care service”, for “subsection (1)(a)” to the end substitute “subsection (1)(a), (b), (d), (f), (g) and (j) of section 47 of the Public Services Reform (Scotland) Act 2010”; and
  - (b) in the definition of “social worker” for “that Act” substitute “the Regulation of Care (Scotland) Act 2001”.

***Mental Health (Patient Representation) (Prescribed Persons) (Scotland) (No. 2) Regulations 2004***

**35.** In regulation 1(2) of the Mental Health (Patient Representation) (Prescribed Persons) (Scotland) (No. 2) Regulations 2004<sup>(60)</sup> (interpretation)—

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<sup>(55)</sup> S.S.I. 2003/460; to which there are amendments not relevant to this Order.

<sup>(56)</sup> S.S.I. 2004/115; to which there are amendments not relevant to this Order.

<sup>(57)</sup> S.S.I. 2004/375; to which there are amendments not relevant to this Order.

<sup>(58)</sup> S.S.I. 2004/406; to which there are amendments not relevant to this Order.

<sup>(59)</sup> S.S.I. 2004/429; to which there are amendments not relevant to this Order.

<sup>(60)</sup> S.S.I. 2004/430; to which there are amendments not relevant to this Order.

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

- (a) in the definition of “care service”, for “subsection (1)(a)” to the end substitute “subsection (1)(a), (b), (d), (f), (g) and (j) of section 47 of the Public Services Reform (Scotland) Act 2010”; and
- (b) in the definition of “social worker”, for “that Act” substitute “the Regulation of Care (Scotland) Act 2001”.

***Valuation for Rating (Decapitalisation Rate) (Scotland) Regulations 2005***

**36.** In regulation 2(2)(a) of the Valuation for Rating (Decapitalisation Rate) (Scotland) Regulations 2005<sup>(61)</sup> (interpretation), for “section 2(20) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 13 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**37.** In Part I of Schedule 1 to the Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005<sup>(62)</sup>—

- (a) the entry relating to the Scottish Commission for the Regulation of Care is revoked; and
- (b) at the appropriate place insert—  
“Social Care and Social Work Improvement Scotland”.

***Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006***

**38.** In regulation 1(2) of the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 (interpretation)<sup>(63)</sup>—

- (a) in the definition of “care home service”, for “section 2(3) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010”;
- (b) in the definition of “educational institution”, for “section 2(4) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 3 of schedule 12 to the Public Services Reform (Scotland) Act 2010”;
- (c) in the definition of “offender accommodation service”, for “section 2(10) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 7 of schedule 12 to the Public Services Reform (Scotland) Act 2010”; and
- (d) in the definition of “secure accommodation service”, for “section 2(9) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 6 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

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

**39.** In Part I of Schedule 1 to the Sex Discrimination (Public Authorities) (Statutory Duties) (Scotland) Order 2007<sup>(64)</sup>—

- (a) the entry relating to the Scottish Commission for the Regulation of Care is revoked; and
- (b) at the appropriate place insert—  
“Social Care and Social Work Improvement Scotland”.

<sup>(61)</sup> S.S.I. 2005/41.

<sup>(62)</sup> S.S.I. 2005/565; which was relevantly amended by S.S.I. 2006/129, 2007/195 and 2009/248.

<sup>(63)</sup> S.S.I. 2006/90.

<sup>(64)</sup> S.S.I. 2007/32. Schedule 1 was amended by S.S.I. 2009/248.

***Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007***

40. In regulation 8(2)(k) of the Representation of the People (Absent Voting at Local Government Elections) Regulations 2007<sup>(65)</sup> (those who may attest and sign a proxy vote), for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

***Adoption Agencies (Scotland) Regulations 2009***

41. For paragraph 14(j)(ii) of Part I of Schedule 1 to the Adoption Agencies (Scotland) Regulations 2009<sup>(66)</sup> (information about prospective adopters), substitute—

“(ii) Part 5 of the Public Services Reform (Scotland) Act 2010.”.

***Looked After Children (Scotland) Regulations 2009***

42. In regulation 2 of the Looked After Children (Scotland) Regulations 2009<sup>(67)</sup> (interpretation), in the definition of “registered fostering service”, for “Part 1 of the Regulation of Care (Scotland) Act 2001” substitute “Part 5 of the Public Services Reform (Scotland) Act 2010”.

***Adoption (Disclosure of Information and Medical Information about Natural Parents) (Scotland) Regulations 2009***

43. In regulation 6 of the Adoption (Disclosure of Information and Medical Information about Natural Parents) (Scotland) Regulations 2009<sup>(68)</sup> (disclosure of information for inquiries etc.), for paragraph (d) substitute—

“(d) Social Care and Social Work Improvement Scotland;”.

***Police Act 1997 (Criminal Records) (Scotland) Regulations 2010***

44. In regulation 10(2)(h)(i) of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010<sup>(69)</sup> (individuals to whom an exempted question can be asked), for “section 2(17) of the Regulation of Care (Scotland) Act 2001” substitute “paragraph 12 of schedule 12 to the Public Services Reform (Scotland) Act 2010”.

***Public Services Reform (Social Services Inspections) (Scotland) Regulations 2011***

45. In the definition of “registered nurse” in regulation 2(1) of the Public Services Reform (Social Services Inspections) (Scotland) Regulations 2011<sup>(70)</sup> (interpretation), for “Nurses and Midwives” substitute “Nursing and Midwifery”.

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<sup>(65)</sup> S.S.I. 2007/170; to which there are amendments not relevant to this Order.

<sup>(66)</sup> S.S.I. 2009/154; to which there are amendments not relevant to this Order.

<sup>(67)</sup> S.S.I. 2009/210; to which there are amendments not relevant to this Order.

<sup>(68)</sup> S.S.I. 2009/268.

<sup>(69)</sup> S.S.I. 2010/168.

<sup>(70)</sup> S.S.I. 2011/185.

## 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<sup>(71)</sup> (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<sup>(72)</sup> (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<sup>(73)</sup> (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<sup>(74)</sup> (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,

<sup>(71)</sup> 1968 c.49; section 13A(2A) was inserted by the 2001 Act, schedule 3, paragraph 4(3).

<sup>(72)</sup> 1978 c.29. Section 12I was inserted by the National Health Service Reform (Scotland) Act 2004 (asp 7), section 3.

<sup>(73)</sup> 1987 c.47. Paragraph 9(4) of schedule 1A was amended by S.S.I. 2005/465.

<sup>(74)</sup> 1995 c.36; section 36(3)(c)(i) was amended by S.S.I. 2005/465.

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(75) is amended as follows.

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

(a) in subsection (3)(b)(76), 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)(77) 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)(78) (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(79) (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(80) (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(81) (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)(82) is repealed.

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(75) 2000 asp 4.

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

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

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

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

(80) 2002 asp 5; section 22 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003, section 28(2)(b).

(81) 2002 asp 13.

(82) 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<sup>(83)</sup> 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)<sup>(84)</sup> (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<sup>(85)</sup>—

(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—

<sup>(83)</sup> 2003 asp 13.

<sup>(84)</sup> Section 329(1) was amended by S.S.I. 2005/465.

<sup>(85)</sup> 2004 asp 8.

- “(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<sup>(86)</sup> (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<sup>(87)</sup> (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<sup>(88)</sup> (interpretation), in the definition of “private hospital” for the words from “a” to the end, substitute—

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<sup>(86)</sup> [2006 asp 1](#).

<sup>(87)</sup> [2009 asp 9](#).

<sup>(88)</sup> [S.I. 1988/1477](#); which was relevantly amended by [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<sup>(89)</sup>—

- (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<sup>(90)</sup> (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<sup>(91)</sup> (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<sup>(92)</sup>—

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

<sup>(89)</sup> S.I. 1991/564; which was relevantly amended by S.S.I. 2005/550.

<sup>(90)</sup> S.I. 1991/570; to which there are amendments not relevant to these Regulations.

<sup>(91)</sup> S.I. 1995/365. Regulation 2(4) of Part A was relevantly amended by S.S.I. 2008/92, 2009/19 and 2010/22.

<sup>(92)</sup> S.I. 1995/1945.

“(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<sup>(93)</sup> (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<sup>(94)</sup> (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<sup>(95)</sup> (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<sup>(96)</sup> (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<sup>(97)</sup> (functions of NHS 24)—

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

<sup>(93)</sup> Paragraph A(10) of Part I of Schedule 1 was amended by [S.S.I. 2006/600](#).

<sup>(94)</sup> [S.I. 1998/1594](#); which was relevantly amended by [S.S.I. 2005/445](#), [512](#) and [2008/92](#).

<sup>(95)</sup> [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.

<sup>(96)</sup> [S.S.I. 2000/177](#); article 2(2)(a) was amended by [S.S.I. 2002/161](#).

<sup>(97)</sup> [S.S.I. 2001/137](#); to which there are amendments not relevant to this Order.

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

(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<sup>(98)</sup> (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<sup>(99)</sup> (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<sup>(100)</sup> (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<sup>(101)</sup> (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<sup>(102)</sup> (standards for out of hours services), for “NHS Quality Improvement Scotland” substitute “Healthcare Improvement Scotland”.

<sup>(98)</sup> S.S.I. 2002/62. Schedule 1 was amended by S.S.I. 2003/331, 556 and 2006/129 and 467.

<sup>(99)</sup> S.S.I. 2002/103; to which there are amendments not relevant to this Order.

<sup>(100)</sup> S.S.I. 2002/305; to which there are amendments not relevant to this Order.

<sup>(101)</sup> S.S.I. 2003/344; which was relevantly amended by S.S.I. 2005/445 and 512.

<sup>(102)</sup> S.S.I. 2004/115; to which there are amendments not relevant to this Order.

***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(103) (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(104) (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(105), 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(106) (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(107), 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(108) (interpretation), in paragraph (a) of the definition of “employing authority”—

- (a) after “Special Health Board” insert “, Healthcare Improvement Scotland”; and

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

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

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

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

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

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

- (b) for “and 10” substitute “, 10 and 10A”.

***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<sup>(109)</sup>—

- (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<sup>(110)</sup> (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<sup>(111)</sup> (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<sup>(112)</sup> (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<sup>(113)</sup> (interpretation), substitute—

<sup>(109)</sup>S.S.I. 2008/312.

<sup>(110)</sup>S.S.I. 2009/166; to which there are amendments not relevant to this Order.

<sup>(111)</sup>S.S.I. 2009/301.

<sup>(112)</sup>S.S.I. 2010/161.

<sup>(113)</sup>S.S.I. 2010/194.



- “(c) “independent health care service” means any of the following—
- (i) an independent hospital;
  - (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<sup>(114)</sup>—

- (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<sup>(115)</sup> (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<sup>(116)</sup> (citation, commencement and interpretation), for “Nurses and Midwives” substitute “Nursing and Midwifery”.

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<sup>(114)</sup> S.S.I. 2010/213.

<sup>(115)</sup> S.S.I. 2011/184.

<sup>(116)</sup> S.S.I. 2011/182.

## SCHEDULE 3

## Article 2

## MODIFICATIONS RELATING TO JOINT INSPECTIONS

***Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003***

1. In paragraph 19 of Part 2 of Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003<sup>(117)</sup> (excepted offices and employments), for “section 1” to “Act 2006” substitute “section 115 of the Public Services Reform (Scotland) Act 2010”.

***Public Services Reform (Joint Inspections) (Scotland) Regulations 2011***

2. In the definition of “registered nurse” in regulation 7(7) of the Public Services Reform (Joint Inspections) (Scotland) Regulations 2011<sup>(118)</sup> (interviews and examinations), for “Nurses and Midwives” substitute “Nursing and Midwifery”.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes consequential modifications to primary and secondary legislation in connection with the commencement of Parts 5, 6 and 8 of the Public Services Reform (Scotland) Act 2010 on 1st April 2011.

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<sup>(117)</sup> S.S.I. 2003/231; which was relevantly amended by S.S.I. 2007/75.  
<sup>(118)</sup> S.S.I. 2011/183.