

Health, Social Care and Sport Committee
Tuesday 18 March 2025
9th Meeting, 2025 (Session 6)

The National Health Service (Common Staffing Method) (Scotland) Amendment Regulations 2025 (SSI 2025/43)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to the negative procedure. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

Title of instrument: [The National Health Service \(Common Staffing Method\) \(Scotland\) Amendment Regulations 2025](#)

Laid under: powers conferred by sections 121J(3) and 105(7) of the [National Health Service \(Scotland\) Act 1978](#).

Laid on: 20 February 2025

Procedure: Negative

Deadline for committee consideration: 24 March 2025

Deadline for Chamber consideration: 31 March 2025

Commencement: 1 April 2025

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 4 March 2025 and reported on it in its [17th report, 2025](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

8. The Policy Note states that the purpose of the instrument is to amend the National Health Service (Common Staffing Method) (Scotland) Regulations 2024 which specify the staffing level and professional judgement tools that must be used as part of the common staffing method for specified kinds of health.
9. The Policy Note accompanying the instrument is included in **Annexe A**. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Committee consideration

10. So far, no motion recommending annulment has been lodged.
11. The Committee previously considered this instrument at its meeting on 11 March and agreed to invite the Cabinet Secretary for Health and Social Care to attend today's meeting to give evidence on the instrument.
12. Having heard from the Cabinet Secretary today, it will be for the Committee to decide whether to make recommendations in relation to the instrument.
13. If Members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
14. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee March 2025

Annexe A: Scottish Government Policy Note

POLICY NOTE

THE NATIONAL HEALTH SERVICE (COMMON STAFFING METHOD) (SCOTLAND) AMENDMENT REGULATIONS 2025

SSI 2025/43

The above instrument was made in exercise of the powers conferred by sections 121J(3) and 105(7) of the National Health Service (Scotland) Act 1978 (the 1978 Act). The instrument is subject to negative procedure.

Summary Box

This instrument amends the National Health Service (Common Staffing Method) (Scotland) Regulations 2024 which specify the staffing level and professional judgement tools that must be used as part of the common staffing method for specified kinds of health care provision.

Policy Objectives

Section 121J of the 1978 Act - which is inserted by section 4 of the Health and Care (Staffing) (Scotland) Act 2019 (the 2019 Act) - sets out a duty for Health Boards and the Common Services Agency for the Scottish Health Service (commonly known as NHS NSS) to follow a common staffing method when determining staffing provision for specific types of health care. The duty extends to certain Special Health Boards (NHS 24, the National Waiting Times Centre Board and the State Hospitals for Board for Scotland). The National Health Service (Common Staffing Method) (Scotland) Regulations 2024 (the 2024 Regulations) make provision in relation to the common staffing method.

The common staffing method sets out a process by which a Health Board, NHS NSS or Special Health Board determines the staffing provision required for certain types of health care. It includes the use of speciality-specific staffing level tools and a professional judgement tool, along with consideration of a range of other factors which include among others the local context, patient needs, clinical advice and the different skills and experience of employees.

The current Regulations amend the 2024 Regulations to update the staffing level and professional judgement tools to be used.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view,

the National Health Service (Common Staffing Method) Amendment Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Two consultations were carried out during 2017-2018 as part of proposals for the Health and Care (Staffing) (Scotland) Bill, along with a series of stakeholder engagement events across Scotland. Following the passing of the Bill, statutory guidance to support the 2019 Act was prepared by various working groups comprising representatives from the Scottish Government and external stakeholders, including Health Boards, Special Health Boards, NHS NSS, local authorities, integration authorities, Healthcare Improvement Scotland, the Care Inspectorate, professional bodies, trade unions and professional regulatory bodies. This guidance went out to public consultation in June-September 2023 and was published on 01 April 2024, coinciding with commencement of the 2019 Act.

The Nursing and Midwifery Workload and Workforce Planning Programme (NMWWPP) was established in 2004; part of their remit being to develop workload tools and methodology. Development of each tool involved expert working groups comprising a variety of stakeholders. The staffing level and professional judgement tools specified in the 2024 Regulations were originally developed through this process, endorsed by the Scottish Executive Nurse Directors and professional bodies, and have been recommended for use since April 2013 (with updates to the tools being made since then as required), albeit on a non-statutory footing. The NMWWPP also developed a triangulation process which illustrated the other information that should be considered alongside the staffing level and professional judgement tools when making decisions about staffing. This process formed the basis of the common staffing method. Healthcare Improvement Scotland is now responsible for continued management and development of the tools and the common staffing method and regularly consults with stakeholders as part of this.

Impact Assessments

Impact assessments were carried out as part of the Parliamentary passage of the Health and Care (Staffing) (Scotland) Bill. A CRWIA has been produced in relation to the current Regulations. Due to the technical nature of these Regulations, it was considered that no further impact assessments were necessary.

Financial Effects

The Cabinet Secretary confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business. The staffing level and professional judgement tools have been recommended for use since 2013, and, along with the common staffing method, were being used regularly in many Health Boards prior to the pandemic. Following remobilisation of 2019 Act implementation, Health Boards have put plans in place to run the tools and use the

common staffing method. The review process following use of the common staffing method sits within established governance processes within Health Boards. There should therefore be no significant impact as a direct consequence of mandating their continued use through legislation.

Scottish Government
Chief Nursing Officers Directorate
February 2025