SCOTTISH STATUTORY INSTRUMENTS

2026 No. 23

NATIONAL HEALTH SERVICE

The NHS Education for Scotland and the Common Services Agency (Transfer of Staff) Regulations 2026

Made - - - -	*21st January 2026*
Laid before the Scottish Parliament	*23rd January 2026*
Coming into force - -	*1st April 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2(10), 10(2) and 105(7), paragraph 7A of schedule 1, and paragraph 3A of schedule 5 of the National Health Service (Scotland) Act 1978(**a**), and all other powers enabling them to do so.

In accordance with paragraph 7C of schedule 1 of that Act(**b**) the Scottish Ministers have consulted with such bodies and organisations as appear to them to be concerned.

Citation and commencement

1. These Regulations may be cited as the NHS Education for Scotland and the Common Services Agency (Transfer of Staff) Regulations 2026 and come into force on 1 April 2026.

Transfer of staff from NHS Education for Scotland to the Common Services Agency

2.—(1) With effect from 1 April 2026, any person who, immediately before that date, was employed by NHS Education for Scotland is transferred into the employment of the Agency.

(2) The contract of employment of a person transferred by virtue of paragraph (1)—

(a) is not terminated by the transfer, and

(b) has effect from 1 April 2026 as if originally made between the person and the Agency.

(3) Without prejudice to paragraph (2), where a person is transferred by virtue of paragraph (1)—

(a) all the rights, powers, duties and liabilities of NHS Education for Scotland under or in connection with the person's contract of employment are transferred to the Agency on 1 April 2026, and

(**a**) 1978 c. 29; section 105(7) was amended by the Health Services Act 1980 (c. 53), schedule 6, paragraph 5(1) and schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 29(1) and schedule 9, Part I, paragraph 24, and the Health Act 1999 (c. 8), schedule 4, paragraph 60; paragraph 7A of schedule 1 was inserted by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 27(3), and schedule 5, paragraph 5; paragraph 3A of schedule 5 was inserted by the Health Services Act 1980 (c. 53), schedule 6, paragraph 8(2) and amended by the 1990 Act, section 27(3), and schedule 5, paragraph 10. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(**b**) Paragraph 7C of schedule 1 was inserted by the 1990 Act, section 27(3), and schedule 5, paragraph 5.

(b) anything done before that date by or in relation to NHS Education for Scotland in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Agency.

(4) If, before 1 April 2026, the person informs NHS Education for Scotland that the person does not wish to become an employee of the Agency—

(a) paragraphs (1) to (3) do not apply to the person, and

(b) the person's contract of employment is terminated on 1 April 2026.

(5) A person is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this regulation in relation to the person.

(6) Nothing in this regulation affects any right of a person so transferred to terminate the person's contract of employment if the terms and conditions of employment are changed substantially to the material detriment of the person.

(7) No such right arises by reason only that, by virtue of this regulation, the identity of the person's employer changes.

(8) In this regulation "NHS Education for Scotland" means the Special Health Board constituted under the NHS Education for Scotland Order 2002(**a**).

Amendment of the Common Services Agency (Membership and Procedure) Regulations 1991

3.—(1) The Common Services Agency (Membership and Procedure) Regulations 1991(**b**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) omit sub-paragraph (ca)(**c**).

(3) For regulation 2(3)(**d**) substitute—

"(3) All members of the Committee, other than the chairing member, are prescribed for the purposes of paragraph 3A of schedule 5 of the Act, except any executive members who are also employees of the Agency.".

NEIL GRAY
A member of the Scottish Government

St Andrew's House,
Edinburgh
21st January 2026

(**a**) S.S.I. 2002/103, amended by S.S.I. 2003/242, S.S.I. 2006/79, S.S.I. 2011/211, S.S.I. 2019/1094 and S.S.I. 2021/330.
(**b**) S.I. 1991/564, amended by S.S.I. 2004/212, S.S.I. 2005/550, S.S.I. 2011/211 and S.S.I. 2025/387.
(**c**) Regulation 1(2) was amended by S.S.I. 2011/211.
(**d**) Regulation 2(3) was amended by S.S.I. 2005/550 and S.S.I. 2011/211.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in consequence of the National Health Service (Functions of the Common Services Agency) (Miscellaneous Amendments) (Scotland) Order 2026 which dissolves NHS Education for Scotland and transfers its functions to the Common Services Agency for the Scottish Health Service ("the Agency").

Regulation 2 provides for the transfer of the staff of NHS Education for Scotland to the Agency on 1 April 2026.

Regulation 3 amends the Common Services Agency (Membership and Procedure) Regulations 1991 to provide that all members of the management committee of the Agency will be entitled to remuneration for their role as members of that committee, other than executive members who are also employed by the Agency.

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