

2013 No. 347

NATIONAL HEALTH SERVICE

The National Health Service (Variation of Areas of Health Boards) (Scotland) Order 2013

Made - - - - - *10th December 2013*

Laid before the Scottish Parliament *12th December 2013*

Coming into force in accordance with articles 1(2) and (3)

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2(3) and (4) and 105(7) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

In accordance with section 2(3) of that Act they have consulted with such bodies and organisations as appear to them to be concerned with the making of this Order.

PART 1
GENERAL

Citation and commencement and interpretation

1.—(1) This Order may be cited as the National Health Service (Variation of Areas of Health Boards) (Scotland) Order 2013.

(2) With the exception of those articles mentioned in paragraph (3), this Order comes into force on 1st February 2014.

(3) Articles 3, 4, 8 and 9 come into force on 1st April 2014.

Interpretation

2. In this Order:—

“dental list” has the meaning assigned to it in regulation 4 of the National Health Service (General Dental Services) (Scotland) Regulations 2010(b);

“list” means—

(a) a dental list;

(a) 1978 c.29. Section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1)(a), (c) and (d) and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 29(1), Schedule 9 paragraph 24 and the Health Act 1999 (c.8), Schedule 4, paragraph 60. 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).

(b) S.S.I. 2010/208 to which there are amendments not relevant to this Order.

- (b) an ophthalmic list;
- (c) a pharmaceutical list;
- (d) a primary medical services performers list; or
- (e) a provisional pharmaceutical list;

“ophthalmic list” means a list maintained in accordance with regulation 6 of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006(a);

“pharmaceutical list” has the meaning assigned to it in regulation 5 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009(b);

“primary medical services performers list” has the meaning assigned to it in regulation 2 of the National Health Service (Primary Medical Performers Lists) (Scotland) Regulations 2004(c); and

“provisional pharmaceutical list” has the meaning assigned to it in regulation 8 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009.

Variation of areas of Health Boards

3.—(1) The area for which a Health Board specified in column A of the table in Schedule 1 is constituted is varied so that the area of that Health Board is the same as the combined area of each local government area listed in the corresponding entry in column B of the table.

(2) In Column B of the table a reference to a local government area is to the area of the council of that name constituted under section 2 of the Local Government etc. (Scotland) Act 1994(d) as that area is specified in Part 1 of Schedule 1 to that Act and amended by any instrument listed in Schedule 2 to this Order.

Revocation of Areas Order

4. The National Health Service (Determination of Areas of Health Boards) (Scotland) Order 1974(e) is revoked.

PART 2

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES BETWEEN LANARKSHIRE HEALTH BOARD AND GREATER GLASGOW HEALTH BOARD

Scheme for the transfer of property, rights and liabilities

5.—(1) Lanarkshire Health Board and Greater Glasgow Health Board must prepare and, prior to 1st March 2014, make a scheme for the transfer to Lanarkshire Health Board of such property, rights and liabilities of Greater Glasgow Health Board as is necessary or expedient having regard to the variation of the area of each Health Board.

(2) The scheme transfers that property and those rights and liabilities to Lanarkshire Health Board

(3) The scheme has effect from 1st April 2014.

(4) Any endowment or property held on trust by or on behalf of Greater Glasgow Health Board which is transferred to Lanarkshire Health Board by virtue of paragraph (2) is to be held by them

(a) S.S.I. 2006/135 to which relevant amendments are made by S.S.I. 2007/193.
 (b) S.S.I. 2009/183 to which there are amendments not relevant to this Order.
 (c) S.S.I. 2004/114 to which there are amendments not relevant to this Order.
 (d) 1994 c.39.
 (e) S.I. 1974/266, amended by S.S.I. 2006/33.

on trust for such purposes relating to services provided under the National Health Service (Scotland) Act 1978 or in relation to hospitals, or to their functions with respect to research as Lanarkshire Health Board think fit.

(5) Any dispute in relation to the scheme is to be referred to the Scottish Ministers whose decision is final.

Duties in relation to the making of the scheme and criteria to be considered

6.—(1) In making the scheme under article 5 Lanarkshire Health Board and Greater Glasgow Health Board must ensure that property situated in, and rights and liabilities as respects, a place or area which is within the area of Lanarkshire Health Board as varied by article 3, transfers to Lanarkshire Health Board.

(2) Where it appears to Lanarkshire Health Board and Greater Glasgow Health Board that the criterion in paragraph (1) is not adequate to determine whether any property, right or liability transfers to Lanarkshire Health Board they may apply any other criteria that they agree is appropriate for this purpose.

(3) Lanarkshire Health Board and Greater Glasgow Health Board must co-operate with each other in the preparation of the scheme, and in particular must provide one another with any information required to prepare and make the scheme.

Publication of the scheme

7.—(1) Lanarkshire Health Board and Greater Glasgow Health Board must publish the scheme no later than 1st March 2014.

(2) The scheme must be published on the website of each of Lanarkshire Health Board and Greater Glasgow Health Board, in at least one national newspaper circulating throughout Scotland and in at least one local newspaper circulating in the area of each of these Health Boards.

PART 3

PROVISION IN RESPECT OF LISTS OF LANARKSHIRE HEALTH BOARD AND GREATER GLASGOW HEALTH BOARD

Provision in respect of dental, ophthalmic, pharmaceutical, provisional pharmaceutical and primary medical services performers lists of Lanarkshire Health Board and Greater Glasgow Health Board

8.—(1) Any entry on a list of Greater Glasgow Health Board on 1st April 2014 which relates to places or premises situated in the area of Lanarkshire Health Board as varied by article 3 is deemed, on and after 1st April 2014, to be an entry on the list of that description of Lanarkshire Health Board.

(2) As soon as practicable after 1st April 2014—

- (a) Greater Glasgow Health Board must remove from any list maintained by it any entry on that list which by virtue of paragraph (1) is deemed to be included on the list of Lanarkshire Health Board; and
- (b) Lanarkshire Health Board must amend any list maintained by it to include any entry which by virtue of paragraph (1) is deemed to be included on that list.

(3) Any action taken by or on behalf of Greater Glasgow Health Board prior to 1st April 2014 in relation to any of its lists, or any entry on a list, as it relates to places or premises situated in the area of Lanarkshire Health Board as varied by article 3, has effect on and after 1st April as if the action had been taken by Lanarkshire Health Board in relation to that list or entry.

(4) Any action taken by or on behalf of any other person prior to 1st April 2014 in relation to any list or entry on a list of Greater Glasgow Health Board as it relates to places or premises situated in the area of Lanarkshire Health Board as varied by article 3, has effect on and after 1st April 2014 as if the action had been taken in relation to that list or entry on a list of Lanarkshire Health Board.

ALEX NEIL

A member of the Scottish Government

St Andrew's House,
Edinburgh
10th December 2013

SCHEDULE 1

Regulation 3(1)

AREAS OF HEALTH BOARDS

<i>Column A</i>	<i>Column B</i>
Ayrshire and Arran Health Board	East Ayrshire North Ayrshire South Ayrshire
Borders Health Board	Scottish Borders
Dumfries and Galloway Health Board	Dumfries and Galloway
Fife Health Board	Fife
Forth Valley Health Board	Clackmannanshire Stirling Falkirk
Grampian Health Board	City of Aberdeen Aberdeenshire Moray
Greater Glasgow Health Board	East Dunbartonshire East Renfrewshire City of Glasgow Inverclyde Renfrewshire West Dunbartonshire
Highland Health Board	Argyle and Bute Highland
Lanarkshire Health Board	North Lanarkshire South Lanarkshire
Lothian Health Board	Edinburgh City East Lothian Midlothian West Lothian
Orkney Health Board	Orkney Islands
Shetland Health Board	Shetland Islands
Tayside Health Board	Angus Dundee City Perth and Kinross
Western Isles Health Board	Nan Eilean Siar

SCHEDULE 2

Regulation 3(2)

ORDERS AMENDING LOCAL GOVERNMENT AREAS

Amendments have been made to the areas of local authorities defined in the 1994 Act by the following instruments—

Aberdeen City Council and Aberdeenshire Council Boundaries (Blackburn) Amendment Order 2002**(a)**.

Argyll and Bute Council and West Dunbartonshire Council Boundaries (Ardoch Sewage Works) Amendment Order 2002**(b)**.

Glasgow City Council and Renfrewshire Council Boundaries (Braehead) Amendment Order 2002**(c)**.

City of Edinburgh Council and West Lothian Council Boundaries (West Farm, Broxburn) Amendment Order 2002**(d)**.

Glasgow City Council Area and North Lanarkshire Council Area (Cardowan by Steps) Boundaries Amendment Order 2009**(e)**.

Angus Council Area and Dundee City Council Area (Fithiebank) Boundaries Amendment Order 2009**(f)**.

East Dunbartonshire Council Area and Glasgow City Council Area (Princes Gate and Greenacres by Robroyston) Boundaries Alteration Order 2010**(g)**.

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- (a)** S.S.I. 2002/154.
 - (b)** S.S.I. 2002/155.
 - (c)** S.S.I. 2002/156.
 - (d)** S.S.I. 2002/157.
 - (e)** S.S.I. 2009/368.
 - (f)** S.S.I. 2009/442.
 - (g)** S.S.I. 2010/353.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order varies the areas of Scotland for which Health Boards are constituted to the extent necessary to align the boundaries of Health Board areas and local authority areas.

Article 3(1) provides that the area of each Health Board is varied to be the same as the combined area of each local authority served by that Health Board. The local authority areas which will comprise each Health Board area are set out in Schedule 1. Article 3(2), with Schedule 2, defines local government areas by reference to Schedule 1 to the Local Government etc. (Scotland) Act 1994 and to relevant boundary amendment or alteration orders made since the coming into force of that Act.

Article 4 revokes the National Health Service (Determination of Areas of Health Boards) (Scotland) Order 1974 (“the Areas Order”). The Areas Order determined the areas for which Health Boards were to be constituted in terms of section 13 of the National Health Service (Scotland) Act 1972, subsequently re-enacted as section 2(1) of the National Health Service (Scotland) Act 1978. Health Boards are constituted for these areas by the National Health Service (Constitution of Health Boards) (Scotland) Order 1974 (S.I. 1974/267). The constitution of Health Boards under that Order continues to have effect. The areas for which Health Boards are constituted by that Order are the areas as varied by article 3 of this Order and defined by reference to local government areas.

Parts 2 and 3 of the Order make provisions which are necessary in consequence of the variation of the areas of Greater Glasgow and Lanarkshire Health Boards. Article 5 provides that the Health Boards must make a scheme to provide for transfers of property, rights and liabilities. Article 6 sets out duties in relation to the making of the scheme. Article 7 provides for publication of the scheme. Article 8 makes provision for the adjustment of the lists of health professionals maintained by each of Greater Glasgow Health Board and Lanarkshire Health Boards.

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