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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 304**

**NATIONAL HEALTH SERVICE**

**The Functions of Health Boards  
(Scotland) Amendment Order 2017**

*Made* - - - - 19th September 2017  
*Laid before the Scottish  
Parliament* - - - - 21st September 2017  
*Coming into force* - - 6th November 2017

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(1) (a) and 105(7) of the National Health Service (Scotland) Act 1978(1) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1. This Order may be cited as the Functions of Health Boards (Scotland) Amendment Order 2017 and comes into force on 6th November 2017.

**Amendment to the Functions of Health Boards (Scotland) Order 1991**

2.—(1) The Functions of Health Boards (Scotland) Order 1991(2) is amended as follows.

(2) In article 2 (persons for whose health care each Health Board is responsible)—

(a) in paragraph (1)(a)—

(i) after “sub-paragraph (b)” insert “or (c)”; and

(ii) at the end omit “and”;

(b) in paragraph (1)(b), after “Health Board”, insert—

“; and

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(1) 1978, c.29. Sections 2 was amended by: the Health and Social Services and Social Security Adjudications Act 1983 (c.41) (“the 1983 Act”), schedule 7, paragraph 1; the National Health Service and Community Care Act 1990 (c.19), section 28; the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”), section 10; the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) schedule 2, paragraph 2(2); and National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, paragraph 1(2)(a). Section 105(7) was amended by: the Health Service Act 1980 (c.53), schedule 6, paragraph 5 and schedule 7; the 1983 Act, schedule 9, paragraph 24; and the Health Act 1999 (c.8). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.I. 1991/570 as amended by S.S.I. 2006/132 and S.S.I. 2011/211.

- (c) in so far as that health care consists of providing or securing the provision of abortion services to women who—
  - (i) reside ordinarily in Northern Ireland; and
  - (ii) present for treatment (except at an independent health care service) in the area of the Health Board”;
- (c) after paragraph (2) insert—
  - “(2A) In paragraph (1)(c)—
    - (a) “abortion services” means—
      - (i) the giving of advice on the available procedures, risks and effects of a termination of pregnancy and the medical examination of the person seeking such advice (“the patient”);
      - (ii) the provision of counselling in respect of a termination of pregnancy where requested by the patient;
      - (iii) the termination of the patient’s pregnancy;
      - (iv) contraceptive services; and
      - (v) sexual health services.
    - (b) “contraceptive services” includes—
      - (i) the giving of advice on contraception, the medical examination and treatment of the patient; and
      - (ii) the supply of contraceptive substances and appliances to the patient; and
    - (c) “sexual health services” means—
      - (i) the testing, treatment and pre-test and post-test counselling for sexually transmitted infections of the patient; and
      - (ii) testing and pre-test and post-test counselling for HIV of the patient.”.
- (3) In article 3 (duty of Health Boards to exercise functions) after paragraph (4) insert—
  - “(5) A Health Board may make arrangements to secure the provision of abortion services in relation to women for whom they are responsible by virtue of article 2(1)(c).”.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Functions of Health Boards (Scotland) Order 1991 (“the 1991 Order”). Article 2 of the 1991 Order describes the persons for whose health care each Health Board is responsible. Article 2 is amended by this Order to provide that Health Boards are responsible for providing, or securing the provision of, abortion services to women who reside ordinarily in Northern Ireland but who present for treatment in the Health Board’s area. “Abortion services” is defined at new paragraph (2A) of article 2 and includes the provision of advice and information and the medical examination of the patient as well as associated contraceptive and sexual health services.

Article 2(3) of the Order amends article 3 of the 1991 Order and provides that Health Boards may make arrangements to secure the provision of abortion services to women for whom they are responsible by virtue of the amendments made by this Order.

A Business and Regulatory Impact Assessment has been prepared for this Order and placed in the Scottish Parliament Information Centre. Copies of it can be obtained online at [www.legislation.gov.uk](http://www.legislation.gov.uk).