

2004 No. 47

NATIONAL HEALTH SERVICE

**The National Health Service (Distribution of Endowment
Income Scheme) (Scotland) Regulations 2004**

Made - - - - - *3rd February 2004*

Coming into force - - - - - *12th February 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 8(1) and 18(2) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003^(a) and of all other powers enabling them in that behalf, and after consultation with all Health Boards and NHS trusts in accordance with section 8(2) of that Act, hereby make the following Regulations, a draft of which has, in accordance with section 18(4) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as the National Health Service (Distribution of Endowment Income Scheme) (Scotland) Regulations 2004 and shall come into force on 12th February 2004.

Making of Scheme

2. The Scheme set out in the Schedule to these Regulations shall have effect.

MALCOLM CHISHOLM
A member of the Scottish Executive

St Andrew's House,
Edinburgh
3rd February 2004

**THE NATIONAL HEALTH SERVICE (DISTRIBUTION OF
ENDOWMENT INCOME) (SCOTLAND) SCHEME 2004**

Citation

1. This Scheme may be cited as the National Health Service (Distribution of Endowment Income) (Scotland) Scheme 2004.

Interpretation

2. In this Scheme—

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

“Health Board”—

(a) has the same meaning as in section 108(1) (interpretation) of the 1978 Act(b); and

(b) means a Health Board other than a Health Board which is a host;

“host” means—

(a) for the period from 12th February 2004 to 31st March 2004, a Health Board or NHS trust that holds an endowment or endowments on behalf of another Health Board or NHS trust; and

(b) for the period from 1st April 2004, a Health Board that holds an endowment or endowments on behalf of another Health Board; and

“NHS trust”—

(a) is to be construed in accordance with section 108(1) of the 1978 Act(c); and

(b) means an NHS trust other than an NHS trust which is a host.

Distribution of income from endowments

3.—(1) A host shall, after paying the necessary expenses of management and the taxes affecting any endowment or endowments held by them on behalf of a Health Board or NHS trust, distribute to the Health Board or NHS trust on whose behalf the endowment or endowments are held, the income from the endowment or endowments in each year, calculated in accordance with subparagraph (2) as follows—

(a) income from 1st April to 30th September, within one month of 30th September;

(b) income from 1st October to 28/29th February, within one month of 28/29th February; and

(c) income from 1st March to 31st March, within one month of completion of the annual audit.

(2) The income from an endowment or endowments to be distributed to a Health Board or NHS trust on whose behalf the endowment or endowments are held, shall be the proportion of the total income in percentage terms which the total capital value of the endowment or endowments held by the host on behalf of that Health Board or NHS trust bears to the total capital value of all endowments held by the host, calculated to 5 decimal places.

(a) 1978 c.29.

(b) The definition of “Health Board” was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), Schedule 9, paragraph 19(22)(a).

(c) The definition of “National Health Service trust” was inserted by the 1990 Act, Schedule 9, paragraph 19(22)(c).

(3) For the purposes of sub-paragraph (2), the capital value of any endowment shall be the market value of that endowment as at the date of the most recent transfer by which any endowment was transferred to the host calculated as follows:—

- (a) investments quoted on a stock exchange – in accordance with the stated valuation method for investments of each host;
- (b) short term loans, bank and cash balances – at amounts outstanding or at credit; or
- (c) other property and rights of, or held by, a host at market valuation by a valuer appointed by the host.

(4) In the event that there is a dispute between the host and the Health Board or NHS trust on the income to be distributed, the Scottish Ministers shall, applying the criteria in sub-paragraphs (1) to (3) above, determine the income to be distributed by the host under sub-paragraph (1).

Application of distributed income

4.—(1) Income distributed in accordance with paragraph 3 to a Health Board must be used by that Health Board—

- (a) for purposes relating to services provided under the 1978 Act in or in relation to hospitals;
- (b) to research into any such matters as are mentioned in section 47(2) (educational and research facilities) of the 1978 Act; or
- (c) for purposes intended to preserve the memory of any person or category of person.

(2) Income distributed in accordance with paragraph 3 to a NHS trust must be used by that NHS trust for purposes relating to services which it is their function to make arrangements for, administer or provide.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations prescribe the Distribution of Endowment Income (Scotland) Scheme 2004 (regulation 2 and schedule). This scheme provides for the method by which a Health Board or NHS trust which holds an endowment or endowments on behalf of another Health Board or NHS trust should calculate the amount of income to be distributed by reference to the percentage capital value of the endowment to the capital value of the other endowments held.

Paragraph 3 of the Schedule provides for dates when income is to be distributed, the method of calculating the value of that income of any endowment and for the Scottish Ministers to resolve disputes about the amount to be distributed.

Paragraph 4 of the Schedule provides for the purposes for which the distributed income is to be applied.

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