



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.