

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Health and Social Care Act 2012, Cross Heading: National Health Service (Scotland) Act 1978 (c. 29) is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 21

AMENDMENTS RELATING TO RELATIONSHIPS BETWEEN THE HEALTH SERVICES

National Health Service (Scotland) Act 1978 (c. 29)

1 The National Health Service (Scotland) Act 1978 is amended as follows.

Commencement Information

- I1** Sch. 21 para. 1 in force at 1.2.2013 for specified purposes by [S.I. 2012/2657](#), **art. 2(4)**
I2 Sch. 21 para. 1 in force at 1.4.2013 for specified purposes by [S.I. 2013/160](#), **art. 2(2)** (with **arts. 7-9**)

- 2 (1) Section 17A (NHS contracts) is amended as follows.
- (2) In subsection (1), in paragraph (b) for “(q)” substitute “(s)”.
- (3) In subsection (2)—
- (a) after paragraph (c) insert —
“(ca) the Scottish Ministers;”;
 - (b) for paragraph (f) substitute—
“(f) Local Health Boards established under section 11 of the National Health Service (Wales) Act 2006;”;
 - (c) for paragraph (ff) substitute—
“(fa) Special Health Authorities established under section 28 of the National Health Service Act 2006;
(fb) Special Health Authorities established under section 22 of the National Health Service (Wales) Act 2006;”;
 - (d) omit paragraph (h),
 - (e) before paragraph (k) insert—
“(ja) the National Health Service Commissioning Board;
(jb) clinical commissioning groups established under section 14D of the National Health Service Act 2006;”;
 - (f) in paragraph (k), for “section 5 of the National Health Service and Community Care Act 1990” substitute “section 18 of the National Health Service (Wales) Act 2006”;
 - (g) omit paragraph (ka),
 - (h) after paragraph (m) insert—
“(ma) the Welsh Ministers;”;
 - (i) after paragraph (p) omit the “and,”
 - (j) after paragraph (q) insert—
“(r) the National Institute for Health and Care Excellence; and
(s) the Health and Social Care Information Centre;”.

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(4) After subsection (10) insert—

- “(11) Subsection (12) applies where a person mentioned in subsection (2)(fa), (ja), (jb), (m), (r) or (s) is a party or prospective party to an arrangement or proposed arrangement which—
- (a) falls within subsection (1); and
 - (b) also falls within the definition of NHS contract in section 9 of the National Health Service Act 2006.
- (12) Subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement (except in so far as it relates to reserved matters within the meaning of the Scotland Act 1998) with the substitution for references to the Secretary of State of references to the Scottish Ministers and the Secretary of State acting jointly.
- (13) Subsection (14) applies where a person mentioned in subsection (2)(f), (fb), (k) or (ma) is a party or prospective party to an arrangement or proposed arrangement which—
- (a) falls within subsection (1); and
 - (b) also falls within the definition of NHS contract in section 7 of the National Health Service (Wales) Act 2006.
- (14) Subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement with the substitution for references to the Secretary of State—
- (a) in so far as the arrangement or proposed arrangement relates to reserved matters within the meaning of the Scotland Act 1998, of references to the Secretary of State and the Welsh Ministers acting jointly; and
 - (b) for all other purposes, of references to the Scottish Ministers and Welsh Ministers acting jointly.
- (15) Subsection (16) applies (and subsections (12) and (14) do not apply) where a cross-border Special Health Authority is a party or prospective party to an arrangement or proposed arrangement which—
- (a) falls within subsection (1); and
 - (b) also falls within the definition of NHS contract in section 9 of the National Health Service Act 2006 and the definition of NHS contract in section 7 of the National Health Service (Wales) Act 2006.
- (16) Subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement (except in so far as it relates to reserved matters within the meaning of the Scotland Act 1998) with the substitution for references to the Secretary of State—
- (a) where the cross-border Special Health Authority is exercising functions in relation to England only, of references to the Secretary of State and the Scottish Ministers acting jointly;
 - (b) where the Authority is exercising functions in relation to Wales only, of references to the Welsh Ministers and the Scottish Ministers acting jointly; and
 - (c) where the Authority is exercising functions in relation to England and Wales, of references to the Secretary of State and the Welsh

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Ministers acting concurrently with each other and jointly with the Scottish Ministers.

- (17) In subsections (15) and (16), “cross-border Special Health Authority” means a Special Health Authority which is established under the National Health Service Act 2006 and the National Health Service (Wales) Act 2006 by virtue of—
- (a) paragraph 1(2) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006, or
 - (b) the power under section 28 of the National Health Service Act 2006 and the power under section 22 of the National Health Service (Wales) Act 2006 being exercised together.”

Commencement Information

- I3** Sch. 21 para. 2(2)(3)(d)(g)(i)(j)(4) in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))
I4 Sch. 21 para. 2(3)(a)-(c)(e)(h) in force at 1.2.2013 by [S.I. 2012/2657](#), **art. 2(4)**

- 3 (1) Section 17C (personal medical or dental services) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for the words from “the Board by” to the end substitute “the Board by a Local Health Board”, and
 - (b) in paragraph (b), for the words from “exercisable by” to “the Authority” substitute “exercisable by a Local Health Board in relation to an agreement made under section 50 of the National Health Service (Wales) Act 2006 to be exercisable on behalf of the Local Health Board”.
- (3) In subsection (6), for the first definition substitute—
- ““Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;”.
- (4) In consequence of the amendments made by sub-paragraphs (2) and (3), omit paragraph 12 of Schedule 3 to the National Health Service Reform and Health Care Professions Act 2002, and the cross-heading which precedes it.

Commencement Information

- I5** Sch. 21 para. 3 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

PROSPECTIVE

- 4 In section 17D (persons with whom agreements under section 17C may be made), in subsection (2), in paragraph (b) of the definition of “NHS employee”—
- (a) in sub-paragraph (ii) omit “a Primary Care Trust or”,
 - (b) in sub-paragraph (iii)—
 - (i) after “NHS trust” insert “within the meaning of the National Health Service Act (Wales) 2006”, and
 - (c) omit the words from “and in this paragraph” to the end.

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Commencement Information

I6 Sch. 21 para. 4(a)(c) in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 3, 7-9](#))

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

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):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251 substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)