

## SCHEDULE 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—

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(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<sup>(16)</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>(17)</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),”.

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<sup>(16)</sup> 2006 asp 1.

<sup>(17)</sup> 2009 asp 9.