
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision concerning inspections carried out under section 10I, 10J and 10M of the National Health Services (Scotland) Act 1978 (“the Act”). Such inspections in terms of section 10K of the Act and these Regulations may only be carried out by persons authorised to do so by Healthcare Improvement Scotland (“HIS”).

Regulation 3 provides for powers of entry for authorised persons carrying out inspections of independent healthcare services under section 10M of the Act and also provides that the qualifications of an authorised person will be determined by HIS.

Regulations 4, 5 and 6 provide detail on the power of inspection of independent health care services given to authorised persons, requiring persons to assist authorised persons, including producing documents and providing an explanation of such documents, and giving authorised persons the power to take photographs, recordings or measurements as necessary for the purposes of an inspection.

Regulation 7 provides for interviews and examinations carried out within an inspection, setting out the circumstances in which an interview or examination may be carried out, who may be interviewed, and restrictions on the examination of health records, which may only be carried out by a medically qualified person.

Regulation 8 places a duty upon authorised persons to produce authentication of authority to carry out inspections.

Regulation 9 concerns the disposal of personal records held by an authorised person in consequence of an inspection.

Regulation 10 provides that the information gathered for one inspection under section 10J may be shared for the purposes of an inspection carried out by Social Care and Social Work Improvement Scotland under Part 5 of the Public Services Reform (Scotland) Act 2010 or an inspection carried out by an authorised person carrying out a joint inspection under section 115 of that Act.

Regulation 11 creates criminal offences in respect of obstructing an authorised person or failing to comply with certain requirements in the Regulations.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies are available from www.legislation.gov.uk.