
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 103

The NHS Education for Scotland Order 2002

Citation and commencement

- 1.—(1) This Order may be cited as the NHS Education for Scotland Order 2002.
- (2) This Order, except for article 7, shall come into force on 31st March 2002.
- (3) Article 7 of this Order shall come into force on 1st April 2002.

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 NHS Education for Scotland, which is constituted by this Order;
 - “the Council” means the Scottish Council for Postgraduate Medical and Dental Education.

(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 as NHS Education for Scotland.

Functions of the Board

- 4.—(1) The Board shall exercise the following functions of the Scottish Ministers namely—
 - (a) functions in relation to providing, co-ordinating, developing, funding and advising on education and training for persons providing or intending to provide services under the Act in Scotland conferred by the Act including, without prejudice to the foregoing generality, those specified in section 47 of the Act (making available facilities for education, research and training); and
 - (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 power of the Scottish Ministers under section 16(1) of the Act to assist any voluntary organisations whose activities include the provision of a service similar or related to a service provided by the Board under the Act;
 - (b) the power of the Scottish Ministers under section 16(B) of the Act⁽¹⁾ to give financial assistance to voluntary organisations limited to assistance to such organisations whose activities consist of or include the provision of services similar to services provided by the Board for the purpose of education and training, the co-ordination, developing and

(1) Section 16B was inserted by the 1983 Act, section 3.

advising on or of education and training and the assistance so given is given on such terms and conditions as the Scottish Ministers might determine;

- (c) the powers of the Scottish Ministers under section 79(1) of the Act⁽²⁾ 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;
 - (d) the power of the Scottish Ministers under paragraph 4 of Schedule 1 to the Act, as applied in relation to the Board by article 6, to pay remuneration to the chairman of the Board and to such other members thereof as may be prescribed so, however, that this sub-paragraph shall not be construed as extending to the power to determine the remuneration or to prescribe the members to whom it may be paid;
 - (e) the power of the Scottish Ministers under paragraph 13 of Schedule 1 to the Act, as applied in relation to the Board by article 6, to pay to members of the Board, and any committees and sub-committees thereof, travelling and other allowances so, however, that this sub-paragraph shall not be construed as extending to the power to determine the amount of such allowances.
- (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 Scottish Ministers and not that of the Board; and
 - (b) that, where any such instrument requires to be executed on behalf of the Scottish Ministers and it is not executed in accordance with section 1(8) of the Reorganisation of Offices (Scotland) Act 1939⁽³⁾, it is executed on their behalf in accordance with paragraph 6 of Schedule 2 to the Requirements of Writing (Scotland) Act 1995⁽⁴⁾.
- (4) Nothing in this Order shall prevent or restrict any of the following from exercising any function conferred upon them by or under the Act—
- (a) the Scottish Ministers;
 - (b) any Health Board;
 - (c) any other Special Health Board; or
 - (d) the Common Services Agency.

Transfer of property

5. On 31st March 2002, all property, whether heritable or moveable, together with any rights, liabilities and obligations related thereto, which is vested in the Council shall transfer to and vest in the Board.

Applications of enactments

6.—(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).

(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.

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

(3) 1939 c. 20.

(4) 1995 c. 7.

Revocation

7. The Scottish Council for Postgraduate Medical and Dental Education Order 1993(5) is hereby revoked.

St Andrew's House,
Edinburgh
5th March 2002

MALCOLM CHISHOLM
A member of the Scottish Executive