



National Health Service (Scotland) Act 1972

1972 CHAPTER 58

PART II

HEALTH BOARDS, ETC.

13 Health Boards

- (1) The Secretary of State shall by order constitute, in accordance with Part I of Schedule 1 to this Act, boards to be called Health Boards, for such areas as he may by order determine, for the purpose of exercising functions with respect to the administration of such health services provided by him as he may by order determine, and for the purpose of making arrangements on his behalf for the provision of the services mentioned in Part IV of the Act of 1947.
- (2) The order or orders made under subsection (1) above determining the areas for which the Health Boards are to be constituted shall be separate from the order or orders constituting those Boards, and, before making any order determining such an area, the Secretary of State shall consult with such bodies and organisations as appear to him to be concerned.
- (3) The Secretary of State may by order vary the area of any Health Board, whether or not the variation involves the constitution of a new Board or the termination of the functions of an existing Board, and, before making such an order, the Secretary of State shall consult with such bodies and organisations as appear to him to be concerned.
- (4) Any order under subsection (3) above may make provision for any supplementary and incidental matters for which it appears to the Secretary of State to be necessary or expedient to provide, in particular for the transfer of officers and of property and liabilities.
- (5) In carrying out the purposes mentioned in subsection (1) above, each Health Board shall act subject to, and in accordance with, regulations and such directions as may be

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given by the Secretary of State, and such regulations and directions may be made or given generally or to meet the circumstances of a particular area or matter.

- (6) Regulations under subsection (5) above shall make provision requiring Health Boards to submit to the Secretary of State a scheme for the exercise of their functions, and enabling the Secretary of State to approve, with or without modifications, any such scheme and to make such a scheme in the event of the failure of any Health Board so to do.
- (7) A Health Board may at any time, and if directed by the Secretary of State shall, within such period as he may specify, submit a new scheme for the exercise of their functions, and regulations mentioned in subsection (6) above shall, with any necessary modifications, apply to any such scheme.
- (8) Where it appears to the Secretary of State to be expedient in the interests of efficiency that a joint committee should be established for the areas of two or more Health Boards for the purpose of exercising some but not all of their functions, the Secretary of State may by order constitute such a joint committee and provide for the exercise by that committee of such of those functions as may be specified in the order, and for the application, with such modifications as may be so specified, to that committee of any provisions of the Health Service Acts relating to those functions, and for any of the matters for which, in relation to a Health Board, provision is or may be made by or under Part III of Schedule 1 to this Act.
- (9) A Health Board shall, notwithstanding that it is exercising functions on behalf of the Secretary of State, be entitled to enforce any rights acquired, and shall be liable in respect of any liabilities incurred (including liability in damages for wrongful or negligent acts or omissions) in the exercise of those functions in all respects as if the Health Board were acting as a principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the Health Board in its own name.
- (10) A Health Board shall not be entitled to claim in any proceedings any privilege of the Crown in respect of the recovery or production of documents, but this subsection shall be without prejudice to any right of the Crown to withhold or procure the withholding from production of any document on the ground that its disclosure would be contrary to the public interest.
- (11) The supplementary provisions contained in Part III of Schedule 1 to this Act shall have effect in relation to the Boards constituted under this section.

14 Local health councils

- (1) Every Health Board shall, within such period as the Secretary of State may specify, submit to him a scheme for the establishment of a local health council or councils for their area or for such districts covering their whole area as the Board thinks fit, and it shall be the general function of any such council to represent the interests of the public in the health service in the area or district for which they have been established.
- (2) A scheme under subsection (1) above shall provide for the appointment by local authorities in or for the area or district concerned of such number of members of the local health council as may be prescribed, and for the appointment by the Health Board, after consultation with such other organisations as may be specified in the scheme, of such number of members as may be so specified.

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- (3) The members of a local health council may appoint one of their own number as the chairman of the council.
- (4) The Secretary of State may approve, without or without modifications, any scheme submitted to him under subsection (1) above, or may refuse to approve it.
- (5) A Health Board may at any time, and if directed by the Secretary of State shall, within such period as he may specify, submit a new scheme under this section, and subsection (4) above shall apply to any such new scheme.
- (6) The Secretary of State shall pay to members of a local health council, the committees and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.
- (7) Allowances shall not be paid under subsection (6) above except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.
- (8) Health Boards shall consult with local health councils on such occasions and to such extent as may be prescribed.
- (9) Regulations may make provision—
 - (a) enabling local health councils to consider questions relating to the health service in their area or district, whether at the request of their Health Board or otherwise, and to advise the Health Board thereon;
 - (b) enabling or requiring local health councils to submit reports to their Health Board on the operation of the health service in their area or district;
 - (c) requiring local health councils to submit annual reports on their activities to their Health Board and requiring Health Boards to transmit a copy of any such report to the Secretary of State ;
 - (d) enabling local health councils to obtain information from their Health Board on such subjects and subject to such conditions as may be prescribed;
 - (e) enabling or requiring members of a local health council to visit establishments administered by their Health Board, subject to such conditions as may be prescribed ;
 - (f) relating to the submission of schemes under subsection (1) above, and to the functions, procedures, staffing and expenses of local health councils.

15 University Liaison Committees

- (1) The Secretary of State may by order constitute, in accordance with Part II of Schedule 1 to this Act, for the area of a Health Board or for the combined areas of two or more Boards, a University Liaison Committee for the purpose of advising that Board or those Boards on the administration of the health service in the area or combined areas so far as relating to the provision of facilities for undergraduate or post-graduate clinical teaching or for research, and for the purpose of advising that Board or those Boards and the university or universities concerned on any matter of common interest to them.
- (2) The supplementary provisions contained in Part III of Schedule 1 to this Act shall have effect in relation to the Committees constituted under this section.

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16 Local consultative committees

- (1) Where, after consultation with the Health Board concerned, the Secretary of State is satisfied that a committee formed for the area of the Board is representative—
 - (a) of the medical practitioners of that area, or
 - (b) of the dental practitioners of that area, or
 - (c) of the nurses and midwives of that area, or
 - (d) of the pharmacists of that area, or
 - (e) of the ophthalmic and dispensing opticians of that area, the Secretary of State shall recognise that committee.
- (2) Any committee so recognised shall be called—
 - (a) the area medical committee,
 - (b) the area dental committee,
 - (c) the area nursing and midwifery committee, (d) the area pharmaceutical committee, or
 - (e) the area optical committee,as the case may be, for the area concerned.
- (3) Where, after consultation with the Health Board concerned, the Secretary of State is satisfied that a committee formed for the area of any Health Board is representative of any other profession engaged in the provision of care or treatment under the Health Service Acts, and that it is in the interests of the health service to recognise that committee for the purposes of those Acts, he may so recognise it.
- (4) Where, after consultation with the Health Board concerned, the Secretary of State is satisfied that a committee formed for the area of any Health Board is representative of two or more of the professions mentioned in subsection (1) or (3) above, and that it is in the interests of the health service to recognise that committee for the purposes of the Health Service Acts, he may so recognise it.
- (5) It shall be the general function of a committee recognised under this section to advise the Health Board for its area on the provision of services under the Health Service Acts with which that committee is concerned in that area, but, except in so far as regulations otherwise provide, in exercising functions conferred by or under this section, such a committee shall not concern itself with the remuneration and conditions of service of practitioners or other persons of whom it is representative.
- (6) In addition to any other functions which committees recognised under this section may exercise, they shall exercise such functions as may be prescribed.
- (7) In exercising their functions under the Health Service Acts, Health Boards shall consult with committees recognised under this section on such occasions and to such extent as may be prescribed.
- (8) Any committee recognised under this section may, with the approval of the Health Board for its area, delegate any of its functions, with or without restrictions or conditions, to subcommittees and may appoint to any sub-committee persons who are not members of the committee.
- (9) Health Boards shall defray the reasonable expenses of committees recognised under this section and shall pay to members of such committees and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as the Secretary of State may, with the approval of the Minister for the Civil

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Service, from time to time determine, but payments under this subsection may only be made as respects the exercise of functions conferred by or under this section.