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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 47**

**NATIONAL HEALTH SERVICE**

**The Health Technology Board for Scotland Order 2000**

<i>Made</i>	- - - -	<i>9th March 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>10th March 2000</i>
<i>Coming into force</i>	- -	<i>1st April 2000</i>

The Scottish Ministers, in exercise of the powers conferred on them by sections 2(1)(b), (1A), (1B) and (1C) and 105(7) of the National Health Service (Scotland) Act 1978(1), and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Health Technology Board for Scotland Order 2000 and shall come into force on 1st April 2000.

**Interpretation**

2.—(1) For the purposes of this Order—

“the Act” means the National Health Service (Scotland) Act 1978;

“the Board” means the Special Health Board, to be known by the name of the Health Technology Board for Scotland, which is constituted by this Order.

(2) In this Order unless the context otherwise requires, a reference to an article or Schedule is to an article of, or the Schedule to, this Order and a reference to a paragraph is to a paragraph of the article in which the reference is made.

**Constitution, name and area of the Board**

3. There is hereby constituted a Special Health Board for the whole of Scotland to be known by the name of the Health Technology Board for Scotland.

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(1) 1978 c. 29; section 2(1) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 28 which inserted sub-sections (1)(b), (1A), (1B) and (1C); section 105(7) which was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), Schedule 6, paragraph 5(1) and Schedule 7, and by the 1983 Act, Schedule 9, paragraph 24, and by The Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 60, contains provisions relevant to the exercise of the powers under which this Order is made. 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).

## Functions of the Board

- 4.—(1) The Board shall exercise the following functions of the Scottish Ministers namely—
- (a) functions in relation to the evaluation and provision of advice to the National Health Service in Scotland on the clinical and cost effectiveness of new and existing health technologies including drugs, conferred on them by the Act including without prejudice to the foregoing generality, those specified in section 1(1) of the Act;
  - (b) functions specified in paragraph (2) subject, however, to any limitations there specified.
- (2) The functions specified in this paragraph are as follows:—
- (a) the powers of the Scottish Ministers under section 79(1) of the Act<sup>(2)</sup> to take on lease or to purchase moveable property and land which is required for the purposes of the Board and to use for those purposes and manage any heritable or moveable property so acquired;
  - (b) the powers of the Scottish Ministers under subsection (1A) of section 79 of the Act<sup>(3)</sup> to dispose of land no longer required for the purposes of the Board;
  - (c) the power of the Scottish Ministers under paragraph 4 of Schedule 1 to the Act<sup>(4)</sup>, as applied in relation to the Board by article 5, to pay remuneration to the Chairman of the Board and to such other members thereof as may be prescribed so, however, that this subparagraph shall not be construed as extending to the power to determine the remuneration or to prescribe the members to whom it may be paid;
  - (d) the power of the Scottish Ministers under paragraph 13 of Schedule 1 to the Act, as applied in relation to the Board by article 5, to pay to members of the Board, and any committees and sub-committees thereof, travelling and other allowances so however, that this subparagraph shall not be construed as extending to the power to determine the amount of such allowances; and
  - (e) the duty of the Scottish Ministers under section 47 of the Act to make available such facilities as appear to the Board to be reasonably necessary for undergraduate and post-graduate clinical teaching and research, and for the education and training of persons providing or intending to provide services under the Act.
- (3) In exercising any functions of the Scottish Ministers to acquire, use, manage or dispose of land the Board shall ensure—
- (a) that any instrument in connection with the exercise of those functions is in the name of the Scottish Ministers and not that of the Board; and
  - (b) that, where any such instrument requires to be executed on his behalf by the Scottish Ministers and it is not executed in accordance with section 18 of the Reorganisation of Offices (Scotland) Act 1939<sup>(5)</sup>, it is executed on his behalf in accordance with Schedule 2, paragraph 6 to the Requirements of Writing (Scotland) Act 1995<sup>(6)</sup>.

## Application of enactments

- 5.—(1) Each of the enactments specified in column 1 of each Part of the Schedule (the subject matter of which is described generally in column 2) shall apply in relation to the Board as it applies in relation to Health Boards subject, however, to the modifications and limitations (if any) specified opposite thereto in column 3 and to paragraph (2).

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(2) Section 79(1) was amended by the 1990 Act, Schedule 9, paragraph 19(15).

(3) Section 79(1A) was inserted by the 1983 Act, Schedule 7, paragraph 3, and repealed in part by the Requirements of Writing (Scotland) Act 1995 (c. 7), section 14(2) and Schedule 5.

(4) Paragraph 4 of Schedule 1 was amended by the 1990 Act, Schedule 5, paragraph 3.

(5) 1939 c. 20.

(6) 1995 c. 7.

(2) The enactments which are applied in relation to the Board by virtue of paragraph (1) are so applied only for the purposes of the exercise by the Board of the functions conferred on it by this Order.

St Andrew's House, Edinburgh  
9th March 2000

*SUSAN C DEACON*  
A member of the Scottish Executive

## SCHEDULE

Article 5(1)

## ENACTMENTS APPLIED TO THE BOARD

## PART I

## THE ACT

<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
In the Act–		
In Part I		
In Section 2–	Health Boards	
Sub-section (3)	Variation of area and functions of Health Board	
Sub-section (4)	Provisions incidental to variation of area or functions of Health Boards	
Sub-section (5)	Health Boards to act in accordance with regulations or directions(7)	
Sub-section (8)	Health Board to act as principal	
In Section 10–	Common Services Agency	
Sub-section (4)	Power to provide that functions of Health Boards may be referred to the Agency(8)	
Section 13	Co-operation between Health Boards and other Authorities(9)	
Section 17A	Power to enter into arrangements with NHS bodies for the provision of goods and services (“NHS contracts”)(10)	
In Part IV		
Section 77	Default powers(11)	
In Part V		

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(7) Section 2(5) was amended by the 1990 Act, Schedule 9, paragraph 19(1).

(8) Section 10(4) was amended by the 1990 Act, Schedule 10 and by the 1999 Act, Schedule 4, paragraph 44.

(9) Section 13 was amended by the 1990 Act, Schedule 9, paragraph 19(4).

(10) Section 17A was inserted by the 1990 Act, section 30 and amended by the Health Authorities Act 1995 c. 17, Schedule 1, paragraph 102 and amended by the 1999 Act, Schedule 4, paragraph 46.

(11) Section 77 was amended by the 1990 Act, Schedule 9, paragraph 19(14).

<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
In Section 79–		
Sub-section (1A)	Power of Scottish Ministers to dispose of land <b>(12)</b>	
Sub-section (3)	Power to acquire moveable property on behalf of the Scottish Ministers	
In Section 83–		
Sub-section (1)	Power to hold property on trust	
Section 84	Power to trustees to make payments to Health Boards <b>(13)</b>	
Section 84A	Power to raise money and property by appeals, collections and other similar activities <b>(14)</b>	
Section 85AA	Means of meeting expenditure of Health Boards out of public funds <b>(15)</b>	
In Section 85–		
Sub-section (1)	Expenses of certain bodies <b>(16)</b>	
	Payment of expenses of certain bodies	
Sub-section (2)	Date of allotment	
Sub-section (3)	Power to make directions to bodies listed in sub-section (1)	
Sub-section (4)	Conditions subject to which payments shall be made	
In Section 85A–		
Sub-section (1)	Duty of bodies referred to in section 85(1) as regards expenditure <b>(17)</b>	
Sub-section (3)	Power to make directions in relation to duty under subsection (1)	

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**(12)** Section 79(1A) was repealed in part by the Requirements of Writing (Scotland) Act 1995 (c. 7), section 14(2) and Schedule 5.

**(13)** Section 84 was amended by the 1990 Act, Schedule 9, paragraph 19(10).

**(14)** Section 84A was inserted by the 1980 Act, section 5(2) and amended by the 1990 Act, Schedule 9, paragraph 19(17).

**(15)** Section 85AA was inserted by the 1999 Act<sup>1</sup>, section 52.

**(16)** Section 85 was substituted by the 1999 Act, section 52.

**(17)** Section 85A was inserted by the 1980 Act, section 6(4) and amended by the Health and Medicines Act 1988 (c. 49), section 16(4) and by the 1999 Act, Schedule 4, paragraph 55.

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<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
Sub-section (4)	Disregard for the purposes of the section of certain trust funds	
Section 85B	Power to make provision for meeting losses and liabilities etc of certain health service bodies <b>(18)</b>	
Section 86	Provision in relation to the keeping and auditing of accounts, to their submission to the Scottish Ministers <b>(19)</b>	
Section 87	Power to make regulations as to financial arrangements of health service bodies	
In Part VII–		
Section 101	Protection of Health Boards <b>(20)</b>	
In Schedule 1–	Health Boards	
Paragraph 1	Health Boards to be bodies corporate and have a common seal	
Paragraph 2	Appointment of Chairman and members	
Paragraph 4	Payment of remuneration to the Chairman and such members of Health Boards as may be prescribed <b>(21)</b>	
Paragraph 5	Employment of officers and servants <b>(22)</b>	
Paragraph 5A	Power to make regulations as to the date of appointment <b>(23)</b>	
Paragraph 6	Power to make regulations as to method of appointment, qualifications, remuneration and conditions of service of officers and servants	

**(18)** Section 85B was inserted by the 1990 Act, section 41 and amended by the 1999 Act, Schedule 4, paragraph 56.

**(19)** Section 86 was amended by the 1990 Act, section 36(2) to (8) and amended by the 1999 Act, Schedule 4, paragraph 57.

**(20)** Section 101 was amended by the 1990 Act, Schedule 9, paragraph 19(19).

**(21)** Paragraph 4 was amended by the 1990 Act, Schedule 5, paragraph 3.

**(22)** Paragraph 5 was amended by the 1980 Act, Schedule 6, paragraph 7(2) and Schedule 7.

**(23)** Paragraph 5A was inserted by the 1983 Act, Schedule 7, paragraph 4.

<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
Paragraph 7	Officers and servants employed in accordance with regulations and directions <b>(24)</b>	
Paragraph 7A	Power to make regulations providing for transfer of officers and servants <b>(25)</b>	
Paragraph 7B	Directions to Health Boards to place officers or servants at disposal of other bodies <b>(26)</b>	
Paragraph 11	Power to make regulations as to appointment, committees and procedure <b>(27)</b>	
Paragraph 11A	Subscription to funds of other bodies <b>(28)</b>	
Paragraph 12	Proceedings not to be invalidated by vacancies	
Paragraph 13	Payment to members of a Health Board, the committees and sub-committees thereof of travelling and other allowances, including compensation for loss of remunerative time	The words “, including compensation for loss of remunerative time,” shall be omitted
Paragraph 14	Allowances not payable except in circumstances determined by the Scottish Ministers	
Paragraph 15	Time and method of payment of allowances	
In Schedule 5– Paragraph 7B	Common Services Agency Power to make regulations providing for the transfer of officers and servants <b>(29)</b>	
Paragraph 7C	Power to make directions as to placing of staff with other bodies <b>(30)</b>	

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**(24)** Paragraph 7 was amended by the 1980 Act, Schedule 6, paragraph 7(3).

**(25)** Paragraph 7A was inserted by the 1990 Act, Schedule 5, paragraph 5.

**(26)** Paragraph 7B was inserted by the 1990 Act, Schedule 5, paragraph 5.

**(27)** Paragraph 11 was amended by the 1980 Act, Schedule 6, paragraph 7(4) and Schedule 7 and by the 1990 Act, Schedule 5, paragraph 7.

**(28)** Paragraph 11A was inserted by the 1980 Act, Schedule 6, paragraph 7(5).

**(29)** Paragraph 7B was inserted by the 1990 Act, Schedule 5, paragraph 11.

**(30)** Paragraph 7C was inserted by the 1990 Act, Schedule 5, paragraph 11.

## PART II

## ACTS OTHER THAN THE ACT

<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
The Public Bodies (Admission to Meetings) Act 1960(31)	Admission of the public to meetings	
The House of Commons Disqualification Act 1975(32)		
In Schedule 1, Part III the entry relating to Chairman or any member, not being also an employee, of a Health Board(33)	Offices disqualifying for membership of the House of Commons	
Overseas Development and Co-operation Act 1980(34)		
Section 2(1)(a) and (c)	Powers of National Health Service bodies in Scotland to enter into and carry out agreements to furnish technical assistance outside the UK	
Schedule 1(35)	Statutory bodies with powers under section 2(1)	Limited to the reference in Part IV to “A Health Board”
Health and Medicines Act 1988(36)		
Section 7(1)-(8)	Extension of powers of Secretary of State for financing the Health Service	
Requirements of Writing (Scotland) Act 1995(37) Schedule 2, paragraph 6	Where they have delegated any function relating to the acquisition management or disposal of land, power of the Scottish Ministersto authorise any officer of a Health Board to execute an instrument on their behalf	

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(31) 1960 c. 67.

(32) 1975 c. 24.

(33) Part III of Schedule 1 was amended by the 1990 Act, section 59(3).

(34) 1980 c. 63.

(35) Part IV of Schedule 1 was amended by the 1990 Act, Schedule 9, paragraph 21(c).

(36) 1988 c. 49.

(37) 1995 c. 7.

<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
The Scotland Act 1998 <b>(38)</b> Section 15	Offices disqualifying for membership of the Scottish Parliament	

### PART III

#### ENACTMENTS OTHER THAN ACTS OF PARLIAMENT

<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
The National Health Service (Professions Supplementary to Medicine) (Scotland) Regulations 1974 <b>(39)</b>	Prohibits employment for provision of services under the National Health Service of certain health professions unless they are registered under the Professions Supplementary to Medicine Act 1960 <b>(40)</b>	
The National Health Service (Financial Provisions) (Scotland) Regulations 1974 <b>(41)</b>	Preparation of estimates of income and expenditure and accounts of Health Boards and related matters of a financial nature	Limited so as to exclude the application of any provisions relative to Local Health Councils or the Common Services Agency
The National Health Service (Food Premises) (Scotland) Regulations 1987 <b>(42)</b>	Health Authorities (including Health Boards) to be treated for the purpose of food legislation (as defined in the Regulations) as both owners and occupiers of premises used by them	
The National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 <b>(43)</b>	The determination of remuneration and conditions of service of officers of Health Boards	

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**(38)** 1998 c. 46.

**(39)** S.I.1974/549.

**(40)** 1960 c. 66.

**(41)** S.I. 1974/468.

**(42)** S.I. 1987/2, amended by S.I. 1990/2625.

**(43)** S.I. 1991/537.

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<i>Column 1 Enactment</i>	<i>Column 2 Nature of Provision</i>	<i>Column 3 Modifications and Limitations (where applicable)</i>
The Health Boards (Membership and Procedure) (No 2) Regulations 1991(44)	Provision as to the membership and procedure to be applied by Health Boards	Limited so as to exclude the application of regulation 6(1) (a)
The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993(45)	Appointment as an officer of a Health Board of any registered medical or dental practitioner to the post of consultant or of any registered medical practitioner to the post of community medicine specialist	
The Scottish Parliament (Disqualification) Order 1999(46)	Offices disqualifying for membership of the Scottish Parliament	

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### EXPLANATORY NOTE

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

This Order constitutes a Special Health Board for the whole of Scotland to be known as the Health Technology Board for Scotland (“the Board”) (article 3).

Article 4 of the Order confers on the Board functions in relation to the evaluation and provision of advice to the National Health Service in Scotland on the clinical and cost effectiveness of new and existing health technologies including drugs. These functions will also result in the Board assessing and providing advice in relation to health technology, providing information about assessments and acting as a national resource for information about health technology.

Article 5 and the Schedule apply to the Board various provisions in enactments which apply to Health Boards in general. These include provisions as to funding, the keeping and auditing of accounts and the apportionment and remuneration of Board members and staff. Provisions in certain other Acts relevant to Health Boards generally are also applied as are provisions in various sets of Regulations.

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(44) S.I. 1991/809, amended by S.I. 1993/1615.

(45) S.I. 1993/994.

(46) S.I. 1999/680, amended by S.I. 1999/1351.