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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 535**

**NATIONAL HEALTH SERVICE**

**The NHS Quality Improvement Scotland  
(Transfer of Officers) Regulations 2002**

*Made* - - - - 30th November 2002  
*Laid before the Scottish  
Parliament* - - - - 2nd December 2002  
*Coming into Force* - - 1st January 2003

The Scottish Ministers, in exercise of the powers conferred by sections 105(7) and 108(1) of, and paragraph 7A of Schedule 1 and paragraph 7B of Schedule 5 to, the National Health Service (Scotland) Act 1978(1) as read with article 5 of, and Part I of the Schedule to, (in each case) the Clinical Standards Board for Scotland Order 1999(2), the Health Technology Board for Scotland Order 2000(3) and the NHS Quality Improvement Scotland Order 2002(4), and of all other powers enabling them in that behalf, and after consultation, in accordance with paragraph 7C of Schedule 1 and paragraph 8B of Schedule 5 to the said Act of 1978(5), with such bodies and organisations as appear to them to be concerned, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the NHS Quality Improvement Scotland (Transfer of Officers) Regulations 2002 and shall come into force on 1st January 2003.

(2) In these Regulations—

“the Board” means NHS Quality Improvement Scotland(6);

“contracts of employment” means those contracts of employment mentioned in regulation 2(3) below;

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(1) 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), Schedule 9, paragraph 24 and the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) contains a definition of “regulations” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 7A of Schedule 1 was inserted by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 5, paragraph 5; paragraph 7B of Schedule 5 was inserted by the 1990 Act, Schedule 5, paragraph 11. 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.1999/726.

(3) S.S.I. 2000/47.

(4) S.S.I. 2002/534.

(5) Paragraph 7C of Schedule 1 was inserted by the 1990 Act, Schedule 5, paragraph 5; paragraph 8B of Schedule 5 was inserted by the 1990 Act, Schedule 5, paragraph 12.

(6) Established by article 3 of the NHS Quality Improvement Scotland Order 2002.

“previous employers” means the Agency, the Clinical Standards Board for Scotland(7) and the Health Technology Board for Scotland(8).

### **Transfer of Officers**

2.—(1) All officers employed by the Clinical Standards Board for Scotland and the Health Technology Board for Scotland on 31st December 2002 shall transfer to the Board on 1st January 2003.

(2) All officers employed by the Agency and engaged in duties in the bodies known as the Clinical Resource and Audit Group or the Scottish Health Advisory Service on 31st December 2002 shall transfer to the Board on 1st January 2003.

(3) The contracts of employment between the officers transferred by paragraphs (1) and (2) above and the previous employers shall not be terminated but shall have effect from 1st January 2003 as if originally made between such officers and the Board.

(4) Without prejudice to the previous paragraphs of this regulation, on 1st January 2003—

- (a) all the rights, powers, duties and liabilities of the previous employers under or in connection with the contracts of employment shall be transferred by virtue of this regulation to the Board;
- (b) anything done before the transfer of officers in accordance with paragraphs (1) and (2) above by or in relation to the previous employers in respect of the contracts of employment, shall be deemed to have been done by or in relation to the Board; and
- (c) any right or liability which was enforceable by or against the previous employers in respect of the employment by them of any officer who is transferred to the Board by virtue of paragraphs (1) and (2) above shall be enforceable by or against the Board.

St Andrew’s House,  
Edinburgh  
30th November 2002

*MALCOLM CHISHOLM*  
A member of the Scottish Executive

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(7) Established by article 3 of the Clinical Standards Board for Scotland Order 1999.

(8) Established by article 3 of the Health Technology Board for Scotland Order 2000.

## **EXPLANATORY NOTE**

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

These Regulations provide in regulation 2(1) for the transfer on 1st January 2003 of those persons employed on that date by the Clinical Standards Board for Scotland and the Health Technology Board for Scotland, to NHS Quality Improvement Scotland.

They also provide in regulation 2(2) for the transfer on 1st January 2003 of those persons who on that date are employed by the Common Services Agency and engaged in duties in the bodies known as the Clinical Resource and Audit Group or the Scottish Health Advisory Service.

Regulation 2(3) and (4) provides that the contracts of employment transferred shall be transferred with continuation of the contracts and all rights and liabilities pertaining to those who are transferred.