

Health, Social Care and Sport Committee

10th Meeting, 2023 (Session 6), Tuesday, 21 March 2023

Subordinate legislation – Affirmative SSI

1. This paper invites the Committee to consider the following affirmative instrument:

- [Health and Care \(Staffing\) \(Scotland\) Act 2019 Amendment Regulations 2023](#)

Parliamentary procedure:

2. The affirmative procedure means that an instrument cannot be made and come into force unless the Parliament has voted to approve it (rule 10.6.1 of standing orders).
3. Affirmative instruments are first looked at by the DPLR Committee before being considered by the lead committee (usually the committee which examined the Bill for the Act that the SSI is made under or whose remit is most aligned).
4. It is usual practice for the lead committee to take evidence from the relevant Scottish minister in advance of considering the instrument. The committee can ask the minister and any officials questions about the SSI.
5. During its formal consideration, a member of the Scottish Government proposes, by motion, that the lead committee recommend that the instrument or draft instrument be approved. The committee has up to 90 minutes to debate the motion.
6. The lead committee must report its recommendation to Parliament within 40 days of the SI being laid. If the committee agrees the SSI should be approved, the whole of the Parliament then gets a chance to vote on it in the Chamber. If the lead committee decides the SSI should not be approved, the Parliamentary Bureau decides whether MSPs should vote on it in the Chamber.

Title of Instrument: Health and Care (Staffing) (Scotland) Act 2019
Amendment Regulations 2023

Laid Date: 21 February 2023

Reporting deadline: 17 April 2023

Type of instrument: Affirmative

Purpose

7. The instrument makes ancillary provision to correct technical errors in the Act, which arose due to amendments made to the Health and Care (Staffing) (Scotland) Bill during its Parliamentary passage.

8. The policy note is included at **Annexe A**.

Delegated Powers and Law Reform Committee consideration

9. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [28 February 2023](#) and made no recommendations in relation to this instrument.

For decision

10. The Committee must decide whether or not to agree the motion, and then report to Parliament accordingly, by 17 April 2023.

Clerks to the Committee

16 March 2023

Annexe A

POLICY NOTE**THE HEALTH AND CARE (STAFFING) (SCOTLAND) ACT 2019 AMENDMENT REGULATIONS 2023****SSI 2023/XXX**

The above instrument was made in exercise of the powers conferred by section 14(1) and (2) of the Health and Care (Staffing) (Scotland) Act 2019 (the Act). The instrument is subject to affirmative procedure.

Purpose of the instrument.

The purpose of the instrument is to fix missed and incorrect cross-references in the Health and Care (Staffing) (Scotland) Act 2019, which came about because of stage 2 and stage 3 amendments made when the Bill was passing through Parliament. These corrections are needed so all provisions of the Act which refer to other provisions do this properly so the Act can be given full effect.

Policy Objectives

This instrument makes ancillary provision to correct technical errors in the Act, which arose due to amendments made to the Health and Care (Staffing) (Scotland) Bill (the Bill) during its Parliamentary passage.

The Act contains various cross-references, with one provision referring to another. During the Parliamentary passage of the Bill, numerous stage 2 and 3 amendments were made. To ensure amendments were properly reflected throughout the Bill, on some occasions cross-references to amendments required to be added to other Bill provisions, and in certain instances those cross-references were not completed. Other existing cross-references required to be updated to reflect amendments and in certain instances those updates were not made. The corrections made by the instrument are therefore necessary to ensure that amendments that were made to the Bill by Parliament are properly integrated into the Act ensuring that the Act can be given full effect and the intention of the Scottish Parliament delivered.

Consultation

The instrument makes technical amendments to the Act to ensure that it can be given full effect and the intention of the Scottish Parliament delivered. Consultation on the policy to be achieved by the Act is not needed.

However, stakeholders, including representatives from health boards, local authorities, integration authorities, Healthcare Improvement Scotland, Social Care and Social Work Improvement Scotland, professional bodies, trade unions and professional regulatory bodies, have all been invited to participate in working groups preparing the statutory

guidance to accompany the Act. As part of this process, the proposed changes detailed in these Regulations were circulated for comment and no objections were raised.

Impact Assessments

The Regulations correct drafting errors in the Act to ensure that the policy aims of the Act, reflecting the intention of Parliament, can be delivered. Impact assessments were conducted in relation to the Bill. Given the technical nature of the Regulations, no further impact assessments have been undertaken.

Financial Effects

The Cabinet Secretary for Health and Social Care confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Chief Nursing Officers Directorate

February 2023