

National Care Service (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Leave out Part 1

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 96, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 60, 61, 62, 63, 65, 66, 40, 158, 67, 68

Notes on amendments in this Group

Amendment 96 pre-empts amendment 15

Amendments 40, 158 and 67 are direct alternatives

Independent advocacy

91, 69, 41, 70, 92, 93, 94, 95

Notes on amendments in this Group

Amendment 41 pre-empts amendment 70

Complaints

97, 71, 98, 72, 99

Fair work, human rights, and ethical procurement in the social care sector

100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 146, 149, 150, 151

Plans and projections about social care

115, 126, 127

Health and social care information: access and sharing

116, 117, 42, 43, 118, 119, 120, 121, 122, 44, 124

Leave out Parts 2 to 4

123, 125, 134, 135, 138, 139, 140, 141, 148, 155, 156, 159

Health and care information standards

45, 46, 47, 48, 49, 64

Entitlement to care

128, 129, 130, 152, 153

Carers: right to breaks

73, 74, 75, 76, 77, 78, 79, 80, 81, 131, 132, 82, 133, 83, 84, 85, 88

Timescales for adult carer support plans and young carers statements

86, 87

Care homes: right to visits

50, 50A, 50B, 50C, 50D, 136, 137

Notes on amendments in this Group

Amendment 50 pre-empts amendments 136 and 137

Requirements for bodies providing care services

89, 90

Procurement processes

51, 52, 53, 53A, 54, 55

Scottish Social Services Council's power to require information

56

Delegation of functions under Part 1 of the Regulation of Care (Scotland) Act 2001

57

Care Inspectorate powers

142, 154

Protection of adults at risk of harm

58

National Social Work Adviser and National Social Work Agency

59

Reporting on the operation of social care

143, 144, 147, 157

Delayed discharge

145

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Amendments in debating order

Leave out Part 1

Maree Todd

1 Leave out section 1

Maree Todd

2 Leave out section 2

Maree Todd

3 Leave out section 3

Maree Todd

4 Leave out section 4

Maree Todd

5 Leave out schedule 1

Maree Todd

6 Leave out schedule 2

Maree Todd

7 Leave out section 5

Maree Todd

8 Leave out section 6

Maree Todd

9 Leave out section 7

Maree Todd

10 Leave out section 8

Maree Todd

11 Leave out section 9

Maree Todd

12 Leave out section 10

Maree Todd

13 Leave out section 11

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Maree Todd

14 Leave out section 12

Brian Whittle

96 Leave out section 13

Maree Todd

15 Move section 13 to after section 43

Maree Todd

16 Leave out section 14

Maree Todd

17 Leave out section 15

Maree Todd

18 Leave out section 16

Maree Todd

19 Leave out section 17

Maree Todd

20 Leave out section 18

Maree Todd

21 Leave out section 19

Maree Todd

22 Leave out section 20

Maree Todd

23 Leave out section 21

Maree Todd

24 Leave out section 22

Maree Todd

25 Leave out section 23

Maree Todd

26 Leave out section 24

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Maree Todd

27 Leave out section 25

Maree Todd

28 Leave out section 26

Maree Todd

29 Leave out section 27

Maree Todd

30 Leave out schedule 3

Maree Todd

31 Leave out section 28

Maree Todd

32 Leave out section 29

Maree Todd

33 Leave out section 30

Maree Todd

34 Leave out section 31

Maree Todd

35 Leave out section 32

Maree Todd

36 Leave out section 33

Maree Todd

37 Leave out section 34

Maree Todd

38 Leave out schedule 4

Maree Todd

39 Leave out section 35

Maree Todd

60 Leave out section 44

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Maree Todd

- 61 In section 46, page 23, leave out lines 30 to 33 and insert—
<() section 13 may modify any enactment other than this Act,>

Maree Todd

- 62 In section 46, page 24, line 2, leave out <4,>

Maree Todd

- 63 In section 46, page 24, line 2, leave out <15, 27, 28, 29>

Maree Todd

- 65 In section 46, page 24, line 3, leave out subsection (4)

Maree Todd

- 66 In section 46, page 24, line 10, leave out subsection (6)

Alex Cole-Hamilton

- 40 In section 48, page 24, line 19, leave out <National Care Service> and insert <Care and Carers>

Brian Whittle

- 158 In section 48, page 24, line 19, leave out <National Care Service> and insert <Social Care and Support>

Maree Todd

- 67 In section 48, page 24, line 19, leave out <National Care Service (Scotland) Act 2023> and insert <Care Reform (Scotland) Act 2025>

Maree Todd

- 68 In the long title, page 1, line 1, leave out <to establish the National Care Service;>

Independent advocacy

Brian Whittle

- 91 In section 13, page 7, line 16, at end insert—
<() Every individual has a right of access to independent advocacy in connection with the individual's entitlement to social care services.
() It is the duty of the Scottish Ministers to ensure that independent advocacy services are available to the extent necessary for that right to be exercised by the individuals who have it.>

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Gillian Mackay

- 69 In section 13, page 7, line 17, leave out <may> and insert <must>

Maree Todd

- 41 In section 13, page 7, line 17, leave out from <of> to end of line 19 and insert <, in relation to public social care services, of independent—
- (a) information,
 - (b) advice, and
 - (c) advocacy.
- () For the purposes of subsection (1), a public social care service is a service provided in pursuance of a function conferred by virtue of an enactment listed in the schedule of the Public Bodies (Joint Working) (Scotland) Act 2014.>

Gillian Mackay

- 70 In section 13, page 7, line 18, leave out <the services that the National Care Service provides> and insert <all social care services>

Paul Sweeney

- 92 In section 13, page 7, line 19, at end insert—
- <() Regulations under subsection (1) must provide for—
- (a) a right to independent advocacy in connection with an individual’s entitlement to social care services, if, owing to a disability, the individual requires an advocate’s help to engage effectively with the process for determining the individual’s entitlement to, or the arrangement or delivery of social care services,
 - (b) independent advocacy services to be available to the extent necessary for that right to be exercised by the individuals who have it,
 - (c) the establishment of advocacy service standards to be applied to those providing independent advocacy services under the regulations, including—
 - (i) the training and experience individuals providing advocacy services must have,
 - (ii) service quality,
 - (iii) quality assurance processes,
 - (iv) record keeping.>

Brian Whittle

- 93 In section 13, page 7, line 19, at end insert—
- <() Regulations under subsection (1) must make provision for advocacy service standards which may, in particular, include provision in relation to—
- (a) the training and experience individuals providing advocacy services must have,
 - (b) service quality,
 - (c) quality assurance processes,

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- (d) record keeping.>

Gillian Mackay

94 In section 13, page 7, line 19, at end insert—

<() For the purposes of this section—

- (a) “advocacy services” means services of support and representation that are made available for the purpose of enabling an individual to whom they are provided to have as much control of, or capacity to influence, the decisions that determine the individual’s entitlement to social care services as is, in the circumstances, appropriate,
- (b) advocacy services are independent if they are provided by a person other than the Scottish Ministers.>

Paul Sweeney

95 Leave out section 13 and insert—

<Independent advocacy

- (1) Every individual to whom subsection (3) applies has a right of access to independent advocacy in connection with the individual’s entitlement to social care services.
- (2) It is the duty of the Scottish Ministers to ensure that independent advocacy services are available to the extent necessary for that right to be exercised by the individuals who have it.
- (3) This subsection applies to an individual if, owing to a disability, the individual requires an advocate’s help to engage effectively with the process for determining the individual’s entitlement to, or the arrangement or delivery of social care services.
- (4) For the purposes of this section—
 - (a) “advocacy services” means services of support and representation that are made available for the purpose of enabling an individual to whom they are provided to have as much control of, or capacity to influence, the decisions that determine the individual’s entitlement to social care services as is, in the circumstances, appropriate,
 - (b) advocacy services are independent if they are provided by a person other than the Scottish Ministers.
- (5) It must be a term of any agreement that the Scottish Ministers enter into with a person for the provision of advocacy services in connection with their duty under subsection (2), that the person undertakes to comply with the advocacy service standards.
- (6) The advocacy service standards are to be set by the Scottish Ministers in regulations and may, in particular, include provision in relation to—
 - (a) the training and experience individuals providing advocacy services must have,
 - (b) service quality,
 - (c) quality assurance processes,
 - (d) record keeping.
- (7) The advocacy service standards, or a part of them, may be set by reference to another document (whether or not prepared by the Scottish Ministers).>

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Complaints

Gillian Mackay

- 97 In section 14, page 7, line 23, leave out <the services that the National Care Service provides> and insert <care services provided by local authorities>

Gillian Mackay

- 71 In section 14, page 7, line 25, at end insert—
<() overseeing the resolution of those complaints.>

Gillian Mackay

- 98 In section 15, page 8, line 2, leave out from beginning to <other> in line 3 and insert <a>

Gillian Mackay

- 72 In section 15, page 8, line 4, at end insert—
<() A relevant complaint may be a complaint by—
(a) the carer,
(b) the cared-for person,
(c) any other person.>

Gillian Mackay

- 99 In section 15, page 8, line 5, at end insert—
<() provide for the complaint to be assessed against the principles of—
(i) the realisation of human rights,
(ii) enabling people to thrive and fulfill their potential,
(iii) enabling communities to flourish and prosper,
() provide for guidance on the handling of complaints regarding—
(i) the allocation of social care resources,
(ii) any assessment of eligibility for care services,
() provide timescales for—
(i) the complainer to make a complaint, and
(ii) a response to be provided.>

Fair work, human rights, and ethical procurement in the social care sector

Jackie Baillie

- 100 After section 35, insert—

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<PART

FAIR WORK AND HUMAN RIGHTS IN CARE

CHAPTER 1

FOUNDING PRINCIPLES

Founding principles

Fair work, equality and human rights at work are the founding principles of services provided by Scotland's social care sector, including—

- (a) the requirement to put people before profit,
- (b) that Scotland's social care sector is to be an exemplar in its approach to fair work for care workers, ensuring that they are recognised and valued for the critically important work that they do,
- (c) that Scotland's social care sector respects, protects, and fulfills equality law and human rights at work,
- (d) that Scotland's social care sector realises the human rights of service users and workers to the maximum of available resources by tackling tax avoidance.>

Jackie Baillie

101 After section 35, insert—

<CHAPTER

DUTIES AND DUTY BEARERS

The social care sector duties

- (1) It is the duty of the Scottish Ministers and all relevant public authorities to promote in Scotland a care service designed to secure improvement in the wellbeing of service users, carers and the social care workforce.
- (2) In discharging their duty under subsection (1) the Scottish Ministers and relevant public authorities must have due regard to the founding principles of the social care sector, as set out in section (*Founding principles*) and the strategic plan prepared under section (*Strategic plan for social care services*).>

Jackie Baillie

102 After section 35, insert—

<CHAPTER

ETHICAL COMMISSIONING

Ethical commissioning: code of practice

- (1) The Scottish Ministers must prepare and publish a code of practice on ethical commissioning in social care.
- (2) In preparing a code under subsection (1), the Scottish Ministers must—
 - (a) consult and share a draft with—
 - (i) service users,

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- (ii) carers,
 - (iii) providers of social care services,
 - (iv) trade unions representing those working in the social care sector,
 - (v) such other persons as the Scottish Ministers consider appropriate,
- (b) consider any representations made, and
- (c) have regard to the National Standards for Community Engagement or any other equivalent guidance on community engagement and collaboration published by the Scottish Ministers.
- (3) The Scottish Ministers must review the code at least once during each 3 year period and, following such a review must—
- (a) revise the code of practice, or
 - (b) lay a statement before the Scottish Parliament that, having undertaken a review, the Scottish Ministers have concluded that there is no need to revise it.
- (4) Subsections (2) and (3) apply to a revised code of practice as they apply to the code of practice prepared under subsection (1).>

Jackie Baillie

103 After section 35, insert—

<Ethical commissioning of services

- (1) The Scottish Ministers and relevant public authorities must have due regard to the code of practice prepared under section (*Ethical commissioning: code of practice*) in the—
- (a) design,
 - (b) commissioning,
 - (c) delivery, and
 - (d) review,
- of services provided by the social care sector.
- (2) The Scottish Ministers and relevant public authorities must have due regard to the National Standards for Community Engagement or any other equivalent guidance on community engagement and collaboration published by the Scottish Ministers in the—
- (a) design,
 - (b) commissioning,
 - (c) delivery, and
 - (d) review,
- of services provided by the social care sector.>

Jackie Baillie

104 After section 35, insert—

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<CHAPTER

ETHICAL PROCUREMENT

Ethical procurement

- (1) The Scottish Ministers must by regulations provide for arrangements for the ethical procurement of social care services.
- (2) Scottish Ministers and all relevant public bodies must ensure that procurement decisions in relation to social care services give effect to the founding principles of the social care sector as set out in section (*Founding principles*).
- (3) Regulations under subsection (1) must include—
 - (a) circumstances in which procurement of social care services is permitted,
 - (b) the process or processes by which contracts may be awarded,
 - (c) the grounds for excluding specific classes of bidder,
 - (d) minimum ethical standards that contractors are required to meet,
 - (e) requirements that embed minimum legal standards in contracts for social care services,
 - (f) arrangements for promoting continuous improvement as regards fair work, equality and human rights in contracted services,
 - (g) requirements for contract management by commissioning authorities including requirements for—
 - (i) monitoring,
 - (ii) reporting,
 - (iii) review,
 - (iv) improvement notices,
 - (v) enforcement,
 - (h) measures to ensure contractors assist the commissioning authority in the discharge of—
 - (i) the public sector equality duty as set out in section 149 of the Equality Act 2010,
 - (ii) human rights obligations,
 - (i) accessible and effective procedures for complaints and whistleblowing,
 - (j) effective remedies to be provided in the event of provider breach,
 - (k) procedures and alternative service delivery arrangements to be applied in the event of service failure or contract termination, and
 - (l) any other measure that the Scottish Ministers consider is required to ensure the principles and duties as set out in sections (*Founding principles*) and (*The social care sector duties*) are applied—
 - (i) during procurement, and
 - (ii) throughout the period of contracted service delivery.>

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Jackie Baillie

105 After section 35, insert—

<Minimum ethical standards in procured services

A contracting authority must include in each public contract or framework agreement such conditions relating to the performance of the contract or framework as are reasonably necessary to ensure that the social care provider complies with legal obligations in the following areas—

- (a) environmental protection and climate change,
- (b) social policy,
- (c) employment and labour relations,
- (d) health and safety,
- (e) equality, including the public sector equality duty as set out in section 149 of the Equality Act 2010,
- (f) human rights,
- (g) training and skills acquisition,
- (h) any relevant collective agreements, and
- (i) the international law measures referred to in Annex X of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement.>

Jackie Baillie

106 After section 35, insert—

<CHAPTER

SECTORAL BARGAINING

Sectoral bargaining

- (1) To the extent permitted by any other enactment, the Scottish Ministers must negotiate employment conditions for social care workers in Scotland through sectoral bargaining.
- (2) Social care sectoral bargaining agreements are relevant collective agreements for the purposes of section (*Minimum ethical standards in procured services*)(h).>

Carol Mochan

107 After section 35, insert—

<CHAPTER

INTERNATIONAL WORKERS

Treatment of international workers

- (1) Less favourable treatment or victimisation of social care workers on the grounds of—
 - (a) race,
 - (b) nationality,
 - (c) national origin, or

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(d) immigration status,

is a breach of the principles and duties as set out in sections (*Founding principles*) and (*The social care sector duties*).

(2) The Scottish Ministers must publish—

(a) a fair work charter for international workers, and

(b) guidance on the application of the code of practice on ethical commissioning prepared under section (*Ethical commissioning: code of practice*) and regulations on ethical procurement under section (*Ethical procurement*) to the delivery of fair work for international workers.>

Carol Mochan

108 After section 35, insert—

<CHAPTER

FAIR WORK AND CONTINUOUS IMPROVEMENT

Fair work and continuous improvement

- (1) The Scottish Ministers must prepare and publish guidance on continuous improvement in the arrangements for fair work in the social care sector.
- (2) Guidance under this section must apply to all—
 - (a) relevant public authorities, and
 - (b) contracted providers of social care services.
- (3) In preparing guidance under subsection (1), the Scottish Ministers must—
 - (a) consult and share a draft with—
 - (i) service users,
 - (ii) carers,
 - (iii) providers of social care services,
 - (iv) trade unions representing those working in the social care sector,
 - (v) such other persons as the Scottish Ministers consider appropriate,
 - (b) consider any representations made, and
 - (c) have regard to the National Standards for Community Engagement or any other equivalent guidance on community engagement and collaboration published by the Scottish Ministers.
- (4) The Scottish Ministers must review the guidance at least once during each 3 year period and, following such a review must—
 - (a) revise the guidance, or
 - (b) lay a statement before the Scottish Parliament that, having undertaken a review, the Scottish Ministers have concluded that there is no need to revise it.
- (5) Subsections (2) to (4) apply to revised guidance as they apply to the guidance prepared under subsection (1).>

THIS IS NOT THE MARSHALLED LIST

Carol Mochan

109 After section 35, insert—

<CHAPTER

CONTRACT BREACH BY CONTRACTED PROVIDERS

Reportable breaches of contract

- (1) The Scottish Ministers must by regulations—
 - (a) specify acts and omissions of a contracted provider that constitute a reportable breach of contract in relation to fair work standards, including—
 - (i) any judicial decision against the contracted provider in relation to the matters covered by Regulation 19(4) of the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2014/446),
 - (ii) any formal action against the contracted provider by a labour market regulator,
 - (b) set out a process to be followed in the event of a reportable breach of contract, including the reporting of a reportable breach to a commissioning authority,
 - (c) provide for remedies in relation to a reportable breach of contract,
 - (d) provide for termination of contracts where reasonably necessary to ensure compliance with the principles and duties as set out in sections (*Founding principles*) and (*The social care sector duties*).
- (2) Commissioning authorities must—
 - (a) keep a record of all reportable breaches reported to them, and
 - (b) provide a copy of that record to the Scottish Ministers on request.
- (3) The Scottish Ministers must provide for a register of reportable breaches.
- (4) The register provided for under subsection (3) must—
 - (a) include a breakdown of reportable breaches by location,
 - (b) be published at least on an annual basis.>

Carol Mochan

110 After section 35, insert—

<CHAPTER

TRADE UNIONS

Trade unions

- (1) Commissioning authorities must take all necessary steps to ensure that contracted providers comply with the labour relations requirements referred to in section (*Minimum ethical standards in procured services*)(c) and (i).
- (2) Victimisation of social care workers on the grounds of trade union membership or trade union activity is—
 - (a) a breach of the principles and duties as set out in sections (*Founding principles*) and (*The social care sector duties*), and
 - (b) a reportable breach under section (*Reportable breaches of contract*).>

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Carol Mochan

111 After section 35, insert—

<CHAPTER

HUMAN RIGHTS

Maximising the realisation of human rights

- (1) The Scottish Ministers must by regulations provide for the maximisation of the realisation of human rights for service users and workers in the social care sector.
- (2) Regulations under subsection (1) must, in particular, provide for—
 - (a) a requirement for full transparency in financial reporting for corporate structures including the payment of internal charges between linked companies and financial institutions,
 - (b) appropriate control by contracting authorities over the rate of profit extracted from publicly funded services by provider organisations or linked companies whether through operating profits or otherwise,
 - (c) appropriate control of tax avoidance,
 - (d) sanctions for tax evasion,
 - (e) a timetable for the phased expansion of—
 - (i) public provision of social care services,
 - (ii) not for profit delivery of social care services,
 - (f) the establishment or designation of a care finance regulator with functions to ensure the enforcement of financial regulations for the purpose of ensuring that the human rights of service users and workers in the social care sector are realised to the maximum of available resources.>

Carol Mochan

112 After section 35, insert—

<CHAPTER

MONITORING AND REPORTING ON FAIR WORK

Fair work indicators

The Scottish Ministers must by regulations provide for—

- (a) a common standard of fair work indicators,
- (b) mandatory monitoring of fair work indicators through contract management,
- (c) the recording of fair work indicators, including—
 - (i) form,
 - (ii) frequency,
- (d) reporting by contracting authorities on fair work indicators, including disaggregation by—
 - (i) protected characteristics as set out under section 4 of the Equality Act 2010,
 - (ii) immigration status,

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- (e) collection by contracting authorities of qualitative data on fair work standards through effective voice channels,
- (f) the form and content of annual reports by—
 - (i) integration joint boards established under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (ii) any other body with functions delegated to it under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (iii) any other local commissioner,
- (g) the requirement to publish fair work in care reports,
- (h) workforce engagement using effective voice channels on the findings of fair work in care reports.>

Carol Mochan

113 After section 35, insert—

<Annual report on fair work in care

- (1) The Scottish Ministers must, as soon as practicable after the end of each reporting period, prepare and publish a report on fair work in care in Scotland in relation to each reporting period.
- (2) A report under subsection (1) must take into account aggregate data from commissioning authorities on workforce engagement.
- (3) Each of the following is a “reporting period”—
 - (a) the period of 2 years following Royal Assent,
 - (b) each subsequent period of 1 year.>

Jackie Baillie

114 After section 35, insert—

<Interpretation of Part (*Fair work and human rights in care*)

For the purposes of this Part—

“care worker” means a person delivering social care services on behalf of social care institutions or providers within the social care sector,

“services” means care and support services provided by institutions or providers within the social care sector,

“social care sector” means all aspects of personal and practical support and services for children, young people and adults, helping to support their independence, improve their quality of life and ensure they have the necessary assistance in their daily lives to stay at home or to be in a homely setting.>

Brian Whittle

146 After section 43, insert—

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<PART

REVIEW OF COMMISSIONING GUIDELINES

Review of commissioning guidelines

- (1) The Scottish Ministers must, before the end of each reporting period, review ethical commissioning guidelines in relation to care services.
- (2) The Scottish Ministers must—
 - (a) prepare a report of the review, and
 - (b) lay a copy of the report before the Scottish Parliament.
- (3) In this section, “reporting period” is the period of 5 years beginning with the day after Royal Assent and each subsequent period of 5 years.>

Jackie Baillie

- 149 In section 46, page 24, line 2, after <29> insert <,(Ethical procurement)>

Carol Mochan

- 150 In section 46, page 24, line 2, after <29> insert <,(Reportable breaches of contract)>

Carol Mochan

- 151 In section 46, page 24, line 2, after <29> insert <,(Fair work indicators)>

Plans and projections about social care

Jackie Baillie

- 115 After section 35, insert—

<PART

STRATEGIC PLANNING

Scottish Government Strategic Plan for social care services

Strategic plan for social care services

- (1) The Scottish Ministers must—
 - (a) have a strategic plan for social care services, and
 - (b) make the latest version of the plan publicly available.
- (2) The strategic plan for social care services is a document setting out, for the period of the plan, how the Scottish Ministers will—
 - (a) set objectives,
 - (b) achieve the objectives and in what timescale,
 - (c) estimate the costs for meeting the objectives,
 - (d) measure demand for social care services,
 - (e) ensure demand for social care services is met,

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- (f) improve the terms and conditions of people working in social care services,
 - (g) value and empower people who work in social care services,
 - (h) ensure that the principles of self directed support and living independently are implemented in decision-making,
 - (i) deliver an integrated health and social care system, and
 - (j) deliver an ethical commissioning and procurement strategy in relation to providing social care services.
- (3) A strategic plan may include any other information the Scottish Ministers consider appropriate.
- (4) Before making a strategic care plan for social care services the Scottish Ministers must consult—
- (a) carers,
 - (b) people who access social care services,
 - (c) people who work for social care services,
 - (d) care providers,
 - (e) trade unions,
 - (f) such other persons as they consider appropriate.
- (5) The Scottish Ministers—
- (a) may make a new strategic plan at any time (having complied with subsection (4)),
 - (b) must ensure that there is no gap between the period of one plan ending and of its successor beginning.
- (6) The period of a strategic plan—
- (a) must not exceed 4 years,
 - (b) begins on the date that the plan states it begins,
 - (c) ends on the earlier of—
 - (i) the date that the plan states it ends, or
 - (ii) the date that the period of the plan’s successor begins.>

Jackie Baillie

126 After section 37, insert—

<PART

FUNDING FOR SOCIAL CARE

Funding for social care

- (1) At least once every financial year, a relevant body must publish—
- (a) the total funding available to the body for social care for the current financial year, and
 - (b) the body’s projected budget for social care for the next 5 financial years.

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- (2) For the purposes of this section, “relevant body” means—
 - (a) the Scottish Ministers,
 - (b) integration joint boards established under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (c) any other body with functions delegated to it under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (d) health and social care partnerships.>

Jackie Baillie

127 After section 37, insert—

<PART

ASSESSMENT OF NATIONAL SOCIAL CARE NEEDS

Assessment of national social care needs

- (1) The Scottish Ministers must, in respect of each reporting period, prepare and publish a report on the social care needs of the population of Scotland.
- (2) A report under subsection (1) must include information on—
 - (a) current social care needs,
 - (b) projected social care needs,
 - (c) costs of meeting the current and projected social care needs,
 - (d) welfare of the social care workforce,
 - (e) any other matters that the Scottish Ministers consider appropriate.
- (3) In preparing a report under subsection (1), the Scottish Ministers must consult—
 - (a) integration joint boards established under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (b) any other body with functions delegated to it under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (c) health and social care partnerships,
 - (d) such other persons as they consider appropriate.
- (4) For the purposes of this section, a reporting period is—
 - (a) the period of 1 year following Royal Assent,
 - (b) each subsequent period of 2 years.>

Health and social care information: access and sharing

Brian Whittle

116 In section 36, page 16, line 29, leave out <may> and insert <must>

THIS IS NOT THE MARSHALLED LIST

Brian Whittle

- 117 In section 36, page 16, line 29, after <scheme> insert <and digital platform>

Maree Todd

- 42 In section 36, page 16, line 30, after <that> insert <public health and social care>

Maree Todd

- 43 In section 36, page 16, line 30, leave out from <by> to end of line 33

Gillian Mackay

- 118 In section 36, page 16, line 33, at end insert—
<() providers of care services.>

Gillian Mackay

- 119 In section 36, page 16, line 33, at end insert—
<() Regulations under subsection (1) must include—
(a) a right for the person to whom the care record belongs to control who may access information in that care record,
(b) a process for a guardian to control who may access information in the care record on behalf of another person,
(c) provision for the care record to be provided in a format that is accessible to the person.>

Jackie Baillie

- 120 In section 36, page 16, line 33, at end insert—
<() Regulations under subsection (1) must—
(a) provide for the creation of a digital shared care record containing information in relation to an individual such as—
(i) address and contact information,
(ii) prescribed medications,
(iii) allergies,
(iv) test results,
(v) care plans,
(vi) appointments,
(vii) discharge letters,
(viii) personal preferences and decisions,
(ix) clinical contacts,
(b) require the consent of the individual to the sharing of information,
(c) provide for appropriate data protection measures in relation to shared data.>

THIS IS NOT THE MARSHALLED LIST

Sandesh Gulhane

121 In section 36, page 16, line 33, at end insert—

- <() Regulations under subsection (1) must provide for a digital system to allow individuals to access—
- (a) their own health and care records,
 - (b) health and care services in different local authority areas without requiring reassessment.>

Brian Whittle

122 In section 36, page 17, line 2, at end insert—

- <() The Scottish Ministers must make an annual statement to the Scottish Parliament setting out—
- (a) the number of information breaches (if any) arising from the scheme provided for by regulations under subsection (1),
 - (b) the total cost of any information breaches,
 - (c) the steps that the Scottish Ministers are planning to take to prevent future information breaches.>

Maree Todd

44 In section 36, page 17, line 3, leave out subsection (3) and insert—

- <(3) For the purposes of this section, a public health and social care service is a service provided in pursuance of—
- (a) a function conferred by virtue of an enactment listed in the schedule of the Public Bodies (Joint Working) (Scotland) Act 2014, or
 - (b) a function that is exercisable by—
 - (i) a health board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978, or
 - (ii) a special health board constituted under section 2(1)(b) of that Act.
- (4) For the avoidance of doubt, regulations under subsection (1) may provide for information to be shared in order for it to be used not only directly in the performance of the functions mentioned in subsection (3) but also in the performance of any function that supports the efficient and effective provision of public health and social care services (for example, the Scottish Ministers' functions under section 58 of the Regulation of Care (Scotland) Act 2001).>

Brian Whittle

124 After section 36, insert—

<Single health and care record

The Scottish Ministers must introduce a system of a single electronic health and care record, including electronic prescriptions, by the end of 2027.>

THIS IS NOT THE MARSHALLED LIST

Leave out Parts 2 to 4

Brian Whittle

123 Leave out section 36

Brian Whittle

125 Leave out section 37

Brian Whittle

134 Leave out section 38

Brian Whittle

135 Leave out section 39

Brian Whittle

138 Leave out section 40

Brian Whittle

139 Leave out section 41

Brian Whittle

140 Leave out section 42

Brian Whittle

141 Leave out section 43

Brian Whittle

148 Leave out section 45

Brian Whittle

155 Leave out section 46

Brian Whittle

156 Leave out section 47

Brian Whittle

159 Leave out section 48

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Health and care information standards

Maree Todd

45 Leave out section 37 and insert—

<CHAPTER

INFORMATION STANDARDS

Power to produce standards

- (1) For the purposes of this Chapter, an information standard is a document, produced by the Scottish Ministers, setting out requirements in relation to the processing of Scottish health or social care information.
- (2) An information standard may set out requirements by reference to another document (including a document which is not in existence when the standard is produced).
- (3) For any requirement it sets out, an information standard must specify—
 - (a) to whom the requirement applies (see section (*Persons to whom standards may apply*)), and
 - (b) the information in relation to the processing of which the requirement applies.
- (4) The Scottish Ministers must make any information standard they produce publicly available on the information-standards website.>

Maree Todd

46 After section 37, insert—

<Persons to whom standards may apply

- (1) The persons to whom a requirement set out in an information standard may be made to apply are—
 - (a) a local authority,
 - (b) an integration joint board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (c) a health board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
 - (d) a special health board constituted under section 2(1)(b) of that Act,
 - (e) the Common Services Agency for the Scottish Health Service,
 - (f) Healthcare Improvement Scotland,
 - (g) the Scottish Ministers,
 - (h) a person providing independent health care services as defined by section 10F of the National Health Service (Scotland) Act 1978,
 - (i) a person providing a care service as defined by section 47 of the Public Services Reform (Scotland) Act 2010,
 - (j) a person providing social work services as defined by section 48 of that Act,

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- (k) a person who—
 - (i) provides a product or service to a person mentioned in any of paragraphs (a) to (j), and
 - (ii) knows, or ought to know, that the product or service is (or is to be) used for, or in connection with, electronically processing Scottish health or social care information.
- (2) The Scottish Ministers may by regulations modify this section so as to change, or clarify, the list of persons to whom an information standard may be made to apply.>

Maree Todd

47 After section 37, insert—

<Duty to comply with standards

- (1) A person to whom a requirement set out in an information standard applies must comply with it.
- (2) The Scottish Ministers may by regulations provide for a civil sanction to be imposed on a person who breaches the duty under subsection (1).>

Maree Todd

48 After section 37, insert—

<Withdrawal of standards

- (1) The Scottish Ministers may withdraw an information standard at any time by giving notice on the information-standards website that it is withdrawn.
- (2) When an information standard is withdrawn—
 - (a) the duty under section (*Power to produce standards*)(4) to make it publicly available ceases to apply, and
 - (b) the duty under section (*Duty to comply with standards*)(1) to comply with it ceases to apply.>

Maree Todd

49 After section 37, insert—

<Interpretation of Chapter (*Information standards*)

- (1) In this Chapter—
 - “information-standards website” means the website maintained by, or on behalf of, the Scottish Ministers with an internet domain name specified by the Scottish Ministers by regulations,
 - “processing” includes doing any of the things referred to in paragraphs (a) to (f) of section 3(4) of the Data Protection Act 2018,
 - “Scottish health or social care information” means information concerning, or connected with, the provision in Scotland of health care or a social service.

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- (2) For the purposes of the definition of “Scottish health or social care information”—
- “health care” means a service for or in connection with the prevention, diagnosis or treatment of illness,
- “illness” is to be construed in accordance with section 108(1) of the National Health Service (Scotland) Act 1978,
- “social service” has the same meaning as it has in Part 5 of the Public Services Reform (Scotland) Act 2010 (see section 46(2) of that Act).
- (3) By regulations, the Scottish Ministers—
- must amend the definition of “information-standards website” so that it specifies an internet domain name, and
 - may subsequently amend that definition so as to change the internet domain name it specifies.>

Maree Todd

- 64 In section 46, page 24, line 2, leave out <and 36> and insert <36, (*Persons to whom standards may apply*) and (*Duty to comply with standards*)>

Entitlement to care

Sandesh Gulhane

- 128 Before section 38, insert—

<Entitlement to care

Right to care

The Scottish Ministers must by regulations provide that a person who has a critical need for care receives that care no later than 6 weeks after the care need has been determined.>

Paul Sweeney

- 129 Before section 38, insert—

<Entitlement to care

Terminal illness: provision of services

- The Scottish Ministers must by regulations provide, in relation to individuals with a terminal illness, for—
 - expedited access to social care services,
 - increasing levels of social care services having regard to the progression of the terminal illness.
- For the purposes of subsection (1), an individual is to be regarded as having a terminal illness if, having had regard to the guidance mentioned in subsection (3), it is the clinical judgement of an appropriate healthcare professional that the individual has a progressive disease that can reasonably be expected to cause the individual’s death.
- The guidance referred to in subsection (2) is guidance prepared under paragraph 1(3) of schedule 5 of the Social Security (Scotland) Act 2018.

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- (4) For the purposes of subsection (2), “appropriate health professional” has the meaning specified in regulations made under paragraph 1(2D) of schedule 5 of the Social Security (Scotland) Act 2018.>

Paul Sweeney

130 Before section 38, insert—

<Entitlement to care

Portable care packages

- (1) The Scottish Ministers must by regulations provide that—
- (a) where an individual with a disability is receiving social care services provided through a local authority (the first local authority), and
 - (b) that individual moves to a different local authority (the second local authority) as a consequence of that disability,
- the second local authority must provide care equivalent to what was being provided by the first local authority.
- (2) Regulations under subsection (1) must not allow for the provision of equivalent care to be subject to any form of assessment or evaluation.>

Paul Sweeney

152 In section 46, page 24, line 2, after <36> insert <and (*Terminal illness: provision of services*)>

Paul Sweeney

153 In section 46, page 24, line 2, after <36> insert <and (*Portable care packages*)>

Carers: right to breaks

Gillian Mackay

73 In section 38, page 18, line 13, leave out <from providing care for the cared-for person>

Gillian Mackay

74 In section 38, page 18, line 14, leave out <from providing care for the cared-for person>

Gillian Mackay

75 In section 38, page 18, line 16, leave out <from providing that care>

Gillian Mackay

76 In section 38, page 18, line 32, leave out <from providing care for the cared-for person>

Gillian Mackay

77 In section 38, page 18, line 33, leave out <from providing care for the cared-for person>

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Gillian Mackay

78 In section 38, page 18, line 35, leave out <from providing that care>

Gillian Mackay

79 In section 38, page 19, line 24, leave out <from providing care for the cared-for person>

Gillian Mackay

80 In section 38, page 19, line 36, leave out <from providing care for the cared-for person>

Gillian Mackay

81 In section 38, page 20, line 14, leave out <may> and insert <must>

Gillian Mackay

131 In section 38, page 20, line 15, at end insert—

<(2A) Regulations under subsection (2) must provide—

(a) a definition of “sufficient breaks” for the purposes of this Act, that includes—

(i) reasonable limitation of working hours, and

(ii) recognition of the carer’s human right to rest and leisure under Article 24 of the International Declaration of Human Rights,

(b) for a system where the carer is involved in agreeing the sufficiency of breaks according to their circumstances.>

Jackie Baillie

132 In section 38, page 20, line 15, at end insert—

<(2A) Regulations under subsection (2) must provide a definition of “sufficient breaks” for the purposes of this Act that includes the entitlement of a carer to a minimum break of 2 weeks.>

Gillian Mackay

82 In section 38, page 20, line 16, after <may> insert <also>

Gillian Mackay

133 In section 38, page 20, leave out line 17

Gillian Mackay

83 In section 38, page 20, line 29, leave out <from providing care for the cared-for person>

Gillian Mackay

84 In section 38, page 20, line 36, leave out <from providing care for cared-for persons>

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Gillian Mackay

85 In section 38, page 20, line 37, at end insert—

<() In section 41(1) (interpretation), after the entry relating to “adult carer support plan”, insert—

““breaks” includes a break for the carer from providing care or other types of break.”.>

Gillian Mackay

88 After section 39, insert—

<Short break services statement

(1) The Carers (Scotland) Act 2016 is modified as follows.

(2) After section 35(2) (short breaks services statements) insert—

“(2A) A short breaks services statement must include—

(a) how the local authority will ensure there is sufficient availability and variety in short break provision to meet the identified needs of carers,

(b) an assessment of short break provision—

(i) during the day (at home or away from home),

(ii) overnight (at home or away from home),

(iii) at weekends,

(iv) in school holidays,

(v) for planned and unplanned short breaks,

(vi) for the carer to have a short break with or without the cared-for person,

(c) how the local authority can adapt short break provision depending on the individual needs of the carer.”.>

Timescales for adult carer support plans and young carers statements

Gillian Mackay

86 After section 38, insert—

<Duty to prepare adult carer support plan

(1) The Carers (Scotland) Act 2016 is modified as follows.

(2) After section 6(5) (duty to prepare adult carer support plan) insert—

“(5A) The Scottish Ministers must by regulations prescribe timescales for the preparation of adult carer support plans.”.

(3) Section 7 is repealed.>

Gillian Mackay

87 After section 38, insert—

THIS IS NOT THE MARSHALLED LIST

<Duty to prepare young carer statement

- (1) The Carers (Scotland) Act 2016 is modified as follows.
- (2) After section 12(7) (duty to prepare young carer statement) insert—
 - “(7A) The Scottish Ministers must by regulations prescribe timescales for the preparation of young carer statements.”.
- (3) Section 13 is repealed.>

Care homes: right to visits

Maree Todd

50 In section 40, page 21, line 16, leave out subsection (2) and insert—

<() After section 78 insert—

“Regulations under section 78: visits to and by adult care home residents

78A Identification of Essential Care Supporter

- 5 (1) The Scottish Ministers must exercise the power under section 78(2) to impose a duty on providers of care home services for adults to—
 - (a) use their best endeavours to identify for every resident of accommodation provided by the care home service at least one individual as an Essential Care Supporter, and
 - 10 (b) maintain a record of the Essential Care Supporters identified.
- (2) The Scottish Ministers must set out in regulations under section 78(2)—
 - (a) the criteria to be applied in determining who a resident’s Essential Care Supporter is, and
 - (b) the process by which that determination is to be made.
- 15 (3) The duty described by subsection (1) must be framed so that a provider of a care home service must have regard to the code published under section 78C in carrying out the duty.

78B Right to visits: care home residents

- 20 (1) The Scottish Ministers must exercise the power under section 78(2) to impose a duty on providers of care home services for adults to facilitate visits—
 - (a) to residents of accommodation provided by the care home service (“internal visits”),
 - (b) by residents of accommodation provided by the care home service (“external visits”).
- 25 (2) The duty must be framed so that a provider of a care home service may only suspend visits (specifically or generally) if the provider has reasonable cause to believe that it is essential to do so to prevent a serious risk to the life, health or wellbeing of—
 - (a) in the case of internal visits, persons at the accommodation,

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- 30 (b) in the case of external visits (either or both)—
- (i) persons at the accommodation, or
 - (ii) persons at the place where the visit would take place, but for the suspension.
- 35 (3) The duty must also be framed so that, where a provider of a care home service has suspended visits due to a serious risk of a kind described in subsection (2), the provider must take all reasonable steps to eliminate or substantially mitigate the risk so that the suspension of visits can be lifted as soon as practicable.
- 40 (4) The duty must also be framed so that, even in cases where a provider of a care home service has reasonable cause to believe that suspending visits is essential to prevent a serious risk, the provider must continue to facilitate visits to or by a resident if—
- (a) either—
 - (i) the provider has reasonable cause to believe that the resident will die before the suspension of visits is lifted, or
 - 45 (ii) the provider has reasonable cause to believe that—
 - (A) the suspension of visits is causing, or is likely to cause, serious harm to the resident’s health or wellbeing, and
 - (B) that harm outweighs the serious risk, and
 - (b) the resident and the person visiting, or being visited by, the resident agree to take any action or precaution that the provider reasonably considers would mitigate the serious risk to any extent (other than a negligible one).
- 50 (5) The duty must also be framed so as to create a presumption that the suspension of visits to a resident by the resident’s Essential Care Supporter is likely to cause serious harm to the resident’s health or wellbeing.
- 55 (6) Subsection (4) does not preclude the duty from being framed so as to include other circumstances in which visits to or by a resident must continue to be facilitated.
- (7) The duty must also be framed so that a provider of a care home service must have regard to the code published under section 78C in carrying out the duty.

60 **78C Code of practice on care home residents’ right to visits**

- (1) The Scottish Ministers must prepare a code of practice providing guidance on fulfilling the duties imposed in accordance with sections 78A(1) and 78B(1).
- (2) The code must provide that in fulfilling those duties the following are to be treated as paramount considerations—
 - 65 (a) the importance to residents of visits in—
 - (i) promoting their dignity,
 - (ii) promoting their physical and mental health and emotional wellbeing, and
 - (iii) realising their human rights,
 - 70 (b) the importance of recognising and supporting the vital role that people who are not care home staff (for example close relatives and friends) play,

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alongside staff, in providing their loved ones with regular care (including companionship, personal support and advocacy).

- 75 (3) The code may—
- (a) provide guidance on how to—
 - 80 (i) implement an effective visiting policy,
 - (ii) adapt personal care plans to include residents' visiting preferences or requirements,
 - (b) set out what the Scottish Ministers consider constitutes best practice in facilitating visits,
 - (c) give examples of—
 - 85 (i) the means which providers could use to eliminate or mitigate a serious risk of a kind described in section 78B(2),
 - (ii) factors which may be taken into account in making an assessment about whether the harm caused to a resident in suspending visits outweighs the risk,
 - (d) any other guidance relating to fulfilling the duties mentioned in subsection (1) that the Scottish Ministers consider appropriate.
- 90 (4) The Scottish Ministers must—
- (a) publish the code in such manner as they consider appropriate within the period of one year beginning with the day on which this section comes into force,
 - 95 (b) review and, if they consider it appropriate, prepare and publish a new version of the code in such manner as they consider appropriate by the end of each review period, and
 - (c) take such steps as they consider appropriate to promote awareness of the code to providers of care home services for adults.
- (5) Before publishing any version of the code, the Scottish Ministers must consult—
- 100 (a) SCSWIS,
 - (b) Public Health Scotland,
 - (c) such persons, or groups of persons, who they consider represent the interests of—
 - 105 (i) providers of care home services for adults,
 - (ii) the residents of accommodation provided by such care home services, and
 - (iii) the families of such residents.
- (6) In this section, “review period” means the period of 5 years beginning with the day on which the latest version of the code was published.

78D Interpretation of sections 78A to 78C

110 In sections 78A to 78C—

“care home service for adults” has the meaning given in section 82F,

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115

“Essential Care Supporter”, in relation to a resident of accommodation provided by a care home service, means the individual recorded as the resident’s Essential Care Supporter in fulfilment of the duty imposed in accordance with section 78A(1),

“provider”, in relation to a care home service, is to be construed in accordance with the definition of “provide” in section 105.”>

Brian Whittle

50A As an amendment to amendment 50, line 37, at end insert—

<(3A) The duty must also be framed so that, where a provider of a care home service has suspended visits due to a serious risk of a kind described in subsection (2), the provider must provide written reasons for the suspension to the resident of the care home and to the Essential Care Supporter in any case where a visit has been denied.>

Brian Whittle

50B As an amendment to amendment 50, line 90, leave out <such manner as they consider appropriate> and insert <a manner that is accessible to the public, and includes a version in an easy read format,>

Brian Whittle

50C As an amendment to amendment 50, line 95, at end insert—

<(ba) if a significant number of complaints in relation to the code have been received, review, prepare and publish a new version of the code in such manner as they consider appropriate, and>

Brian Whittle

50D As an amendment to amendment 50, line 108, at end insert—

<78CA Report on implementation

- (1) The Scottish Ministers must prepare and publish a report on the implementation of sections 78A to 78C in each local authority area.
- (2) A report under subsection (1) must be produced annually.>

Jackie Baillie

136 In section 40, page 21, line 21, at end insert—

<(2AA) The Scottish Ministers must provide for visiting directions to include a process for residents of care homes to nominate at least one relative or essential care giver to have equivalent access rights to the resident as the staff of care homes.

(2AB) When issuing a visiting direction, the Scottish Ministers must have regard to—

- (a) the requirement for staff and the nominated relative or essential care giver to work together as equals to agree how visits should be facilitated,
- (b) the consistency of risk management processes for both staff and visitors,
- (c) the presumption of serious harm caused to residents of care homes where visits by their nominated contacts are denied.

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(2AC) Before providing for visiting directions under subsection (2AA) the Scottish Ministers must provide guidance on equivalent access rights.

(2AD) The Scottish Ministers must consider what steps are necessary to protect care homes from legal action against them in cases where an essential care giver has visited the care home while all visits have been suspended.>

Jackie Baillie

137 In section 40, page 21, line 21, at end insert—

<(2AA) The Scottish Ministers must exercise the power under subsection (2) to provide for a presumption against the suspension of visits to care homes.

(2AB) The Scottish Ministers must by regulations provide—

- (a) the suspension of visits may only be granted by—
 - (i) Public Health Scotland on health grounds, or
 - (ii) Scottish Ministers (or a body delegated to make the decision on behalf of Scottish Ministers) for any other reason,
- (b) any decision to suspend visits must—
 - (i) be reviewed once in every 48 hour period by the body who granted the suspension, and
 - (ii) remain in force for a period of no longer than 7 days,
- (c) for an expedited appeals process for—
 - (i) a nominated relative or essential care giver to appeal the suspension of visits,
 - (ii) Public Health Scotland to consider the appeal, and
 - (iii) the appeal to be heard and a decision issued no later than 72 hours after the appeal has been made.>

Requirements for bodies providing care services

Katy Clark

89 After section 40, insert—

<Requirements for bodies providing care services

Requirements for bodies providing care services

- (1) The Scottish Ministers must, by regulations, specify requirements for bodies providing publicly funded care services.
- (2) Regulations under subsection (1) must, in particular, provide for requirements on—
 - (a) transparency of ownership, and
 - (b) tax status.>

Katy Clark

90 After section 43, insert—

THIS IS NOT THE MARSHALLED LIST

<Freedom of Information (Scotland) Act: care providers

- (1) The Freedom of Information (Scotland) Act 2002 is modified as follows.
- (2) In schedule 1, after paragraph 75 insert—

“75ZZA A person providing publicly funded care services, but only in respect of information relating to the provision of those services.”.>

Procurement processes

Maree Todd

- 51 In section 41, page 22, leave out line 5

Maree Todd

- 52 In section 41, page 22, line 6, leave out from <to> to end of line 8 and insert <that constitutes, or is otherwise connected to, the provision of a service in pursuance of a function conferred by virtue of an enactment listed in the schedule of the Public Bodies (Joint Working) (Scotland) Act 2014, and>

Maree Todd

- 53 In section 41, page 22, leave out lines 16 to 27 and insert—
- <(aa) it is an organisation that exists solely to provide benefits for society or the environment,
 - (ab) it is neither—
 - 5 (i) established by an enactment, nor
 - (ii) subject to control by a person established by an enactment,
 - (ac) its profits (if any) are not expended except by way of—
 - 10 (i) reinvestment with a view to providing the benefits for society or the environment that the organisation exists to provide, or
 - (ii) distribution to the community that the organisation exists to provide benefits to.
- () For the purpose of paragraph (5)(ab), an organisation is subject to the control of a person established by an enactment if a decisive influence over the strategic objectives and significant decisions of the organisation is exercised by—
- (a) a person established by an enactment,
 - 15 (b) a person that, by virtue of this paragraph, would itself be treated as subject to the control of a person established by an enactment,
 - (c) more than one person described by sub-paragraph (a) or (b) acting jointly.>

Brian Whittle

- 53A As an amendment to amendment 53, line 7, after <any> insert <from a reservable contract>

Maree Todd

- 54 In section 41, page 22, line 30, leave out <definition> and insert <meaning>

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Maree Todd

55 After section 41, insert—

<Power to change threshold for Public Contracts (Scotland) Regulations 2015 to apply

- (1) The Public Contracts (Scotland) Regulations 2015 are modified as follows.
- (2) After regulation 5A insert—

“Amendment of threshold for contracts related to health and social care

5B.—(1) The Scottish Ministers may by regulations modify regulation 5 so as to change the estimated value that a relevant contract must have, or exceed, in order for these Regulations to apply in relation to it.

(2) In paragraph (1), “a relevant contract” means a public service contract that is exclusively for the provision of a service, or more than one service, covered by a CPV code mentioned in regulation 76A(4)(d).”.>

Scottish Social Services Council’s power to require information

Maree Todd

56 Before section 42, insert—

<Scottish Social Services Council’s power to require information

- (1) The Regulation of Care (Scotland) Act 2001 is modified as follows.
- (2) After section 50 insert—

“Information from third parties

50A Council’s power to require information

- (1) The Council may, by notice in writing, require a person to provide it with information.
 - (2) A notice under subsection (1) must specify—
 - (a) the information required,
 - (b) the timescale within which it is to be provided.
 - (3) Where information is not provided in accordance with a notice under subsection (1), the Council may apply to the sheriff for an order requiring the person to provide the information within such time as the sheriff may order.
 - (4) The sheriff may make an order under subsection (3) only if it appears to the sheriff that the information sought is relevant to the exercise of a function of the Council set out in this Part.
 - (5) This section does not permit or require the provision of information in breach of a prohibition or restriction on the disclosure of information arising by virtue of an enactment or rule of law.”.
- (3) The italic heading immediately preceding section 57A becomes “Notification of dismissal etc. for misconduct”.
 - (4) Section 57B (provision of other information to Council by employer) is repealed.>

THIS IS NOT THE MARSHALLED LIST

Delegation of functions under Part 1 of the Regulation of Care (Scotland) Act 2001

Maree Todd

57 Before section 42, insert—

<Delegation of functions under Part 1 of the Regulation of Care (Scotland) Act 2001

- (1) The Regulation of Care (Scotland) Act 2001 is modified as follows.
- (2) In section 58(4) (functions of the Scottish Ministers under Part 1), after “section” insert “(to such extent as they choose)”.>

Care Inspectorate powers

Sandesh Gulhane

142 After section 43, insert—

<Care Inspectorate: powers

- (1) The Scottish Ministers must by regulations provide powers to the Care Inspectorate with the purpose of—
 - (a) improving standards of local care,
 - (b) providing for a system of complaints handling in relation to the provision of care services, including powers of redress,
 - (c) ensuring adequate resources for the increased use of inspection volunteers.
- (2) For the purposes of subsection (1) “inspection volunteers” are individuals who—
 - (a) assist regulatory bodies or organisations in assessing and evaluating social care services,
 - (b) provide feedback by engaging with service users,
 - (c) observe practices,
 - (d) report on the quality of social care and support provided, and
 - (e) help ensure that services meet required standards.>

Sandesh Gulhane

154 In section 46, page 24, line 2, after <36>, insert <and (*Care Inspectorate: powers*)>

Protection of adults at risk of harm

Maree Todd

58 After section 43, insert—

<Protection of adults at risk of harm

Provision of information by and to health care services

- (1) The Adult Support and Protection (Scotland) Act 2007 is modified as follows.

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(2) After section 5 insert—

“5A Disclosure of information by and to certain health care services

(1) Where a relevant health care service knows or believes—

- (a) that a person is an adult at risk, and
- (b) that action needs to be taken (under this Part or otherwise) in order to protect that person from harm,

the relevant health care service may report the facts and circumstances of the case to the council for the area in which it considers the person to be.

(2) A relevant health care service may, of its own accord, provide any information to a public body or office-holder listed in, or specified under, section 5(1) for the purpose of enabling or assisting a council in relation to its duty to make inquiries under section 4.

(3) The public bodies or office-holders listed in, or specified under, section 5(1) may, so far as consistent with the proper exercise of their functions, provide any information to a relevant health care service for the purpose of enabling or assisting a council in relation to its duty to make inquiries under section 4.

(4) For the purposes of this section, a “relevant health care service” means an undertaking which consists of or includes the provision of services by—

- (a) a doctor,
- (b) a dental practitioner,
- (c) a dental care professional,
- (d) a nurse,
- (e) a midwife,
- (f) a registered pharmacist,
- (g) a registered pharmacy technician,
- (h) an occupational therapist,
- (i) a paramedic,
- (j) an optometrist.

(5) In this section—

“dental practitioner” has the meaning given in section 108(1) of the National Health Service (Scotland) Act 1978,

“dental care professional” has the meaning given in section 10F(2B) of that Act,

“registered pharmacist” has the meaning given in section 108(1) of that Act,

“registered pharmacy technician” has the meaning given in section 10F(2B) of that Act,

“occupational therapist” means a person who is registered in the part of the register maintained by the Health and Care Professions Council under article 5 of the Health Professions Order 2001 (S.I. 2002/254) relating to occupational therapists,

THIS IS NOT THE MARSHALLED LIST

“paramedic” means a person who is registered in the part of the register maintained by the Health and Care Professions Council under article 5 of the Health Professions Order 2001 relating to paramedics,

“optometrist” means a person registered in the register of optometrists maintained under section 7 of the Opticians Act 1989.

- (6) The Scottish Ministers may by order modify subsections (4) and (5) so as to change or clarify the types of undertaking which are to be treated as a relevant health care service for the purposes of this section.”.
- (3) In section 44 (committee procedure), for subsection (2) substitute—
 - “(2) But those procedures must allow committee meetings to be attended by—
 - (a) a representative of—
 - (i) the Mental Welfare Commission for Scotland,
 - (ii) the Public Guardian,
 - (iii) SCSWIS (where it has not nominated a representative to be a member of the Committee), and
 - (b) any other person as the Scottish Ministers may by order specify.”.
- (4) After section 45 insert—

“45A Disclosure of information to the Committee by certain health care services

 - (1) A relevant health care service may provide any information to an Adult Protection Committee which the Committee requests.
 - (2) A Committee may only request information under this section if it appears to it to be appropriate for the purpose of performing its functions.
 - (3) For the purposes of this section, a “relevant health care service” has the meaning given in section 5A(4).”.
- (5) In section 46 (biennial report), in paragraph (vi), for “public body or office-holder” substitute “person”.
- (6) In section 78 (orders), in subsection (4), after “section” insert “5A or”.>

National Social Work Adviser and National Social Work Agency

Maree Todd

- 59 After section 43, insert—

<Government social work advice

National Chief Social Work Adviser and National Social Work Agency

- (1) The Social Work (Scotland) Act 1968 is modified as follows.
- (2) After section 5 insert—

“5ZA National Chief Social Work Adviser and National Social Work Agency

 - (1) The Scottish Ministers are to—

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- (a) designate a member of their staff as the National Chief Social Work Adviser to—
 - (i) advise them on policy in relation to social work and the protection of individuals at particular risk of harm, and
 - (ii) prepare an annual report for the Scottish Ministers on the state of social work services and the social work workforce,
 - (b) organise other members of their staff into an agency named the National Social Work Agency to support the National Chief Social Work Adviser.
- (2) The member of staff designated as the National Chief Social Work Adviser must be registered as a social worker in a register that is a relevant register within the meaning of section 52(2) of the Regulation of Care (Scotland) Act 2001.”.>

Reporting on the operation of social care

Brian Whittle

143 After section 43, insert—

<PART

DUTY TO REPORT ON PERSONAL CARE

Duty to report on personal care

- (1) The Scottish Ministers must prepare and publish a report on the provision of personal care for people under the age of 65 in each local authority area.
- (2) A report under subsection (1) must be produced annually.>

Brian Whittle

144 After section 43, insert—

<PART

REPORT ON EQUALITY OF SOCIAL CARE SERVICES

Report on equality of social care services

- (1) The Scottish Ministers must, before the end of each reporting period, prepare and publish a report evaluating the equality of social care services across all local authority areas.
- (2) A copy of the report prepared under subsection (1) must be laid before the Scottish Parliament.
- (3) In this section, “reporting period” is the period of 1 year beginning with the day after Royal Assent and each subsequent period of 1 year.>

Brian Whittle

147 After section 43, insert—

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<PART

ANNUAL REPORT

Annual report

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period—
 - (a) prepare and publish a report on the outcomes of the operation of this Act,
 - (b) lay the report before the Scottish Parliament.
- (2) In this section, “reporting period” is the period of 2 years beginning with the day after Royal Assent and each subsequent period of 2 years.>

Brian Whittle

157 After section 47, insert—

<Commencement: further provision

- (1) The Scottish Ministers must before making any regulations under section 47(2) prepare and publish a report on the estimated costs arising from the Bill for this Act as passed.
- (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.>

Delayed discharge

Brian Whittle

145 After section 43, insert—

<PART

DUTY ON DELAYED DISCHARGES

Duty on delayed discharges

- (1) The Scottish Ministers must ensure that delayed discharges linked to the availability of care services are reduced annually by a target of 25% from the baseline date.
- (2) Where an annual target has not been met, the Scottish Ministers must make a statement to the Scottish Parliament setting out the reasons why the target has not been met.
- (3) In this section, the “baseline date” is 30 November 2024.>

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