



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART I

ORGANISATION

[^{F1}Meaning of “independent health care services”

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

10F Meaning of “independent health care services”

(1) In this Act, an “independent health care service” is any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic;
- (d) an independent medical agency;
- (e) an independent ambulance service.

(2) In subsection (1)—

“independent hospital” means a hospital which is neither a health service hospital nor a private psychiatric hospital; and for the purposes of this definition includes part of a health service hospital if (not being a private psychiatric hospital)—

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- (a) it is carried on as a separate unit;
- (b) it does not provide treatment or nursing in pursuance of this Act;
- (c) no part of it is contained within the same building as any such part which does provide treatment or nursing in pursuance of this Act;

“private psychiatric hospital” means any premises used or intended to be used for the provision of medical treatment to one or more patients subject to an order or direction under the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) or the Criminal Procedure (Scotland) Act 1995 (c. 46) (whether or not other persons are treated there), not being—

- (a) a health service hospital;
- (b) a state hospital; or
- (c) otherwise an independent health care service;

“independent clinic” means a clinic which is not comprised in a hospital and in or from which services are provided, other than in pursuance of this Act, by a medical practitioner or dental practitioner;

“independent medical agency” means an undertaking which is neither an independent clinic nor an undertaking comprised in a hospital and which consists of or includes the provision of services, other than in pursuance of this Act, by a medical practitioner;

“independent ambulance service” means, subject to subsection (5), a service which consists of or includes—

- (a) provision (other than provision falling within paragraph (b) below) of medical treatment, medical care or other care to relevant patients while such patients are being transported to or from a place of medical treatment;
- (b) provision, at or in connection with a public event, of medical treatment outwith relevant premises under arrangements made between the provider of the service and another (whether or not the service includes a means of transport for transporting patients from the event to relevant premises).

(3) In paragraph (a) of the definition of “independent ambulance service” in subsection (2)

—
“relevant patient” is a patient—

- (a) whose condition or recovery would or might be impaired were the treatment or care mentioned in that paragraph not to be provided;
- (b) whose condition affects the patient's mobility to such an extent that, were such treatment or care not to be provided while the patient is being transported as mentioned in that paragraph, the patient's condition or recovery would or might be impaired;
- (c) whose mobility is such that, without such treatment or care, it would be difficult or impossible for the patient to be transported as mentioned in that paragraph;

“place of medical treatment” means a hospital or other premises used or intended to be used for the provision of medical or dental treatment, and includes an independent health care service mentioned in paragraphs (a) to (d) of subsection (1).

(4) In paragraph (b) of the definition of “independent ambulance service” in subsection (2)

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“public event” means an event, function or other organised activity of any kind to which members of the public have access;

“medical treatment” includes medical care and medical advice;

“relevant premises” means premises used or intended to be used for the provision of medical treatment, medical care or medical advice, but does not include—

- (a) any means of transport as mentioned in that paragraph; or
- (b) any temporary premises at or near, and provided in connection with, the public event.

- (5) A service does not fall within the definition of “independent ambulance service” in subsection (2) if it is provided under the health service, unless it is so provided for remuneration.
- (6) In subsection (5), “remuneration” does not include remuneration payable by a health service body under arrangements made for the provision of the service.
- (7) Where, by virtue of payment of remuneration, the provider of a service under the health service acts as an independent ambulance service, HIS's independent health care functions are exercisable in relation to that provider only where, and to the extent that, the provider is so acting.

10G Power to modify definitions

The Scottish Ministers, after consulting such persons (or groups of persons) as they consider appropriate, may by order—

- (a) modify the independent health care functions of HIS by amending, removing or adding to those functions;
- (b) modify the definition of independent health care service in section 10F(1).]

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