



The Scottish Parliament
Pàrlamaid na h-Alba

Published 3 June 2024
SP Paper 591
11th Report, 2024 (Session 6)

Health, Social Care and Sport Committee

Subordinate legislation considered by the Health, Social Care and Sport Committee on 21 May 2024



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
<http://www.parliament.scot/abouttheparliament/91279.aspx>

For information on the Scottish Parliament contact Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 [draft]	2
Delegated Powers and Law Reform Committee Consideration	2
Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 [draft]	3
Delegated Powers and Law Reform Committee Consideration	3
Health, Social Care and Sport Committee consideration	4

Health, Social Care and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for NHS Recovery, Health and Social Care and matters relating to drugs and alcohol policy.



hscs.committee@parliament.scot

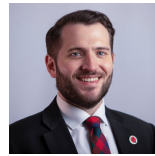


0131 3485979

Committee Membership



Convener
Clare Haughey
Scottish National Party



Deputy Convener
Paul Sweeney
Scottish Labour



Sandesh Gulhane
Scottish Conservative
and Unionist Party



Emma Harper
Scottish National Party



Gillian Mackay
Scottish Green Party



Ruth Maguire
Scottish National Party



Carol Mochan
Scottish Labour



David Torrance
Scottish National Party



Tess White
Scottish Conservative
and Unionist Party

Introduction

1. This report sets out the Health, Social Care and Sport Committee's consideration of two Scottish Statutory Instruments (SSIs) at its meeting on 21 May 2024. The minutes of the meeting have been published on the Committee's webpages. The Official Report of the meeting will be published on the Committee's webpages in due course.

National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 [draft]

2. The National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 [draft] was laid on 26 April 2024. The instrument is subject to the affirmative procedure (Rule 10.6) and was made in exercise of the powers conferred by sections 10G and 105(7) of the National Health Service (Scotland) Act 1978.
3. The policy note states the purpose of the instrument is to:
 1. enable Healthcare Improvement Scotland (“HIS”) to regulate independent clinics where services are provided by pharmacists and pharmacy technicians;
 2. amend the definition of Independent Medical Agency (“IMA”) to cover services provided by dental practitioners, registered nurses, registered midwives, dental care professionals, pharmacists and pharmacy technicians which will include wholly online services based in Scotland; and
 3. enable HIS to cancel the registration of independent health care services that fail to pay their continuation fees.
4. In relation to regulating independent clinics, the policy notes describes the objectives of the instrument as to "increase public safety and avoid situations where pharmacists and pharmacy technicians provide services from unregulated clinics and where wholly online providers are able to provide services to patients in Scotland without being regulated."
5. The policy note notes that the changes to the definition of Independent Medical Agencies are "particularly urgent" as online healthcare services are not currently regulated by HIS and the Scottish Government argues that this poses a public health risk.
6. In relation to cancellation of registration, the policy note states that the changes made by this instrument will provide HIS with a meaningful sanction against registered providers who fail to pay their continuation fees. The policy note further states that these changes are intended to have a deterrent effect and intended to be used as a last resort.

Delegated Powers and Law Reform Committee Consideration

7. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [7 May 2024](#). The DPLR Committee agreed that it did not need to draw the Parliament’s attention to the instrument on any grounds within its remit.

Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 [draft]

8. The Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 [draft] was laid on 26 April 2024. The instrument is subject to the affirmative procedure (Rule 10.6) and was made in exercise of the powers conferred by Section 10O of the National Health Service (Scotland) Act 1978
9. The policy note states the purpose of the instrument is to:
 - ” allow inspectors, authorised by HIS under section 10K of the National Health Services (Scotland) Act 1978, to inspect medical records.
10. The policy note further expands on the rationale as to why the instrument is required, stating current limitations on professions able to inspect medical records:
 - ” The current list of professions restricts who HIS is able to draw upon to inspect medical records as part of their inspections. Currently, the ability to inspect medical records as part of inspections undertaken by HIS is restricted to medical practitioners, registered nurses, pharmacists, and registered dentists.

Delegated Powers and Law Reform Committee Consideration

11. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [7 May 2024](#). The DPLR Committee agreed that it did not need to draw the Parliament’s attention to the instrument on any grounds within its remit.

Health, Social Care and Sport Committee consideration

12. The Health, Social Care and Sport Committee is required to consider and report on the instruments.
 13. Maree Todd MSP, the Minister for Social Care, Mental Wellbeing and Sport ("the Minister"), has by motion [S6M-13020](#), proposed that the Committee recommends approval of the National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 [draft].
 14. Neil Gray MSP, the Cabinet Secretary for NHS Recovery, Health and Social Care ("the Cabinet Secretary") has by motion [S6M-13021](#), proposed that the Committee recommends approval of the Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 [draft].
 15. The Committee took evidence from the Cabinet Secretary for NHS Recovery, Health and Social Care, and supporting officials on both instruments at its meeting on 21 May 2024.
 16. While welcoming the inspection and regulation powers in the instruments, Sandesh Gulhane MSP raised concerns that their scope was limited by not including healthcare procedures such as non-surgical cosmetic procedures provided by non-registered professionals. He noted the lack of regulation and inspection in relation to these services.
 17. The Cabinet Secretary indicated that he shared the Member's concerns, but argued that these instruments would be a step forward from current practice, and outlined work that the Scottish Government is currently undertaking to expand the scope of regulation in these areas.
 18. Following the evidence session, the Cabinet Secretary moved motions S6M-13020 and S6M-13021:
 - That the Health, Social Care and Sport Committee recommends that the National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 be approved.
 - That the Health, Social Care and Sport Committee recommends that the Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 [draft] be approved.
 19. After debate, both motions were agreed to.
20. The Health, Social Care and Sport Committee recommends to the Scottish Parliament that the National Health Service (Scotland) Act 1978 (Independent Health Care) Modification Order 2024 [draft] and the Healthcare Improvement Scotland (Inspections) Amendment Regulations 2024 [draft] be approved.

