

## SCHEDULE 2

Regulation 3

**Functions prescribed for the purposes of section 1(8) of the Act**

<i>Column A</i>	<i>Column B</i>
<b>The National Health Service (Scotland) Act 1978</b>	
All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978	Except functions conferred by or by virtue of— section 2(7) (Health Boards);  section 2CB(1) (functions of Health Boards outside Scotland);  section 9 (local consultative committees);  section 17A (NHS contracts);  section 17C (personal medical or dental services);  section 17I(2) (use of accommodation);  section 17J (Health Boards' power to enter into general medical services contracts);  section 28A (remuneration for Part II services);  section 38(3) (care of mothers and young children);  section 38A(4) (breastfeeding);  section 39(5) (medical and dental inspection, supervision and treatment of pupils and young persons);  section 48 (residential and practice accommodation);  section 55(6) (hospital accommodation on part payment);  section 57 (accommodation and services for private patients);  section 64 (permission for use of facilities in private practice);

- (1) Section 2CB was inserted by [S.S.I. 2010/283](#), regulation 3(2) (as section 2CA) and re-numbered as section 2CB by [S.S.I. 2013/292](#), regulation 8(2).
- (2) Section 17I was inserted by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4. The functions of the Scottish Ministers under section 17I are conferred on Health Boards by virtue of [S.I. 1991/570](#), as amended by [S.S.I. 2006/132](#).
- (3) The functions of the Secretary of State under section 38 are conferred on Health Boards by virtue of [S.I. 1991/570](#).
- (4) Section 38A was inserted by the Breastfeeding etc. (Scotland) Act 2005 (asp 1), section 4. The functions of the Scottish Ministers under section 38A are conferred on Health Boards by virtue of [S.I. 1991/570](#) as amended by [S.S.I. 2006/132](#).
- (5) Section 39 was relevantly amended by the Self Governing Schools etc. (Scotland) Act 1989 (c.39) Schedule 11; the Health and Medicines Act 1988 (c.49) section 10 and Schedule 3, and the Standards in Scotland's Schools etc. Act 2000 (asp 6), schedule 3.
- (6) Section 55 was amended by the Health and Medicines Act 1988 (c.49), section 7(9) and Schedule 3 and the National Health Service and Community Care Act 1990 (c.19), Schedule 9. The functions of the Secretary of State under section 55 are conferred on Health Boards by virtue of [S.I. 1991/570](#).

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<i>Column A</i>	<i>Column B</i>
	<p>section 75A(7) (remission and repayment of charges and payment of travelling expenses);</p> <p>section 75B(8) (reimbursement of the cost of services provided in another EEA state);</p> <p>section 75BA(9) (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);</p> <p>section 79 (purchase of land and moveable property);</p> <p>section 82(10) use and administration of certain endowments and other property held by Health Boards);</p> <p>section 83(11) (power of Health Boards and local health councils to hold property on trust);</p> <p>section 84A(12) (power to raise money, etc., by appeals, collections etc.);</p> <p>section 86 (accounts of Health Boards and the Agency);</p> <p>section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);</p> <p>section 98(13) (charges in respect of non-residents); and</p> <p>paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);</p> <p>and functions conferred by—</p> <p>The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 (14);</p> <p><a href="#">The Health Boards (Membership and Procedure) (Scotland) Regulations 2001/302;</a></p>

- (7) Section 75A was inserted by the Social Security Act 1988 (c.7), section 14, and relevantly amended by S.S.I. 2010/283. The functions of the Scottish Ministers in respect of the payment of expenses under section 75A are conferred on Health Boards by S.I. 1991/570.
- (8) Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.
- (9) Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).
- (10) Section 82 was amended by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), section 10(2) and the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 2.
- (11) There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.
- (12) Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2). There are no amendments to section 84A which are relevant to the exercise of a Health Board's functions.
- (13) Section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7. The functions of the Secretary of State under section 98 in respect of the making, recovering, determination and calculation of charges in accordance with regulations made under that section is conferred on Health Boards by virtue of S.I. 1991/570.
- (14) S.I. 1989/364; as amended by S.I. 1992/411; S.I. 1994/1770; S.S.I. 2004/369; S.S.I. 2005/445; S.S.I. 2005/572; S.S.I. 2006/141; S.S.I. 2008/290; S.S.I. 2011/25 and S.S.I. 2013/177.

<i>Column A</i>	<i>Column B</i>
	The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000;
	The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004;
	The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;
	The National Health Service (Discipline Committees) (Scotland) Regulations 2006;
	The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006;
	The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009;
	The National Health Service (General Dental Services) (Scotland) Regulations 2010; and
	The National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Scotland) Regulations 2011 <sup>(15)</sup> .

### **Disabled Persons (Services, Consultation and Representation) Act 1986**

#### Section 7

(persons discharged from hospital)

### **Community Care and Health (Scotland) Act 2002**

All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.

### **Mental Health (Care and Treatment) (Scotland) Act 2003**

All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.

Except functions conferred by—

section 22 (approved medical practitioners);

section 34 (inquiries under section 33: co-operation)<sup>(16)</sup>;

section 38 (duties on hospital managers: examination, notification etc.)<sup>(17)</sup>;

section 46 (hospital managers' duties: notification)<sup>(18)</sup>;

<sup>(15)</sup> S.S.I. 2011/55; to which there are amendments not relevant to the exercise of a Health Board's functions.

<sup>(16)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(17)</sup> Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act") provides a definition of "managers" relevant to the functions of Health Boards under that Act.

<sup>(18)</sup> Section 46 is amended by S.S.I. 2005/465.

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<i>Column A</i>	<i>Column B</i>
	section 124 (transfer to other hospital); section 228 (request for assessment of needs: duty on local authorities and Health Boards); section 230 (appointment of patient’s responsible medical officer); section 260 (provision of information to patient); section 264 (detention in conditions of excessive security: state hospitals); section 267 (orders under sections 264 to 266: recall); section 281(19) (correspondence of certain persons detained in hospital); and functions conferred by— The Mental Health (Safety and Security) (Scotland) Regulations 2005(20); The Mental Health (Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005(21); The Mental Health (Use of Telephones) (Scotland) Regulations 2005(22); and The Mental Health (England and Wales Cross-border transfer: patients subject to requirements other than detention) (Scotland) Regulations 2008(23).

**Education (Additional Support for Learning) (Scotland) Act 2004**

Section 23

(other agencies etc. to help in exercise of functions under this Act)

**Public Services Reform (Scotland) Act 2010**

All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010

Except functions conferred by—

section 31(public functions: duties to provide information on certain expenditure etc.); and

section 32 (public functions: duty to provide information on exercise of functions).

(19) Section 281 is amended by S.S.I. 2011/211.

(20) S.S.I. 2005/464; to which there are amendments not relevant to the exercise of the functions of a Health Board. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

(21) S.S.I. 2005/467. Section 329(1) of the 2003 Act provides a definition of “managers” relevant to the functions of Health Boards.

(22) S.S.I. 2005/468. Section 329(1) of the 2003 Act provides a definition of “managers” relevant to the functions of Health Boards.

(23) S.S.I. 2008/356. Section 329(1) of the 2003 Act provides a definition of “managers” relevant to the functions of Health Boards.

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<i>Column A</i>	<i>Column B</i>
<b>Patient Rights (Scotland) Act 2011</b>	
All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011	Except functions conferred by <a href="#">The Patient Rights (complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36</a> <b>(24)</b> .

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(24) [S.S.I. 2012/36](#), Section 5(2) of the Patient Rights (Scotland) Act 2011 ([asp 5](#)) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.