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National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART I

ORGANISATION

VALID FROM 01/10/2010

F1 Functions related to the health service

Textual Amendments

- F1** [S. 10A-10Z19 and cross-headings](#) inserted (1.8.2010 for the insertion of s. 10A for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 for specified purposes, 1.4.2016 for specified purposes with the exception of the insertion of s. 10Z9(1)(a), 1.4.2017 for specified purposes) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. **108**, 134(7); S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.; S.S.I. 2016/22, art. 2(1)(2), sch. 1, sch. 2

10C Health service functions

- (1) HIS is to exercise the following functions of the Scottish Ministers—
- (a) functions in relation to supporting, ensuring and monitoring the quality of health care provided or secured by the health service including, without prejudice to the foregoing generality, providing quality assurance and accreditation;
 - (b) functions in relation to supporting, ensuring and monitoring the discharge of the duty under section 2B by each body to whom that section applies;

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- (c) functions in relation to supporting, ensuring and monitoring the discharge of the duty under section 2D by each body to whom that section applies, other than HIS, insofar as the discharge of that duty is relevant to—
- (i) the quality of health care provided or secured by the health service; or
 - (ii) the discharge of the duty under section 2B;
- (d) functions in relation to the evaluation and provision of advice to the health service on the clinical and cost effectiveness of new and existing health technologies including drugs,
- conferred on them by this Act including, without prejudice to the foregoing generality, those functions specified in section 1(1).
- (2) HIS is to exercise the following functions of the Scottish Ministers subject to any limitations specified—
- (a) the power of the Scottish Ministers under section 16(1) to assist voluntary organisations whose activities include the provision of a service similar to or related to the functions of HIS;
 - (b) the power of the Scottish Ministers under section 16B to give financial assistance to voluntary organisations whose activities consist of or include the provision of services similar to or related to the functions of HIS; and such assistance may be given only on such terms and conditions as the Scottish Ministers determine;
 - (c) the power of the Scottish Ministers under section 42 to disseminate, in respect of the functions of HIS, information relating to the promotion and maintenance of health and the prevention of illness;
 - (d) the duties of the Scottish Ministers under section 47—
 - (i) to make available such facilities as appear to HIS to be reasonably required for undergraduate and post-graduate clinical teaching and research and for the education and training of persons providing or intending to provide services under this Act; and
 - (ii) to conduct, or assist by grants or otherwise under that section any person to conduct, research into matters relating to the functions of HIS;
 - (e) the powers of the Scottish Ministers under section 79(1) to take on lease or to purchase moveable property and land so far as required for the purposes of HIS and to use for those purposes and manage any heritable or moveable property so acquired;
 - (f) the powers of the Scottish Ministers under section 79(1A) to dispose of land no longer required for the purposes of HIS.
- (3) HIS is to exercise the following functions—
- (a) a duty to provide information to the public about the availability and quality of services provided under the health service;
 - (b) a duty to provide such information to a person in such form as that person may reasonably request;
 - (c) when requested by the Scottish Ministers, a duty to provide to the Scottish Ministers advice about any matter relevant to the health service functions of HIS;
 - (d) a power to provide such advice to Scottish Ministers at any time;
 - (e) when asked to do so, a duty to provide such advice to—

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- (i) persons who provide, seek to provide or may provide services under the health service;
 - (ii) persons, or groups of persons, representing those who use, or are eligible to use, such services;
 - (iii) persons, or groups of persons, representing those who care for those who use, or are eligible to use, such services;
 - (iv) local authorities;
 - (v) a Health Board, Special Health Board or the Agency (each a “body” for the purposes of subsection (4));
 - (vi) such other persons, or groups of persons as may be prescribed;
- (f) a power to disseminate such information as HIS considers relevant of general or specific application arising out of or in connection with the exercise of its health service functions.
- (4) HIS may charge a reasonable fee determined by it for any advice, forms or documents provided for the assistance of any such person, authority or body as is mentioned in subsection (3)(e).
- (5) References in this Act to the health service functions of HIS are, subject to subsections (6) and (7), to the functions conferred by virtue of this section and section 10D (including any functions delegated by order under that section).
- (6) Where a provision of this section which confers a function on HIS refers to the health service functions of HIS, that reference is to be construed as a reference to the functions conferred by virtue of this section and section 10D other than the function conferred by the provision.
- (7) Where a provision of this section which confers a function on HIS refers to the functions of HIS, that reference is to be construed as including a reference to the functions conferred by virtue of this section and section 10D other than the function conferred by the provision.

10D Health service functions: further provision

- (1) The Scottish Ministers may by order delegate to HIS such of their functions relating to the health service as they consider appropriate.
- (2) HIS is to provide such services, and carry out such tasks, for bodies associated with the health service as the Scottish Ministers and those bodies may agree; and is to do so on such terms and conditions as may be so agreed.
- (3) Notwithstanding that it is exercising functions relating to the health service on behalf of the Scottish Ministers or other bodies associated with the health service, HIS—
- (a) is entitled to enforce any rights acquired in the exercise of those functions;
 - (b) is to be liable in respect of any liabilities incurred (including liability in damages for wrongful or negligent acts or omissions) in the exercise of those functions,
- in all respects as if HIS were acting as a principal.
- (4) All proceedings for the enforcement of such rights or liabilities are to be brought by or against HIS in its own name.]

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