



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

An Act to consolidate certain enactments relating to the national health service in Scotland. [20th July 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

ORGANISATION

Secretary of State

1 General duty of Secretary of State

- (1) It shall continue to be the duty of the Secretary of State to promote in Scotland a comprehensive and integrated health service designed to secure—
 - (a) improvement in the physical and mental health of the people of Scotland, and
 - (b) the prevention, diagnosis and treatment of illness,and for that purpose to provide or secure the effective provision of services in accordance with the provisions of this Act.
- (2) The services so provided shall be free of charge, except in so far as the making and recovery of charges is expressly provided for by or under any enactment, whenever passed.

*Administrative bodies***2 Health Boards**

- (1) The Secretary of State shall by order constitute in accordance with Part I of Schedule 1 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 so determine, and for the purpose of making arrangements on his behalf for the provision of the services mentioned in Part II; and those boards shall be called Health Boards.
- (2) The order or orders made under subsection (1) 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) 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) each Health Board shall act subject to, and in accordance with, such regulations as may be made, and such directions as may be 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) shall make provision requiring each Health Board to submit to the Secretary of State a scheme for the exercise of their functions, and enabling the Secretary of State to approve any such scheme with or without modifications, and to make such a scheme in the event of the failure of any Health Board to do so.
- (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 making the provision mentioned in subsection (6) shall, with any necessary modifications, apply to any such scheme.
- (8) 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.
- (9) 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.

- (10) Schedule 1 shall have effect in relation to the Boards constituted under this section.
- (11) 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 this Act 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 II of Schedule 1.

3 Scottish Medical Practices Committee

- (1) With a view to securing that the number of medical practitioners undertaking to provide general medical services in the areas of different Health Boards, or in different parts of those areas, is adequate, the Secretary of State shall constitute a committee to be called the Scottish Medical Practices Committee (hereafter in this Act referred to as "the Medical Practices Committee"), for the purpose of considering and determining applications made for inclusion in any list kept by a Health Board of medical practitioners undertaking to provide such services for persons in the Board's area.
- (2) Schedule 2 shall have effect in relation to the Medical Practices Committee.

4 Scottish Dental Estimates Board

- (1) For the purpose of carrying out such duties as may be prescribed with respect to the approval of estimates of dental treatment and appliances, regulations shall make provision for constituting a board, to be called the Scottish Dental Estimates Board, (hereafter in this Act referred to as "the Dental Estimates Board"), of whom the chairman and a majority of members shall be dental practitioners.
- (2) Regulations made in pursuance of this section shall include provision, in relation to the Dental Estimates Board, for any of the matters for which, in relation to a Health Board, provision is or may be made by or under Part II of Schedule 1.

National advisory bodies

5 Scottish Health Service Planning Council

- (1) There shall be constituted a Council, to be called the Scottish Health Service Planning Council (hereafter in this Act referred to as "the Planning Council"), and it shall be the duty of the Planning Council to advise the Secretary of State on the exercise of his functions under this Act, whether at his request or on their own initiative.
- (2) Schedule 3 shall have effect in relation to the Planning Council.
- (3) For the purpose of performing their duty under this section the Planning Council shall keep under review the development of the health service in Scotland as a whole and in the various parts of Scotland.

- (4) The Planning Council shall make an annual report to the Secretary of State on their proceedings and on the proceedings of any committee appointed by them, and the Secretary of State shall lay that report before Parliament with such comments (if any) as he thinks fit.

6 National Consultative Committees

- (1) Where the Secretary of State is satisfied that a committee has been formed which is representative of any, some or all of the professions engaged in the provision of care or treatment under this Act, and that it is in the interests of the health service to recognise the committee for the purposes of this Act, he shall so recognise it, and any such committee shall be known as a national consultative committee.
- (2) The professional teaching interests in relation to any such profession shall be represented on the national consultative committee by such number of members, appointed in such manner, as may be prescribed.
- (3) Where the Secretary of State considers it necessary, he may, with the agreement of a national consultative committee, appoint additional persons to be members of that committee.
- (4) It shall be the general function of a national consultative committee to advise the Planning Council on the provision of services under this Act, being services with which that committee is concerned; but, except in so far as regulations otherwise provide, such a committee shall not concern itself with the remuneration and conditions of service of practitioners or other persons of whom it is representative.
- (5) In addition to any other functions which a national consultative committee may exercise, they shall exercise such functions as may be prescribed.
- (6) The Planning Council shall consult with the national consultative committees on such occasions and to such extent as may be prescribed, and may ask any such committee to undertake, on behalf of the Planning Council, such investigation as the Planning Council think fit.
- (7) A national consultative committee shall have power to appoint sub-committees, whether jointly with another national consultative committee or otherwise, and to appoint to any such sub-committee persons who are not members of the national consultative committee or committees concerned.
- (8) The Secretary of State shall defray the reasonable expenses of national consultative committees, 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 he may, with the approval of the Minister for the Civil Service, from time to time determine.

Local advisory bodies

7 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) 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.
- (3) The Secretary of State may approve, with or without modifications, any scheme submitted to him under subsection (1), or may refuse to approve it.
- (4) 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 (3) shall apply to any such new scheme.
- (5) The members of a local health council may appoint one of their own number as the chairman of the council.
- (6) The Secretary of State shall pay to the members of a local health council, and of 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) 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) and to the functions, procedures, staffing and expenses of local health councils.

8 University Liaison Committees

- (1) The Secretary of State may by order constitute, in accordance with Schedule 4, for the area of a Health Board or for the combined areas of two or more Health 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) Paragraphs 11 to 15 of Schedule 1 (other than sub-paragraph (d) of paragraph 11) shall have effect in relation to the Committees constituted under this section.

9 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 this Act, and that it is in the interests of the health service to recognise that committee for the purposes of this Act, 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), and that it is in the interests of the health service to recognise that committee for the purposes of this Act, 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 this Act, being services 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 this Act, 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 sub-committees 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 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.

Agency for Secretary of State and other bodies

10 Common Services Agency

- (1) There shall be constituted a body, to be called the Common Services Agency for the health service (hereafter in this Act referred to as "the Agency"), which shall have the functions conferred on it by this section.
- (2) Schedule 5 shall have effect in relation to the Agency.
- (3) The Secretary of State may by order delegate to the Agency such of his functions under this Act as he considers appropriate.
- (4) After consultation with the Planning Council, the Health Boards and any other interests which appear to the Secretary of State to be concerned, the Secretary of State, where he considers it expedient for the efficient discharge of the functions of the Health Boards, may by order provide that the performance of such functions as he may determine shall stand referred to the Agency and be discharged by it on behalf of any or all of the Health Boards.
- (5) The Secretary of State may by order withdraw from the Agency any function delegated or referred to it under this section.
- (6) The Agency shall provide such services and carry out such tasks for bodies associated with the health service as the Secretary of State and those bodies may agree, and on such terms and conditions as may be agreed.
- (7) In carrying out its functions the Agency shall act subject to, and in accordance with, such directions as may be given by the Secretary of State.
- (8) The Agency shall, notwithstanding that it is exercising functions on behalf of the Secretary of State or any other body associated with the health service, 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 Agency were acting as a principal; and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the Agency in its own name.
- (9) The Agency 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.

Trusts

11 Scottish Hospital Trust

- (1) The Secretary of State shall constitute a Scottish Hospital Trust (hereafter in this Act referred to as " the Hospital Trust").
- (2) Schedule 6 shall have effect in relation to the Hospital Trust.
- (3) It shall be the duty of the Hospital Trust to hold and administer endowments which were transferred to the Hospital Trust under section 2 of the Hospital Endowments (Scotland) Act 1971.
- (4) References in this Act to a " relevant endowment" are references to an endowment such as is referred to in subsection (3).
- (5) The Hospital Trust shall cause proper accounts to be kept of the capital, income and expenditure vested in, received by, and expended by them, and shall cause an abstract thereof to be published in such manner as the Secretary of State may approve.
- (6) The Hospital Trust shall give to Health Boards reasonable access to the accounts above mentioned.
- (7) The Hospital Trust shall make an annual report of their proceedings to the Secretary of State, which report shall include an abstract of the accounts; and the Secretary of State shall lay any such report annually before each House of Parliament.

12 Scottish Hospital Endowments Research Trust

- (1) The Secretary of State shall constitute a Scottish Hospital Endowments Research Trust (hereafter in this Act referred to as " the Research Trust").
- (2) Schedule 7 shall have effect in relation to the Research Trust.
- (3) It shall be the duty of the Research Trust to hold and administer funds on trust for the purpose of assisting the conduct of research into any matters relating to the causation, prevention, diagnosis or treatment of illness or to the development of medical or surgical appliances, including hearing aids.
- (4) The Research Trust shall have power to accept, hold and administer, in accordance with Schedule 7, any property on trust for the purpose aforesaid.
- (5) Before deciding to give assistance in any particular case the Research Trust shall consult with any advisory committee on medical research which the Secretary of State may from time to time direct them to consult.
- (6) The Research Trust shall cause proper accounts to be kept of the capital, income and expenditure vested in, received by, and expended by them, and shall cause such accounts to be audited and an abstract thereof to be published in such manner as the Secretary of State may approve.

- (7) The Research Trust shall make an annual report of their proceedings to the Secretary of State, which report shall include an abstract of the accounts; and the Secretary of State shall lay any such report annually before each House of Parliament.

Co-operation and assistance

13 Co-operation between Health Boards and other authorities

In exercising their respective functions, Health Boards, local authorities and education authorities shall co-operate with one another in order to secure and advance the health of the people of Scotland.

14 Designated medical officers

- (1) Every Health Board shall, in accordance with regulations, designate a medical officer or officers of the Board for the purpose of exercising such functions on behalf of local authorities as may be assigned to him by or under any enactment and such other functions as local authorities may, with the agreement of the Health Board, assign to him.
- (2) Any such medical officer shall, in any enactment, be known as " the designated medical officer ".
- (3) A designated medical officer may exercise any powers conferred by any enactment on an authorised officer of a local authority if the local authority authorises him in writing to do so.
- (4) A designated medical officer may appoint one or more persons approved by the Board to act as his depute or deputies, and all things required or authorised by law to be done by or to the designated medical officer may be done by or to any depute so appointed by him; and any reference in any enactment or instrument made under any enactment to the designated medical officer shall, where the depute is acting for the officer, include a reference to the depute.

15 Supply of goods and services to local authorities, etc.

- (1) The Secretary of State, a Health Board or the Agency may—
 - (a) purchase and store and, on such terms and conditions as may be agreed, supply to persons providing general medical, general dental or general ophthalmic services, or pharmaceutical services under Part II such equipment, goods or materials as may be prescribed;
 - (b) purchase and store and, on such terms and conditions as may be agreed, supply to local authorities, education authorities, government departments and such public bodies or classes of public bodies as may be determined by the Secretary of State, any equipment, goods or materials of a kind used in the health service ;
 - (c) provide local authorities and education authorities, on such terms and conditions as may be agreed, with any administrative, professional or other services of persons employed by the Secretary of State, a Health Board or the Agency;

- (d) permit local authorities and education authorities, on such terms and conditions as may be agreed, to use premises occupied for the purposes of the health service;
 - (e) permit local authorities and education authorities, on such terms and conditions as may be agreed, to use any vehicle, plant or apparatus belonging to a Health Board or the Agency ;
 - (f) permit education authorities, on such terms and conditions as may be agreed, and for the purpose of providing special education within the meaning of section 5 of the Education (Scotland) Act 1962, to use any premises or facilities provided under section 36;
 - (g) carry out, on such terms and conditions as may be agreed, maintenance work in connection with land or buildings for the maintenance of which a local authority or education authority is responsible.
- (2) In paragraphs (a) and (b) of subsection (1), the power to supply equipment, goods and materials includes a power to make arrangements with third parties for the supply by them of those things.
- (3) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of this section and is used in accordance with the terms on which it is so available, the Vehicles (Excise) Act 1971 and Part VI of the Road Traffic Act 1972 shall have effect with such modifications as are specified in the order.

16 Assistance to voluntary organisations

- (1) The Secretary of State may assist any voluntary organisation whose activities include the provision of a service similar or related to a service provided under this Act by permitting them to use premises belonging to him on such terms as may be agreed, and by making available goods, materials, vehicles or equipment (whether by way of gift, loan or otherwise) and the services of any staff who are employed in connection with the premises or other things which he permits the organisation to use.
- (2) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of this section and is used in accordance with the terms on which it is so available, the Vehicles (Excise) Act 1971 and Part VI of the Road Traffic Act 1972 shall have effect with such modifications as are specified in the order.
- (3) In this section, " voluntary organisation " means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

17 Furnishing of overseas aid by Health Boards and the Agency

- (1) Any Health Board and the Agency shall each have power—
- (a) with the consent of the Secretary of State, to enter into, and carry out, agreements with the appropriate Minister under which they act, at the expense of that Minister, as the instrument by means of which technical assistance is furnished by him in exercise of the power conferred on him by section 1 (1) of the Overseas Aid Act 1966; and
 - (b) with the consent of the Secretary of State and the appropriate Minister, to enter into and carry out agreements under which they furnish to any authority or person outside the United Kingdom, on such terms as to payment as may be agreed, technical or any other assistance, other than financial, for any purpose mentioned in the said section 1(1).

- (2) In this section " appropriate Minister " means the Minister for the time being discharging the functions expressed by the said Act of 1966 to be conferred on the Minister of Overseas Development.

PART II

PROVISION OF SERVICES

General services

18 Duty of Secretary of State

It shall be the duty of the Secretary of State to secure the provision of general medical, general dental and general ophthalmic services, and of pharmaceutical services, in accordance with the provisions of this Part.

General medical services

19 Arrangements and regulations for general medical services

- (1) It shall be the duty of every Health Board, in accordance with regulations, to make as respects their area arrangements with medical practitioners for the provision by them of personal medical services for all persons in the area who wish to take advantage of the arrangements; and the services provided in accordance with the arrangements are in this Act referred to as " general medical services ".
- (2) Regulations may make provision for defining the personal medical services to be provided and for securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance; and the regulations shall include provision—
- (a) for the preparation and publication of lists of medical practitioners who undertake to provide general medical services;
 - (b) for securing a right to any person to choose or to change, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to the consent of the practitioner who is to give the attendance and to any prescribed limit on the number of patients to be accepted by any practitioner;
 - (c) for the distribution, among medical practitioners whose names are on the aforesaid lists, of any persons who have indicated a wish to obtain general medical services but who have not made any choice of medical practitioner or have been refused by the practitioner chosen;
 - (d) for the issue to patients or their personal representatives by medical practitioners providing such services as aforesaid of such certificates as may be prescribed, being certificates reasonably required by them under or for the purposes of any enactment;
 - (e) for the removal from the list of medical practitioners undertaking to provide general medical services for persons in any area of the name of a medical practitioner in whose case it has been determined in such manner as may be

prescribed that he has never provided or has ceased to provide general medical services for persons in that area.

- (3) The remuneration to be paid under arrangements under this Part to a practitioner who provides general medical services shall not, except in special circumstances, consist wholly or mainly of a fixed salary which has no reference to the number of patients for whom the practitioner has undertaken to provide such services.

20 Applications to provide general medical services

- (1) All applications made in the prescribed manner to a Health Board for inclusion in a list kept by that Board of the names of medical practitioners undertaking to provide general medical services for persons in the Board's area shall be referred by the Board to the Medical Practices Committee and (except as mentioned in subsection (2)) any medical practitioner whose application is granted by that Committee shall be entitled to the inclusion of his name in the list.
- (2) That entitlement is subject to—
 - (a) section 21 (requirement of suitable experience);
 - (b) section 23 (distribution of general medical services);
 - (c) section 29 (disqualification of practitioners).

21 Requirement of suitable experience

- (1) Where the Secretary of State has made regulations for the purposes of this section, and after a day prescribed as the appointed day for those purposes—
 - (a) the Medical Practices Committee shall refuse any application under section 20 made after that day if the medical practitioner is not suitably experienced; and
 - (b) a Health Board shall not arrange under section 19 with a medical practitioner for him to provide general medical services for persons in its area unless the Medical Practices Committee have granted an application by him for the inclusion of his name in the list kept by the Board of medical practitioners undertaking to provide general medical services for persons in that area.
- (2) For the purposes of this section a medical practitioner is " suitably experienced " if, but only if, he either—
 - (a) has acquired the prescribed medical experience, or
 - (b) is by virtue of regulations made under section 22 exempt from the need to have acquired that experience,
 and " medical experience " includes hospital experience in any specialty.

22 Regulations as to section 21

- (1) Regulations may for the purposes of section 21 provide—
 - (a) for prescribing the medical experience needed to satisfy paragraph (a) of section 21(2);
 - (b) as to the documents which an applicant may or must produce as evidence that he is suitably experienced or has acquired medical experience of any particular kind;
 - (c) for requiring an applicant who claims to have acquired the prescribed experience to submit particulars of his experience to a prescribed body, and for

requiring that body, if satisfied that he has acquired the prescribed experience, to issue him a certificate (a "certificate of prescribed experience") to that effect;

- (d) for enabling an applicant without the prescribed experience who considers that the medical experience which he has acquired is, or ought to be regarded as, equivalent to the prescribed experience to submit particulars of that experience to a prescribed body, and for requiring or enabling that body, if satisfied that the applicant's medical experience is so equivalent, to issue him a certificate (a "certificate of equivalent experience") to that effect;
- (e) for treating an applicant who holds a certificate of equivalent experience as satisfying paragraph (a) of section 21(2);
- (f) as to the circumstances or conditions in or subject to which a medical practitioner is exempt from the need to have acquired the prescribed experience;
- (g) for conferring on an applicant who is refused a certificate of prescribed experience or a certificate of equivalent experience a right of appeal to a body constituted by the Secretary of State, and for any matter for which it appears to the Secretary of State to be requisite or expedient to provide in consequence of the conferring of that right;
- (h) for anything authorised or required by section 21 to be prescribed or otherwise provided for by regulations.

In this section—

"applicant" means a medical practitioner who has made or proposes to make an application to which paragraph (a) of section 21(1) applies;

"the prescribed experience" means the medical experience for the time being prescribed for the purposes of paragraph (a) of section 21(2).

- (2) Regulations under this section shall be framed so as to allow the prescribed experience to be acquired without undertaking whole-time employment.
- (3) Any power under this section to make regulations—
 - (a) may be exercised so as to make different provision for different areas or different periods of time or in relation to different cases or different circumstances;
 - (b) includes power to make such incidental or supplemental provision in the regulations as the Secretary of State considers appropriate.

23 Distribution of general medical services

- (1) The Medical Practices Committee may refuse any application under section 20 on the ground that the number of medical practitioners undertaking to provide general medical services in the area of the Health Board concerned or in part of that area is already adequate.
- (2) If in the opinion of the Medical Practices Committee additional practitioners are required for any area or part, but the number of applications exceeds the number required, the Committee shall select the persons whose applications are to be granted and shall refuse the other applications.
- (3) Before selecting any persons under subsection (2) the Medical Practices Committee shall consult the Health Board concerned, and that Board shall consult the area medical

committee (if any) for their area before expressing their views on the persons to be selected.

- (4) Except as provided in subsections (1) to (3), or as required by section 21, the Medical Practices Committee shall not refuse any application under section 20, but the Committee may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part or parts of the area of the Health Board as the Committee may specify.
- (5) A medical practitioner who has made an application under section 20 which has been refused or has been granted subject to such conditions may appeal to the Secretary of State; and the Secretary of State may, on any such appeal, direct the Medical Practices Committee to grant the application either unconditionally or subject to such conditions as the Secretary of State may specify.

This subsection does not apply where an application has been refused under paragraph (a) of section 21(1).

- (6) Where the Medical Practices Committee select persons from a number of applicants, the persons selected shall not be included in the list in question during the period for bringing an appeal to the Secretary of State or pending the determination of any such appeal.
- (7) If the Secretary of State grants an appeal to which subsection (6) above relates, he may direct either that the application—
 - (a) shall be granted in addition to those already granted; or
 - (b) shall be granted instead of such one of those applications as he may specify.

In the latter case, he shall make the other applicant a party to the appeal, and no further appeal shall be brought by that applicant in respect of the application in question.

- (8) The Medical Practices Committee shall, in a case where persons have to be selected from a number of applicants, and the Secretary of State shall on an appeal in any such case—
 - (a) have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the area or part of an area concerned and to any desire expressed by such other practitioners to take any applicant into practice with them;
 - (b) have special regard to such matters in cases where an applicant is related to any other such practitioner.

24 Regulations for Medical Practices Committee

Regulations may make provision for conferring or imposing on the Medical Practices Committee such additional functions in relation to arrangements for the provision of general medical services as may be prescribed; and regulations shall provide—

- (a) for requiring Health Boards to make to the Medical Practices Committee, at such times and in such manner as may be prescribed, reports as to—
 - (i) the number of medical practitioners required to meet the reasonable needs of their areas and the different parts of those areas;
 - (ii) the occurrence of any vacancies in the lists of medical practitioners kept by them under this Part; and
 - (iii) the need for filling such vacancies ;

- (b) for prescribing the procedure for—
 - (i) the determination of applications by the Medical Practices Committee;
 - (ii) the making and determination of appeals to the Secretary of State under section 23 ; and
 - (iii) requiring Health Boards and applicants to be informed of the decisions of the Committee and the Secretary of State.

General dental services

25 Arrangements for provision of general dental services

- (1) It shall be the duty of every Health Board, in accordance with regulations, to make as respects their area arrangements with dental practitioners under which any person for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances shall receive such treatment and appliances; and the services provided in accordance with those arrangements are in this Act referred to as " general dental services ".
- (2) Regulations may make provision as to the arrangements to be made under subsection (1), and shall include provision—
 - (a) for the preparation and publication of lists of dental practitioners who undertake to provide general dental services;
 - (b) for conferring a right, subject to the provisions of this Part relating to the disqualification of persons providing services, on any dental practitioner who wishes to be included in any such list to be so included ;
 - (c) for conferring a right on any person to choose in accordance with the prescribed procedure the dental practitioner from whom he is to receive general dental services, subject to the consent of the practitioner so chosen;
 - (d) for the removal from the list of dental practitioners undertaking to provide general dental services for persons in any area of the name of a dental practitioner in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, general dental services for persons in that area.
- (3) The remuneration to be paid under arrangements made under this section to a dental practitioner who provides general dental services elsewhere than at a health centre shall not, except in special circumstances, consist wholly or mainly of a fixed salary.

General ophthalmic services

26 Arrangements for provision of general ophthalmic services

- (1) It shall be the duty of every Health Board to make as respects their area, in accordance with regulations, arrangements with medical practitioners having the prescribed qualifications, with ophthalmic opticians and with dispensing opticians, for securing—
 - (a) the testing of sight by such medical practitioners and ophthalmic opticians, and

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- (b) the supply by ophthalmic opticians and dispensing opticians of optical appliances;
- and the services provided in accordance with the arrangements are in this Act referred to as " general ophthalmic services ".
- (2) Regulations may make provision as to the arrangements to be made under subsection (1), and shall include provision—
- (a) for the preparation and publication of lists of medical practitioners, ophthalmic opticians and dispensing opticians respectively who undertake to provide general ophthalmic services;
 - (b) for conferring a right, subject to the provisions of this Act relating to the disqualification of practitioners, on any medical practitioner having the prescribed qualifications, any ophthalmic optician or any dispensing optician, who wishes to be included in the appropriate list, to be so included ;
 - (c) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained and the ophthalmic or dispensing optician who is to supply the appliances;
 - (d) for the removal from the list of medical practitioners, ophthalmic opticians or dispensing opticians undertaking to provide general ophthalmic services for persons in any area of the name of a medical practitioner, ophthalmic optician or dispensing optician, as the case may be, in whose case it has been determined, in such manner as may be prescribed, that he has never provided or has ceased to provide general ophthalmic services for persons in that area.
- (3) The power conferred by this section to prescribe the qualifications to be possessed by any medical practitioner includes—
- (a) power to prescribe a requirement that the practitioner shall show, to the satisfaction of a committee recognised by the Secretary of State for the purpose, that he possesses such qualifications (including qualifications as to experience) as may be mentioned in the regulations, and
 - (b) power to confer on a person who is dissatisfied with the determination of such a committee, a right of appeal to a committee appointed by the Secretary of State, and to make provision for any matter for which it appears to the Secretary of State to be requisite or expedient to make provision in consequence of the conferring of that right.

Pharmaceutical services

27 Arrangements for provision of pharmaceutical services

- (1) It shall be the duty of every Health Board to make, in accordance with regulations, arrangements as respects its area for the supply to persons who are in that area of—
- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the health service for England and Wales, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony), and
 - (b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions;

and the services provided in accordance with the arrangements are in this Act referred to as " pharmaceutical services ".

In this subsection—

" listed " means included in a list for the time being approved by the Secretary of State for the purposes of this subsection;

" the health service for England and Wales " and " the Northern Ireland health service " mean respectively the health service established in pursuance of section 1 of the National Health Service Act 1946 or any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.

(2) Regulations may make provision for securing that arrangements made under this section will be such as to enable any person for whom they are ordered as mentioned in subsection (1) to receive the drugs, medicines and appliances there mentioned from any persons with whom such arrangements have been made; and the regulations shall include provision—

- (a) for the preparation and publication of lists of persons who undertake to provide pharmaceutical services ;
- (b) for conferring a right, subject to the provisions of this Part relating to the disqualification of practitioners, on any person who wishes to be included in any such list, to be included for the purpose of supplying such drugs, medicines and appliances as that person is entitled by law to sell; and
- (c) for the removal from the list of persons undertaking to provide pharmaceutical services for persons in any area of the name of any person in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide such pharmaceutical services for persons in that area.

28 Persons authorised to provide pharmaceutical services

- (1) Except as may be provided by regulations, no arrangements shall be made by a Health Board with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering general medical services or general dental services.
- (2) Except as may be provided by regulations, no arrangements for the dispensing of medicines shall be made with persons other than persons who are registered pharmacists or are persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968, and who undertake that all medicines supplied by them under the arrangements made under this Part shall be dispensed either by, or under the direct supervision of, a registered pharmacist.

Provisions as to disqualification of practitioners

29 Disqualification of persons providing services

- (1) There shall be constituted a tribunal (hereafter in this Act referred to as " the Tribunal ") for the purpose of inquiring into cases where representations are made in the prescribed manner to the Tribunal by a Health Board or any other person that the continued inclusion of any person in any list prepared under this Part—
 - (a) of medical practitioners undertaking to provide general medical services;

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- (b) of medical practitioners undertaking to provide general ophthalmic services;
 - (c) of dental practitioners undertaking to provide general dental services;
 - (d) of ophthalmic opticians undertaking to provide general ophthalmic services;
 - (e) of dispensing opticians undertaking to provide general ophthalmic services; or
 - (f) of persons undertaking to provide pharmaceutical services,
- would be prejudicial to the efficiency of the services in question.

- (2) Schedule 8 shall have effect in relation to the Tribunal.
- (3) The Tribunal, on receiving representations from a Health Board, shall, and in any other case may, inquire into the case and, if they are of the opinion that the continued inclusion of the said person in any list to which the representations relate would be prejudicial to the efficiency of the said services, shall direct that his name be removed from that list, and may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other Health Board under this Part.
- (4) An appeal shall lie to the Secretary of State from any direction of the Tribunal under subsection (3), and the Secretary of State may confirm or revoke that direction in whole or in part.
- (5) Where the Tribunal direct that the name of any person be removed from, or not included in, any list or lists, the Health Board or Boards concerned shall—
 - (a) if no appeal is brought, at the end of the period for bringing an appeal, or
 - (b) if an appeal is brought and the direction of the Tribunal as regards any such list or lists is confirmed by the Secretary of State, on receiving notice of the Secretary of State's decision,
 remove the name of the person concerned from the list or lists in question.
- (6) The references in subsections (1), (3) and (5) to a Health Board shall include a reference to such committee or joint committee as may be prescribed.

30 Removal of disqualification

- (1) Any person whose name has been removed by a direction under section 29 from any list or lists shall be disqualified for inclusion in any list to which that direction relates until the Tribunal or the Secretary of State direct under this section to the contrary.
- (2) For the purpose of deciding whether or not to issue a direction under this section (or under paragraph 6 of Schedule 15) the Tribunal or the Secretary of State, as the case may be, may hold an inquiry.

31 Disqualification provisions in England or Wales or Northern Ireland

If—

- (a) under any provisions in force in England or Wales or Northern Ireland corresponding to the provisions of this Part, a person is for the time being disqualified for inclusion in all lists prepared under those provisions of persons undertaking to provide services of one or more of the kinds specified in section 29(1), then
- (b) that person shall, so long as that disqualification is in force, be disqualified for inclusion in a list prepared under this Part of persons undertaking to provide

services of that kind or those kinds, and the name of that person shall be removed from any such list in which his name is included.

32 Regulations as to sections 29 to 31

Regulations shall make provision—

- (a) with regard to the procedure for the holding of inquiries by the Tribunal or the Secretary of State under sections 29 to 31 and for the making and determining of appeals to the Secretary of State under that procedure, and, in particular, for securing that any person who is the subject of such an inquiry shall be informed, as soon as may be, of the substance of any charge or complaint to which the inquiry relates and shall have an opportunity—
 - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal and, in the case of an inquiry by, or appeal to, the Secretary of State, before a person appointed by the Secretary of State, and
 - (ii) of being heard by the Tribunal or the person so appointed, and of calling witnesses and producing other evidence on his behalf,
 and that the hearing, whether by the Tribunal or the person so appointed, shall be in public if the person who is the subject of the inquiry so requests;
- (b) for conferring on the Tribunal and on any person so appointed such powers as the Secretary of State considers necessary for the purpose of holding such inquiries, including power to require the attendance of witnesses and the production of documents and to administer oaths; and
- (c) for the publication of decisions of the Tribunal and the Secretary of State under this section and of the imposition and removal of any disqualification imposed by virtue of this section, and for the intimation to any person who is the subject of such an inquiry of the grounds upon which any disqualification has been imposed in his case.

Supplementary provisions relating to Part II

33 Powers of Secretary of State where services are inadequate

If the Secretary of State is satisfied, after such inquiry as he may think fit, as respects the area of any Health Board or part of any such area that the persons included in any list prepared under this Part—

- (a) of medical practitioners undertaking to provide general medical services,
- (b) of dental practitioners undertaking to provide general dental services,
- (c) of persons undertaking to provide general ophthalmic services, or
- (d) of persons undertaking to provide pharmaceutical services,

are not such as to secure the adequate provision of the services in question in that area or part, or that for any other reason any considerable number of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Part, he may authorise the Health Board to make such other arrangements as he may approve, or may himself make other arrangements, and may dispense with any of the requirements of regulations made under this Part so far as appears to him to be necessary to meet exceptional circumstances and enable such arrangements to be made.

34 Exercise of choice of medical practitioner, etc., in certain cases

Regulations may provide that where a right to choose the person by whom services are to be provided under this Part is conferred by or under any provision of this Part, that right shall, in the case of such persons as may be specified in the regulations, be exercisable on their behalf by other persons so specified.

35 Prohibition of sale of medical practices

- (1) Where the name of any medical practitioner is or has been at any time on or after 5th July 1948 entered in any list of medical practitioners undertaking to provide general medical services, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner.

This subsection is subject to subsections (2) and (3); and the additional provisions contained in Schedule 9 have effect for the purposes of this section.

- (2) Where a medical practitioner, whose name has ceased to be entered in any list of medical practitioners undertaking to provide general medical services, practises in an area for which he has never been on any such list, subsection (1) does not render unlawful the sale of the goodwill or any part of the goodwill of his practice in that area.
- (3) Subsection (1) does not prevent the sale of the goodwill or any part of the goodwill of a medical practice carried on in any area, being a sale by a medical practitioner whose name has never been entered in a list of a Health Board (or of an Executive Council) for that area of medical practitioners undertaking to provide general medical services, notwithstanding that any part of the goodwill to be sold is attributable to a practice previously carried on by a person whose name was entered in such a list.

PART III**OTHER SERVICES AND FACILITIES****36 Accommodation and services**

- (1) It shall be the duty of the Secretary of State to provide throughout Scotland, to such extent as he considers necessary to meet all reasonable requirements, accommodation and services of the following descriptions—
- (a) hospital accommodation, including accommodation at state hospitals;
 - (b) premises other than hospitals at which facilities are available for any of the services provided under this Act;
 - (c) medical, nursing and other services, whether in such accommodation or premises, in the home of the patient or elsewhere.
- (2) Where accommodation or premises provided under this section afford facilities for the provision of general medical, general dental or general ophthalmic services, or of pharmaceutical services, they shall be made available for those services on such terms and conditions as the Secretary of State may determine.

37 Prevention of illness, care and after-care

The Secretary of State shall make arrangements, to such extent as he considers necessary to meet all reasonable requirements, for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons.

38 Care of mothers and young children

It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary, for the care, including in particular medical and dental care, of expectant mothers and nursing mothers and of young children.

39 Medical and dental inspection, supervision and treatment of pupils and young persons

- (1) It shall be the duty of the Secretary of State to provide for the medical and dental inspection, at appropriate intervals, and for the medical and dental supervision, of all pupils in attendance at any school under the management of an education authority, and of all young persons in attendance at any junior college or other educational establishment under such management.
- (2) It shall be the duty of the Secretary of State to make such arrangements as are necessary for securing that there are available for such pupils and young persons as aforesaid comprehensive facilities for free medical and dental treatment.
- (3) It shall be the duty of every education authority to make arrangements for encouraging and assisting pupils and young persons to take advantage of facilities for medical and dental treatment made available under subsection (2); but where, in the case of any pupil or young person, his parent gives notice to the authority that he objects to the pupil or young person availing himself of the said facilities, the pupil or young person shall not be encouraged or assisted to do so.
- (4) It shall be the duty of every education authority to afford sufficient and suitable facilities for the medical and dental inspection, supervision and treatment, described in subsections (1) and (2).
- (5) Expressions used in this section and in the Education (Scotland) Act 1962 have in this section the same meanings as in that Act.

40 Vaccination and immunisation

- (1) The Secretary of State shall have power to make arrangements with medical practitioners for the vaccination or immunisation of persons against any disease, either by medical practitioners or by persons acting under their direction and control.
- (2) In making arrangements under this section, the Secretary of State shall, in so far as is reasonably practicable, give every medical practitioner providing general medical services under Part II an opportunity to provide services under this section.
- (3) The Secretary of State may, either directly or by another person, supply free of charge to medical practitioners providing services under this section, vaccines, sera or other preparations for vaccinating or immunising persons against any disease.

41 Family planning

It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances or appliances.

42 Health education

The Secretary of State shall have power to disseminate, by whatever means, information relating to the promotion and maintenance of health and the prevention of illness.

43 Control of spread of infectious disease

The Secretary of State may provide or secure the provision of a service, which may include the provision of laboratories, for the control of the spread of infectious disease; and he may allow persons to make use of services provided at such laboratories on such terms (including terms as to the payment of charges) and on such conditions as he may determine.

44 Supplies of blood and other substances

(1) Where the Secretary of State has acquired supplies of human blood for the purpose of carrying out blood transfusion, or supplies of any other substances or preparations not readily obtainable or has acquired any part of a human body for the purpose of, or in the course of providing, any service under this Act, he may make arrangements for making such supplies available to medical practitioners and other persons who require them or for supplying that part to any person on such terms (including terms as to the payment of charges) and on such conditions as he may determine.

(2) Subsection (1) is subject to section 54 (restriction of powers).

45 Ambulances

It shall be the duty of the Secretary of State to make such provision as he thinks necessary for securing that ambulances and other means of transport are available for the conveyance of persons suffering from illness or of expectant or nursing mothers or of other persons for whom such transport is reasonably required in order to avail themselves of any service under this Act.

46 Provision of vehicles for persons suffering from physical defect or disability

(1) The Secretary of State may provide invalid carriages for persons appearing to him to be suffering from severe physical defect or disability, and, at the request of such a person, may provide for him a vehicle other than an invalid carriage.

(2) The Secretary of State shall have power, in the case of an invalid carriage or other vehicle provided by him for, or belonging to, any such person as is mentioned in subsection (1), on such terms and subject to such conditions as he may determine—

- (a) to adapt the vehicle for the purpose of making it suitable for the circumstances of that person;
- (b) to maintain and repair the vehicle;

- (c) to take out insurance policies relating to the vehicle and pay the duty, if any, with which the vehicle is chargeable under the Vehicles (Excise) Act 1971;
 - (d) to provide a structure for the keeping of the vehicle therein and provide all material and execute all works necessary for the erection of the structure.
- (3) The Secretary of State may, on such terms and subject to such conditions as he may determine, make payments by way of grant towards costs incurred by any such person as is mentioned in subsection (1) in respect of all or any of the following matters in relation to an invalid carriage or other vehicle provided by the Secretary of State for, or belonging to, that person, that is to say—
 - (a) the taking of any such action as is referred to in subsection (2);
 - (b) the purchase of fuel for the purposes of the vehicle, so far as the cost of the purchase is attributable to duties of excise payable in respect of fuel; and
 - (c) the taking of instruction in the driving of the vehicle.
- (4) Regulations made by the Secretary of State may provide for any incidental or supplementary matter for which it appears to him necessary or expedient to make provision in connection with the taking of any action under subsection (2) or the making of any payment under subsection (3).
- (5) In this section " invalid carriage " means a mechanically propelled vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by such a person.

47 Educational and research facilities

- (1) It shall be the duty of the Secretary of State to make available such facilities, in any premises provided by him under this Act, as appear to him to be reasonably required for undergraduate and post-graduate clinical teaching and research, and for the education and training of persons providing or intending to provide services under this Act.
- (2) Without prejudice to the general powers and duties conferred or imposed on the Secretary of State under the Scottish Board of Health Act 1919, the Secretary of State may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health service as he thinks fit.

48 Residential and practice accommodation

- (1) The Secretary of State may provide, on such terms and conditions as may be agreed, residential accommodation for officers employed for the purposes of any of his functions under this Act, or for officers employed by a voluntary organisation for the purposes of any service provided under this Part.
- (2) The Secretary of State may, in any case, in view of the special circumstances thereof, provide, on such terms and conditions as may be agreed—
 - (a) residential accommodation for medical and dental practitioners providing services under Part II;
 - (b) practice accommodation for such medical and dental practitioners and for such other persons providing services under this Act as he thinks fit.

- (3) In subsection (2) "practice accommodation", in relation to a person providing services of any kind, means accommodation suitable for the provision of services of that kind.

PART IV

POWERS OF THE SECRETARY OF STATE

Control of maximum prices for medical supplies

49 Maximum prices of medical supplies may be controlled

- (1) The Secretary of State may by order provide for controlling maximum prices to be charged for any medical supplies required for the purposes of this Act.
- (2) The Secretary of State may by direction given with respect to any undertaking, or by order made with respect to any class or description of undertakings, being an undertaking or class or description of undertakings concerned with medical supplies required for the purposes of this Act, require persons carrying on the undertaking or undertakings of that class or description—
 - (a) to keep such books, accounts and records relating to the undertaking as may be prescribed by the direction or, as the case may be, by the order or a notice served under the order;
 - (b) to furnish at such times, in such manner and in such form as may be so prescribed such estimates, returns or information relating to the undertaking as may be so prescribed.
- (3) The additional provisions set out in Schedule 10 have effect in relation to this section; and

" medical supplies " in this section includes surgical, dental and optical materials and equipment; and

" undertaking " in this section and that Schedule means any public utility undertaking or any undertaking by way of trade or business.

Additional powers as to services and supplies; and the use of those services and supplies for private patients

50 Additional powers as to accommodation and services

- (1) The Secretary of State may allow persons to make use on such terms (including terms as to the payment of charges) as he thinks fit, of any accommodation or services provided under this Act and may provide the accommodation or services in question to an extent greater than that necessary apart from this section if he thinks it expedient to do so in order to allow persons to make use of them.
- (2) This section is subject to sections 51, 52 and 54.

51 Section 50 power in relation to private patients

- (1) In this section and section 52 " the section 50 power " means the Secretary of State's power under section 50 to afford persons (subject to section 54) admission or access

to accommodation or services as resident or non-resident private patients at health service hospitals.

- (2) The Secretary of State shall not in the exercise of his section 50 power afford a person admission or access to accommodation or services at such a hospital as a private patient unless satisfied that the accommodation or services are required for the purposes of investigation, diagnosis or treatment which—
- (a) is of a specialised nature or involves the use of specialised equipment or skills ;
and
 - (b) is not privately available in Great Britain or, if it is so available, either—
 - (i) is not privately available there at a place which is reasonably accessible to the patient; or
 - (ii) is such that it is in the interests of the Scottish health service or of the health service in England and Wales or of both for it to be carried out on that occasion at that hospital.

In this subsection " privately available " means available at a satisfactory standard otherwise than at a health service hospital.

- (3) The Secretary of State shall not exercise his section 50 power in such a way as to afford persons admission or access to accommodation or services at health service hospitals as private patients otherwise than in accordance with the following arrangements.

Those arrangements are such as in his opinion are best suited for securing that all persons admitted or afforded access to accommodation or services at health service hospitals as resident or non-resident patients for the purposes of investigation, diagnosis or treatment of a specialised nature, or involving the use of specialised equipment or skills, are, so far as practicable, admitted or afforded such access on the basis of medical priority alone, whether they come as private patients or not.

- (4) The Secretary of State shall not exercise his section 50 power in such a way as to allow any particular accommodation or facilities at a health service hospital to be reserved or set aside for regular or repeated use in connection with the treatment of persons as private patients.

This subsection is without prejudice to his power to allow such use in connection with the treatment of any particular person afforded admission or access to that accommodation or those facilities.

52 Additional provision as to charges under section 50

- (1) There shall be made in respect of any exercise of the section 50 power such charges as the Secretary of State may in accordance with subsections (2) and (3) determine. '
- (2) Without prejudice to the generality of the Secretary of State's section 50 power to make and recover charges for any use which he may under that section allow to be made of any accommodation or services provided under this Act, the Secretary of State may in pursuance of subsection (1) determine different rates or scales of charges—
- (a) for different accommodation or services at different health service hospitals or different classes of such hospitals;
 - (b) for different forms or classes of treatment;
 - (c) in relation to patients who are, and patients who are not, ordinarily resident in Great Britain ;

- (d) generally for different accommodation and for different services and in relation to different circumstances.
- (3) The charges determined in pursuance of subsection (1)—
 - (a) shall be such as will ensure, so far as is practicable, that no increase in the expenses incurred by the Secretary of State under this Act results from any exercise of the section 50 power ;
 - (b) shall include such amounts as appear to the Secretary of State proper and reasonable in respect of costs appearing to him to be properly attributable to capital account; and
 - (c) in the case of charges for services provided to a private patient at a health service hospital by a whole-time consultant, shall be not less than would be charged by a part-time consultant for providing similar services in similar circumstances to a private patient of his.
- (4) Where a Health Board receives any sum charged under section 50 for services provided to a private patient by a whole-time consultant—
 - (a) the Board shall retain that sum and use it for the purposes of research and development in medicine or dentistry, but
 - (b) if the services in question were provided by a consultant employed by a medical or dental school or university, the Board shall, if so directed by the Secretary of State, pay the sum to that school or university to use for those purposes.
- (5) Nothing in this section or in section 51 prevents the Secretary of State from allowing any medical or dental practitioner employed by a Health Board to make use of any accommodation or services provided by virtue of this Act to the extent to which the practitioner would be entitled to make such use under the terms of that employment if those terms were as they were or would have been at the passing of the Health Services Act 1976.
- (6) In this section—
 - " whole-time consultant" and " part-time consultant" mean respectively a consultant employed whole-time or part-time by a Health Board, medical or dental school or university.

53 Additional powers as to disposal and production of goods

- (1) The Secretary of State may sell or give away, or otherwise dispose of, goods the production or manufacture of which by him is involved in the provision of services under this Act.
- (2) He may, in the case of goods referred to in subsection (1) which are prescribed for the purposes of this section, produce or manufacture them to an extent greater than that necessitated by the provision of such services in order that they may be supplied to persons other than those to whom they are supplied by way of the provision of such services whether or not the first-mentioned persons are engaged in the provision of other services provided under this Act.
- (3) This section is subject to section 54.

54 Restriction of powers under sections 44, 50 and 53

The Secretary of State shall exercise the powers conferred on him by the provisions of section 44 (supplies of blood and other substances) and sections 50 and 53 only if and to the extent that he is satisfied that anything which he proposes to do or allow under those powers—

- (a) will not to a significant extent interfere with the performance by him of any duty imposed on him by this Act to provide accommodation or services of any kind; and
- (b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at health service hospitals (whether as resident or non-resident patients) otherwise than as private patients.

Further provisions as to payments by patients for health service accommodation and services

55 Hospital accommodation on part payment

- (1) The Secretary of State may authorise the accommodation described in this section to be made available, to such extent as he may determine, for patients who give an undertaking (or for whom one is given) to pay such charges for part of the cost as the Secretary of State may determine, and he may recover those charges.

The accommodation mentioned above is—

- (a) in single rooms or small wards which are not for the time being needed by any patient on medical grounds;
 - (b) at any hospital.
- (2) The Secretary of State may allow such deductions as he thinks fit from the amount of a charge due by virtue of an undertaking given under this section to be paid for accommodation in respect of any period during which the accommodation is temporarily vacated by the person for whom it is made available.

56 Expenses payable by remuneratively employed resident patients

The Secretary of State may require any person—

- (a) who is a resident patient for whom the Secretary of State provides services under this Act; and
- (b) who is absent during the day for the purpose of engaging in remunerative employment from the hospital where he is a patient,

to pay such part of the cost of his maintenance in the hospital and any costs incidental thereto as may seem reasonable to the Secretary of State having regard to the amount of that person's remuneration, and the Secretary of State may recover the payment so required.

57 Accommodation and services for private resident patients

- (1) Subject to section 63 and to this section, if the Secretary of State is satisfied in the case of a health service hospital that it is reasonable to do so, he may—
- (a) authorise accommodation and services at the hospital in question to be made available for resident patients to such extent as he may determine ;

- (b) determine the charges payable in respect of such patients in accordance with the following provisions of this section, and recover those charges, and, on an undertaking being given by or on behalf of such patients to pay such charges, that accommodation and those services shall be available for them.
- (2) The Secretary of State may allow accommodation and services to which an authorisation under subsection (1) relates to be made available in connection with the treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving whether in a honorary or paid capacity on the staff of a health service hospital, of private patients of that practitioner as resident patients.
- (3) The Secretary of State, for the purpose of determining charges to be paid under subsection (1)—
 - (a) may classify the health service hospitals, and may, in the case of each class, determine in respect of each period of 12 months beginning with 1st April first falling after the date on which the determination is made the charges to be paid under that subsection in respect of accommodation and services provided during that period, at a hospital falling within that class;
 - (b) in determining such charges in respect of a period the Secretary of State shall have regard, so far as is reasonably practicable, to the total cost (exclusive of costs appearing to him to be properly attributable to capital account) which, by reference to facts known to him at the time of the determination, it is estimated will be incurred during that period in the provision for resident patients of services at hospitals falling within that class; and
 - (c) may include in any such charges, in such cases as appear to him fit, such amounts as appear to him proper and reasonable to be included by way of contribution to expenditure appearing to him to be properly attributable to capital account.
- (4) The Secretary of State may under subsection (3) determine different charges for different accommodation and for different services and in relation to different circumstances.
- (5) The Secretary of State may allow such deduction as he thinks proper from the amount of a charge due by virtue of an undertaking given under this section by, or in respect of, any patient—
 - (a) in respect of treatment given to the patient under subsection (2); and
 - (b) in respect of any period during which the accommodation to which the undertaking relates is temporarily vacated by the patient.
- (6) Nothing in this section prevents accommodation from being made available for a patient other than one mentioned in subsection (1) if the use of that accommodation is needed more urgently for him on medical grounds than for a patient so mentioned, and no other suitable accommodation is available.

58 Accommodation and services for private non-resident patients

- (1) If the Secretary of State is satisfied, in the case of a health service hospital that it is reasonable to do so—
 - (a) he may, subject to section 63, authorise accommodation and services at the hospital in question to be made available to such extent as he may determine, and

- (b) that accommodation and those services shall be available in connection with the treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving (whether in an honorary or paid capacity) on the staff of any such hospital, of private patients of that practitioner otherwise than as resident patients.

Those patients shall be patients who give an undertaking (or for whom one is given) to pay, in respect of the accommodation and services, such charges as the Secretary of State may determine, and he may recover those charges.

- (2) The Secretary of State may under subsection (1) determine different charges for different accommodation and for different services, and in relation to different circumstances.
- (3) No accommodation and no services shall be so made available under subsection (1) as to prejudice persons availing themselves of services at the hospital otherwise than as private patients.

Withdrawal of health service pay beds and services from private patients

59 Withdrawal of facilities available for private patients

- (1) Sections 60 to 63 have effect for the purpose of—
 - (a) securing the separation of the facilities available in Scotland for the prevention, diagnosis and treatment of illness under private arrangements from the facilities available for those purposes at premises vested in the Secretary of State; and
 - (b) to that end securing the progressive withdrawal of accommodation and services at health service hospitals from use in connection with the treatment of persons at such hospitals as resident or non-resident private patients.
- (2) Nothing in this Part prejudices the operation of paragraph 8 of Schedule 1 (by virtue of which regulations governing the terms of employment of officers employed by a Health Board must not contain a requirement that all consultants so employed shall be so employed whole-time).

60 Revocation of authorisations under section 57 or section 58

- (1) It shall continue to be the duty of the Health Services Board to submit to the Secretary of State from time to time in accordance with this section proposals for the progressive revocation of—
 - (a) the authorisations under section 57(1) or those granted by virtue of section 63(3), and
 - (b) the authorisations under section 58(1) or those which have been granted by virtue of section 63(3),
 and it shall be the Secretary of State's duty to give effect to all proposals so submitted.
- (2) The Health Services Board shall in the 6 months beginning with the date on which its first proposals were submitted under section 4(2) of the Health Services Act 1976, and in each successive period of 6 months thereafter, submit further proposals under this section or, if in all the circumstances it decides that the submission of further proposals in any particular period of 6 months is unnecessary, shall instead prepare and submit to the Secretary of State a report explaining the Board's reasons for that decision.

- (3) In formulating proposals under this section the Board shall—
- (a) have regard to the principles set out in section 62 ; and
 - (b) consider any representations made to the Board by—
 - (i) the Secretary of State ;
 - (ii) any body which is representative of medical practitioners or dental practitioners or of persons employed in the health service or concerned with the interests of patients at health service hospitals ;
 - (iii) any other person having a substantial interest in the proposals.

In deciding what advice to give the Board in connection with the formulation of any such proposals the Board's Scottish Committee shall likewise have regard to the principles set out in section 62 and shall consider any representations made to the Committee by any of the persons or bodies mentioned in this subsection.

- (4) Each set of proposals under this section shall specify—
- (a) the accommodation and services authorisation of which under section 57(1) or section 58(1) should be revoked and
 - (b) the date before which the necessary revocations should take effect,
- and may specify different dates for different accommodation or services so specified.

61 Further provisions as to revocation of section 58 authorisations

- (1) Without prejudice to subsection (3) of section 60, the Health Services Board, in formulating proposals under that section for the revocation of authorisations given under section 58(1) in respect of accommodation or services at any particular health service hospital or hospitals, and the Scottish Committee in deciding what advice to give the Board in connection with the formulation of any such proposals—
- (a) shall have regard to the purposes and specialties for which the accommodation or services in question are available for use in connection with the treatment of non-resident private patients, and
 - (b) shall apply the principles set out in section 62 separately in respect of different purposes and specialties,
- and the Board may formulate separate proposals in respect of different purposes or specialties accordingly.
- (2) As regards the revocation of authorisations under section 58(1), any proposals under section 60 relating to—
- (a) accommodation available to consultants for the purpose of affording consultations to their private patients, or
 - (b) accommodation and services available for the following specialties, namely, radiotherapy, diagnostic pathology and diagnostic radiology (including scanning, ultrasonics and methods involving the use of radio-isotopes),
- shall be formulated by the Board as separate proposals.
- (3) Without prejudice to section 60 and the preceding provisions of this section, the Health Services Board shall, as regards the revocation of authorisations under section 58(1), submit separate proposals under section 60 relating to—
- (a) accommodation and services available for the specialties other than radiotherapy mentioned in subsection (2)(b), and
 - (b) other accommodation and services available for diagnostic purposes,

and shall do so not later than the end of the 12 months following the initial period defined by the Health Services Act 1976 (that is the period of 6 months beginning with the date on which that Act was passed), or, if a period longer than the initial period has been allowed under that Act for the submission of the Board's first proposals under this section, the 12 months following that longer period.

62 Principles as to proposals under section 60 or section 61

The principles referred to in sections 60 and 61 are—

- (a) that accommodation or services at any particular health service hospital or hospitals should remain authorised under section 57 or section 58 for use in connection with the treatment of resident or non-resident private patients only while there is a reasonable demand for accommodation and facilities for the private practice of medicine and dentistry in the area or areas served by the hospital or hospitals in question;
- (b) that the authorisation of any such accommodation or services under those provisions for use in that connection should be revoked only if sufficient accommodation and facilities for the private practice of medicine and dentistry are otherwise reasonably available (whether privately or at health service hospitals) to meet the reasonable demand for them in the area or areas served by the hospital or hospitals in question;
- (c) that the continued authorisation of any such accommodation or services under those provisions for use in that connection should depend on there having been or being taken all reasonable steps to provide, otherwise than at health service hospitals, sufficient reasonable accommodation and facilities for the private practice of medicine and dentistry to meet the reasonable demand for them in the area or areas served by the hospital or hospitals in question;
- (d) that failure, in the circumstances mentioned in paragraph (c), to take all reasonable steps that could be taken to provide as mentioned in that paragraph would itself be grounds for the Health Services Board, after giving due warning to persons likely to be affected thereby of the likely consequences of such failure, to propose the revocation of the authorisations under those provisions relating to accommodation or services at the hospital or hospitals in question.

63 Restrictions on authorisations under section 57 or section 58

- (1) No authorisation under section 57(1) or section 58(1)—
 - (a) shall be granted, except by virtue of subsection (2) or subsection (4); and
 - (b) shall be, other than one granted on a temporary basis as mentioned in subsection (4), to any extent revoked otherwise than in accordance with proposals submitted to the Secretary of State by the Health Services Board under section 60.
- (2) The Health Services Board may submit to the Secretary of State proposals for securing that in any case where one or more beds authorised under section 57(1) cease to be available to resident private patients, or any accommodation or services authorised under section 58(1) cease to be available to non-resident private patients, in consequence of the permanent closure of any health service hospital accommodation in Scotland independently of any proposals submitted by the Board under section 60, the total number of effective beds, or the total amount of effective accommodation or

Status: This is the original version (as it was originally enacted).

services, as the case may be, so authorised in Scotland is not thereby reduced below what it would be if—

- (a) the closed accommodation had remained in use, but
 - (b) effect had been given by the Secretary of State to all proposals under section 60 which were received by him before the submission of the proposals in question under this subsection.
- (3) It shall be the Secretary of State's duty to grant such authorisations under section 57(1) or section 58(1), as the case may be, as are needed to give effect to any proposals submitted to him under subsection (2).
- (4) Where any health service hospital accommodation in Scotland is temporarily closed (whether at the instance of the Secretary of State or not) for physical or other reasons outside his control, the Secretary of State shall, without the need for any proposals by the Board, grant on a temporary basis such authorisations under section 57(1) or section 58(1) as he would have been able to grant by virtue of subsections (2) and (3) if—
- (a) the closure had been permanent; and
 - (b) the Board had submitted to him any proposals which it could in that case have submitted to him under subsection (2).
- (5) Subject to the restrictions imposed by this section, section 57 or, as the case may be, section 58 shall continue to have effect in relation to any accommodation or services to which an authorisation under section 57(1) or section 58(1) relates.

Use by practitioners of health service accommodation and facilities for private practice

64 Permission for use of facilities in private practice

- (1) A person to whom this section applies who wishes to use any relevant health service accommodation or facilities for the purpose of providing medical, dental, pharmaceutical, ophthalmic or chiropody services to non-resident private patients may apply in writing to the Secretary of State for permission under this section.
- (2) Any application for permission under this section must specify—
 - (a) which of the relevant health service accommodation or facilities the applicant wishes to use for the purpose of providing services to such patients; and
 - (b) which of the kinds of services mentioned in subsection (1) he wishes the permission to cover.
- (3) On receiving an application under this section the Secretary of State—
 - (a) shall consider whether anything for which permission is sought would interfere with the giving of full and proper attention to persons seeking or afforded access otherwise than as private patients to any services provided under this Act; and
 - (b) shall grant the permission applied for unless in his opinion anything for which permission is sought would so interfere.
- (4) Any grant of permission under this section shall be on such terms (including terms as to the payment of charges for the use of the relevant health service accommodation or facilities pursuant to the permission) as the Secretary of State may from time to time determine.

- (5) The persons to whom this section applies are—
- (a) persons of any of the following descriptions who provide services under Part II, namely, medical practitioners, dental practitioners, registered pharmacists, and ophthalmic or dispensing opticians ; and
 - (b) other persons who provide pharmaceutical or ophthalmic services under Part II; and
 - (c) chiropodists who provide services under this Act at premises where services are provided under Part II.
- (6) In this section—
- (a) "relevant health service accommodation or facilities", in relation to a person to whom this section applies, means any accommodation or facilities available at premises provided by the Secretary of State by virtue of this Act, being accommodation or facilities which that person is for the time being authorised to use for the purposes of Part II; or
 - (b) in the case of a person to whom this section applies by virtue of paragraph (c) of subsection (5), accommodation or facilities which that person is for the time being authorised to use for purposes of this Act at premises where services are provided under Part II.

Information and reports

65 Information for Health Services Board

It shall continue to be the Secretary of State's duty to furnish the Health Services Board with such information as they may reasonably require for the proper discharge of their functions under sections 60 to 63.

66 Publication of matters under sections 60 and 63

The Secretary of State shall cause every set of proposals submitted to him under sections 60 and 63, and every report submitted to him under section 60(2), to be published as soon as practicable after its submission, and shall lay a copy of every such set of proposals or report before each House of Parliament.

67 Reports on extent of facilities for private patients

- (1) There shall be prepared by the Secretary of State on the matters mentioned in subsection (2), an annual report relating to Scotland, and he shall lay a copy of every report under this section before each House of Parliament.
- (2) The matters referred to under subsection (1) are—
- (a) the accommodation and services at health service hospitals which in the period covered by the report were available for use in connection with the treatment of private patients by virtue of authorisations under sections 57(1) and 58(1);
 - (b) the extent to which " the section 50 power " (as defined in section 51(1)) was exercised in that period;
 - (c) the extent to which the powers to which section 54 applies were exercised in that period otherwise than by way of affording persons admission or access

to accommodation or services at health service hospitals as resident or non-resident private patients; and

- (d) the extent to which progress has been made in implementing the common waiting-lists referred to in section 6 of the Health Services Act 1976, and in section 68.

68 " Common waiting lists "

- (1) The reference in paragraph (d) of section 67(2) to common waiting-lists is to the recommendations made to the Secretary of State by the Health Services Board under section 6(1) of the Health Services Act 1976.
- (2) Those recommendations—
 - (a) related to arrangements for affording persons admission or access as resident patients (authorised under section 57) or non-resident patients (authorised under section 58) to accommodation and services; and
 - (b) were in the Board's opinion the ones best suited for securing that all persons admitted or afforded access to accommodation or services at health service hospitals as resident or non-resident patients are, so far as is practicable, admitted or afforded access thereto on the basis of medical priority alone, whether coming as private patients or not.

Regulations as to certain charges

69 Charges for drugs, medicines or appliances or pharmaceutical services

- (1) Regulations may provide for the making and recovery in such manner as may be prescribed of such charges as may be prescribed in respect of—
 - (a) the supply under this Act (otherwise than under Part II) of drugs, medicines or appliances (including the replacement and repair of those appliances),
 - (b) such of the pharmaceutical services referred to in Part II as may be prescribed.
- (2) Regulations under subsection (1) may provide for the grant, on payment of such sums as may be prescribed by those regulations, of certificates conferring on the persons to whom the certificates are granted exemption from charges otherwise exigible under the regulations in respect of drugs, medicines and appliances supplied during such period as may be prescribed, and different sums may be so prescribed in relation to different periods.
- (3) The additional provisions of paragraphs 1 and 4 of Schedule 11 have effect in relation to this section.

70 Charges for dental or optical appliances

- (1) Regulations may provide for the making and recovery in such manner as may be prescribed of charges of such amounts as are mentioned in sub-paragraph (1) of paragraph 2 of Schedule 11, in respect of the supply under this Act of such dental or optical appliances as are mentioned in that sub-paragraph.
- (2) If the Secretary of State, after consultation with the university associated with any hospital providing facilities for clinical dental teaching, is satisfied that it is expedient in the interests of dental training or education that the charges imposed

by subsection (1) should be remitted in the case of dental services provided at that hospital, either generally or subject to limitations or conditions, he may by order provide for that purpose.

Any order made under this subsection may be revoked or varied by a subsequent order made by the Secretary of State after such consultation as is mentioned above.

- (3) The additional provisions of paragraphs 2 and 5 of Schedule 11 have effect in relation to this section.

71 Charges for dental treatment

- (1) A charge of the amount authorised by this section may be made and recovered, in such manner as may be prescribed, in respect of any services provided as part of the general dental services under Part II, not being—
- (a) the supply or replacement of appliances mentioned in paragraph 2(1) of Schedule 11;
 - (b) the repair of appliances other than prescribed appliances;
 - (c) the arrest of bleeding; or
 - (d) the clinical examination of a patient and any report on that examination.

The additional provisions of paragraphs 3 and 5 of Schedule 11 have effect in relation to this subsection.

- (2) Regulations may provide that, in the case of such special dental treatment as may be prescribed, being treatment provided as part of the general dental services, such charges as may be prescribed may be made and recovered by the person providing the services.

72 Charges in respect of services etc. provided under sections 37, 38 and 41

Regulations may provide for the recovery of such charges as may be prescribed—

- (a) in respect of such services provided under section 37 (prevention of illness, care and after-care) as may be prescribed, not being services provided in a hospital;
- (b) in respect of such articles or services provided under section 38 (care of mothers and young children) as may be prescribed, not being articles or services provided in a hospital, and not being a drug, a medicine or an appliance of a type normally supplied;
- (c) from persons availing themselves of any service under section 41 (except advice on contraception),

and may provide for the remission of any such charge, in whole or in part, in such circumstances as may be prescribed.

73 Charges for more expensive supplies

Regulations may provide for the making and recovery of such charges as may be prescribed—

- (a) by the Secretary of State in respect of the supply by him of any appliance or vehicle which is, at the request of the person supplied, of a more expensive type than the prescribed type, or in respect of the replacement or repair of any

such appliance, or the replacement of any such vehicle, or the taking of any such action in relation to the vehicle as is mentioned in section 46(2).

- (b) by persons providing general dental services or general ophthalmic services in respect of the supply, as part of those services, of any dental or optical appliance which is, at the request of the person supplied, of a more expensive type than the prescribed type or in respect of replacement or repair of any such appliance.

74 Charges for repairs and replacements in certain cases

Regulations may provide for the making and recovery of such charges as may be prescribed—

- (a) by the Secretary of State in respect of the replacement or repair of any appliance or vehicle supplied by him, or
- (b) by persons providing general dental services or general ophthalmic services in respect of the replacement or repair of any dental or optical appliance supplied as part of those services,

if it is determined in the prescribed manner that the replacement or repair is necessitated by an act or omission of the person supplied or (if the act or omission occurred when the person supplied was under 16 years of age) of the person supplied or of the person having charge of him when the act or omission occurred.

75 Sums otherwise payable to those providing services

Regulations made—

- (a) under sections 69 to 71 and under sections 73 and 74 providing for the making and recovery of charges in respect of any services, may provide for the reduction of the sums which would otherwise be payable by a Health Board to the persons by whom those services are provided by the amount of the charges authorised by the regulations in respect of those services;
- (b) for the purposes of section 70(1) in relation to appliances provided as part of the general dental services or the general ophthalmic services under Part II, may provide for the reduction of the sums which would otherwise be payable by a Health Board to the persons by whom those services are provided by the amount of the charges authorised by section 70(1) in respect of those appliances.

Inquiries, and default and emergency powers

76 Inquiries

- (1) The Secretary of State may cause an inquiry to be held in any case where he deems it advisable to do so in connection with any matter arising under this Act.
- (2) The provisions of Schedule 12 shall have effect with regard to any inquiry which the Secretary of State is, under this Act, required or authorised to hold.

77 Default powers

- (1) Where the Secretary of State is of the opinion, on representations made to him or otherwise, that—

- (a) any Health Board;
- (b) the Medical Practices Committee; or
- (c) the Dental Estimates Board ;

have failed to carry out any functions conferred or imposed on them by or under this Act, or have in carrying out those functions failed to comply with any regulations, schemes, proposals or directions relating to those functions, he may after holding an inquiry make an order declaring them to be in default.

- (2) When such an order is made, the members of the body shall forthwith vacate their office, and the order—
 - (a) shall provide for the appointment, in accordance with the provisions of this Act, of new members of the body; and
 - (b) may contain such provisions as seem to the Secretary of State expedient for authorising any person to act in the place of the body in question pending the appointment of new members.
- (3) An order made under this section may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient.

78 Emergency powers

If the Secretary of State is of the opinion that an emergency exists, and thinks it necessary in order to secure the effective continuance of any service under this Act, he shall have power to direct that any function conferred by or under this Act on any body or person shall, during the period of the emergency, be performed by such other body or person as he may specify in the direction.

PART V

PROPERTY AND FINANCE

Land and other property

79 Purchase of land and moveable property

- (1) The Secretary of State may purchase by agreement any moveable property and, by agreement or compulsorily, any land which he considers is required for the purposes of any service under this Act, and may use for those purposes any property, heritable or moveable, acquired by him or on his behalf under this Act.
- (2) Where the Secretary of State acquires premises under subsection (1) he may acquire compulsorily, in accordance with Schedule 13, any equipment, furniture or other moveable property used in or in connection with the premises.
- (3) Any Health Board or the Agency may acquire on behalf of the Secretary of State any moveable property which may be required for the purposes aforesaid.
- (4) For the purpose of the purchase of land by agreement by the Secretary of State—
 - (a) the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access

to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and

- (b) section 6 and sections 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923),

are hereby incorporated with this section; and in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State shall be deemed to be the promoter of the undertaking.

80 Transferred property free of trusts

- (1) All property vested in the Secretary of State by virtue of section 6 of the National Health Service (Scotland) Act 1947 is so vested free of any trust existing immediately before 5th July 1948; and the Secretary of State may use any such property for the purpose of any of the functions exercisable by him under this Act, but shall so far as practicable secure that the objects for which any such property was used immediately before the said 5th July are not prejudiced by the exercise of the power hereby conferred.
- (2) Where the character and associations of any voluntary hospital transferred to the Secretary of State by virtue of the said Act of 1947 are such as to link it with a particular religious denomination, regard shall be had in the general administration of the hospital to the preservation of the character and associations of the hospital.

81 Power of voluntary organisations to transfer property to Secretary of State

Notwithstanding anything contained in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own home or of midwives, or in any trust deed or other instrument relating to any such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to the Secretary of State on such terms as may be agreed between the Secretary of State and the organisation or trustees, with a view to the property being used or held by the Secretary of State for purposes similar to the purposes for which it was previously used or held.

Trust property

82 Use and administration of certain endowments and other property held by Health Boards

- (1) All endowments vested in a Health Board by virtue of section 37 of the National Health Service (Scotland) Act 1972 are so vested free of any trust existing immediately before 1st April 1974 (hereafter in this section referred to in relation to any such endowment as "the original trust"); but all such endowments shall be held by the Health Board on trust for such purposes relating to services provided under this Act in or in relation to hospitals, or to the functions of the Board with respect to research, as the Board may think fit.
- (2) All property vested in a Health Board by virtue of section 39 of the said Act of 1972 is so vested free of any trust existing immediately before the said 1st April (hereafter in this section referred to in relation to any such property as "the original trust"); but all

such property shall be held by the Health Board on trust for such purposes relating to services provided by them under this Act, or to the functions of the Board with respect to research, as the Board may think fit.

- (3) In exercising the power conferred on them by this section in relation to any endowment or property a Health Board shall secure, so far as is reasonably practicable, that the objects of the original trust (including, in the case of an endowment, the objects of the endowment) and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power.
- (4) Any reference in this section to an endowment or to any property includes a reference to the accumulated income thereof.

83 Power of Health Boards and local health councils to hold property on trust

- (1) A Health Board shall have power to accept, hold and administer any property on trust for purposes relating to any service which it is their function to make arrangements for, administer or provide, or to their functions with respect to research.
- (2) A local health council shall have power to accept, hold and administer any property on trust for purposes relating to any function conferred upon them by or under any enactment.

84 Power of trustees to make payments to Health Boards

- (1) Where property (other than property transferred to the Secretary of State under Part V of the National Health Service (Scotland) Act 1972 or to a Health Board under Part VI of that Act) was immediately before 1st April 1974, and is at any time after the commencement of this Act, held on trust under a trust instrument the terms of which authorise or require the trustees (whether immediately or in the future) to apply any part of the capital or income of the property for the purposes of any hospital or service which is administered by a Health Board, the trust instrument shall be construed as authorising, or, as the case may be, requiring, the trustees to pay that capital or income to the Health Board concerned.
- (2) Where property so held on trust is, under the trust instrument, to be applied for the purposes of hospitals which are administered by more than one Health Board, the trustees shall distribute the property between the Boards concerned, in such manner, having regard to the purposes of the trust, as the trustees may determine.
- (3) Any sums paid to a Health Board under this section shall, so far as practicable, be applied by them for the purposes specified in the trust instrument.

Finance and accounts

85 Expenses of certain bodies and travelling expenses and receipts

- (1) There shall be paid by the Secretary of State such sums as may be necessary to defray the expenditure of the following bodies, being expenditure approved by him in the prescribed manner—
 - (a) the Planning Council;
 - (b) every Health Board ;

- (c) the Agency;
 - (d) the Medical Practices Committee ;
 - (e) the Dental Estimates Board;
 - (f) the Tribunal.
- (2) The expenditure of a local health council shall, for the purposes of this section, be deemed to be the expenditure of the Health Board within whose area it has been established.
- (3) The expenditure of a University Liaison Committee shall, for the purposes of this section, be deemed to be the expenditure of the Health Board for whose area it is constituted, and, where a University Liaison Committee is constituted for the areas of more than one Health Board, its expenditure shall be apportioned between the Boards concerned in such manner as may be determined by the Secretary of State.
- (4) Payments under subsection (1) shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.
- (5) Regulations may provide for the payment by the Secretary of State in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred by persons for the purpose of availing themselves of any service under this Act.
- (6) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund, but this section is without prejudice to section 52(4).

86 Accounts of Health Boards and the Agency

- (1) Every Health Board and the Agency shall keep, in such form as the Secretary of State may, with the approval of the Treasury, direct, accounts of all moneys received or paid out by them, and those accounts shall be audited by auditors appointed by the Secretary of State; and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereof.
- (2) Regulations may make provision generally with respect to the audit of accounts under subsection (1) and, in particular, for conferring on the auditor of any of those accounts such rights of access to, and production of, books, accounts, vouchers or other documents as may be specified in the regulations, and such right in such conditions as may be so specified to require from any member or officer, or former member or officer, of a Health Board or the Agency such information relating to the affairs of the Board or the Agency as the Secretary of State may think necessary for the proper performance of the duty of the auditor.
- (3) Every Health Board and the Agency shall prepare and transmit to the Secretary of State in respect of each financial year accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (4) The Secretary of State shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of the Health Boards and the Agency, and shall transmit them on or before 30th November in each year to the Comptroller and Auditor General, who shall examine and certify them and lay a copy of them, together with his report thereon, before each House of Parliament.

87 Regulation of financial arrangements of Health Boards, the Agency and the Dental Estimates Board

- (1) Regulations may provide, in the case of all or any of the following bodies, that is to say, Health Boards, the Agency, and the Dental Estimates Board, for restricting the making of payments by or on behalf of the body otherwise than on such authorisation and subject to such conditions as may be specified in the regulations; but such provision may be made subject to such exceptions as may be so specified.
- (2) Regulations made under this section may contain such other provisions as to the making and carrying out by all or any of those bodies of such arrangements with respect to financial matters as the Secretary of State thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.
- (3) Without prejudice to the operation of the provisions of any such regulations, the Secretary of State may give to any of the said bodies such directions (which may be specific in character) as to any matter with respect to which regulations may be made under this section as it appears to him is requisite for the purpose of securing that the affairs of the body are conducted, so far as reasonably practicable, in such manner as is mentioned in subsection (2); and a body to whom any such directions are given shall comply therewith.

*Remuneration, allowances and superannuation***88 Payment of allowances and remuneration to members of certain bodies connected with the health services**

- (1) The Secretary of State may pay to members of—
 - (a) the Medical Practices Committee,
 - (b) the Dental Estimates Board,
 - (c) the Tribunal,
 - (d) any body on which functions are conferred by regulations under section 22, and
 - (e) any body specified in an order made by the Secretary of State as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under this Act,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.
- (2) The Secretary of State may pay to members of—
 - (a) the Medical Practices Committee,
 - (b) the Dental Estimates Board,
 - (c) the Tribunal,
 - (d) any other body constituted under or by virtue of Part II, being a body specified in an order made for the purposes of this section by the Secretary of State with the approval of the Minister for the Civil Service, and
 - (e) any body on which functions are conferred by regulations under section 22,such remuneration as the Secretary of State may, with such approval, from time to time determine.

- (3) Allowances shall not be paid under subsection (1) except in connection with the performance of such powers or duties, in such circumstances, as may, with the approval of the Minister for the Civil Service, be determined by the Secretary of State.
- (4) Any payments made under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

89 Superannuation of officers of certain hospitals

- (1) The Secretary of State may enter into an agreement with the governing body of any hospital to which this section applies for admitting, on such terms and conditions as may be provided in the agreement, officers of the hospital of such classes as may be so provided to participate in the superannuation benefits provided under regulations made under section 10 of the Superannuation Act 1972, in like manner as officers of Health Boards ; and the said regulations shall apply accordingly in relation to the officers so admitted, subject to such modifications as may be provided in the agreement.
- (2) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in those superannuation benefits.
- (3) This section applies to any hospital (not vested in the Secretary of State) which is used, in pursuance of arrangements made by the governing body of the hospital with a Health Board, for the provision of services under this Act.

PART VI

THE HEALTH SERVICE COMMISSIONER FOR SCOTLAND

90 Appointment of Commissioner and tenure of office

- (1) For the purpose of conducting investigations in accordance with the following provisions of this Part, there shall be appointed a Commissioner, to be known as the Health Service Commissioner for Scotland.
- (2) Her Majesty may, by Letters Patent, from time to time appoint a person to be the Commissioner, and any person so appointed shall, subject to subsection (3), hold office during good behaviour.
- (3) A person appointed to be the Commissioner may be relieved of office by Her Majesty at his own request, or may be removed from office by Her Majesty in consequence of Addresses from both Houses of Parliament, and shall in any case vacate office on completing the year of service in which he attains the age of 65 years.
- (4) The Commissioner shall not be a member of the House of Commons, or of the Senate or House of Commons of Northern Ireland, and accordingly the House of Commons Disqualification Act 1975 shall continue to have effect with the following amendments—
 - (a) in Part III of Schedule 1 there shall be inserted, at the appropriate point in alphabetical order, the entry " The Health Service Commissioner for Scotland "; and

- (b) the like amendment shall be made in the Part substituted for the said Part III by Schedule 3 to the said Act in its application to the Senate and House of Commons of Northern Ireland.
- (5) The Commissioner shall not be a member of a body subject to investigation or any management committee thereof.

91 Salary and pension of Commissioner

- (1) Subject to the provisions of this section, there shall be paid to the holder of the office of Commissioner the same salary as if he were employed in the civil service of the State in such appointment as the House of Commons may, by resolution, from time to time determine, and any such resolution may take effect from the date on which it is passed or such other date as may be specified therein.
- (2) Subject to the provisions of this section and subsections (5) to (7) of section 107 of the National Health Service Act 1977, Schedule 1 to the Parliamentary Commissioner Act 1967 (pensions and other benefits) shall have effect with respect to persons who have held office as Commissioner as it has effect with respect to persons who have held office as Commissioner under that Act of 1967.
- (3) The salary payable to a holder of the office of a Commissioner shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he has previously been appointed or elected.
- (4) In computing the salary of a former holder of the office of Commissioner for the purposes of Schedule 1 to that Act of 1967 there shall be disregarded—
 - (a) any abatement of that salary under subsection (3);
 - (b) any temporary abatement of that salary in the national interest; and
 - (c) any voluntary surrender of that salary in whole or in part.
- (5) Where—
 - (a) a person holds the office of Parliamentary Commissioner for Administration and one or more of the offices of Health Service Commissioner for England, Health Service Commissioner for Scotland and Health Service Commissioner for Wales he shall, so long as he does so, be entitled only to the salary pertaining to the first-mentioned office; and
 - (b) a person holds two or more of those offices other than that of Parliamentary Commissioner for Administration he shall, so long as he does so, be entitled only to the salary pertaining to such one of those offices as he selects.
- (6) A person—
 - (a) shall not be entitled to make simultaneously different elections in pursuance of paragraph 1 of Schedule 1 to that Act of 1967 in respect of different offices mentioned in subsection (5), and
 - (b) shall, if he has made or is treated as having made an election in pursuance of that paragraph in respect of such an office, be deemed to have made the same election in respect of all other offices to which he is, or is subsequently, appointed,and no account shall be taken for the purposes of that Schedule of a period of service in such an office if salary in respect of the office was not paid for that period.
- (7) The Minister for the Civil Service may—

Status: This is the original version (as it was originally enacted).

- (a) by regulations provide that Schedule 1 to that Act of 1967 shall have effect in relation to persons who have held more than one of the offices mentioned in subsection (5), and
 - (b) by those regulations modify that Schedule as he considers necessary in consequence of those persons having held more than one of those offices,
- and different regulations may be made in pursuance of paragraph 4 of that Schedule in relation to different offices so mentioned.

This subsection is subject to subsection (6).

- (8) Any salary, pension or other benefit payable by virtue of this section shall be charged on and issued out of the Consolidated Fund.

92 Administrative provisions

- (1) The Commissioner may appoint such officers as he may determine with the approval of the Minister for the Civil Service as to numbers and conditions of service.
- (2) Any function of the Commissioner under this Part may be performed by any officer of the Commissioner authorised for that purpose by him or by any officer so authorised of another Commissioner mentioned in subsection (5) of section 107 of the National Health Service Act 1977.
- (3) To assist him in any investigation, the Commissioner may obtain advice from any person who in his opinion is qualified to give it, and such fees or allowances may be paid to such person by the Commissioner as he may, with the approval of the Minister for the Civil Service, determine.
- (4) The expenses of the Commissioner under this Part, to such amount as may be sanctioned by the Minister for the Civil Service, shall be defrayed out of moneys provided by Parliament.

93 Bodies and action subject to investigation

- (1) In this Part a " body subject to investigation any of the following bodies—
 - (a) Health Boards;
 - (b) the Agency;
 - (c) the Scottish Committee of the Health Services Board.
- (2) Subject to the provisions of this section, the Commissioner may investigate—
 - (a) an alleged failure in a service provided by a body subject to investigation, or
 - (b) an alleged failure of a body subject to investigation to provide a service which it was the function of the body to provide, or
 - (c) any other action taken by or on behalf of a body subject to investigation,

in a case where a complaint is duly made by or on behalf of any person that he has sustained injustice or hardship in consequence of the failure or in consequence of maladministration connected with the other action.
- (3) Except as hereafter provided, the Commissioner shall not conduct an investigation under this Part in respect of any of the following matters—
 - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty's prerogative;

- (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law;
but the Commissioner may conduct an investigation notwithstanding that the person aggrieved has or had such a right or remedy, if he is satisfied that in the particular circumstances it is not reasonable to expect that person to resort or have resorted to it.
- (4) Without prejudice to subsection (3), the Commissioner shall not conduct an investigation under this Part in respect of any such action as is described in Schedule 14.
- (5) Her Majesty may, by Order in Council, amend the said Schedule 14 so as to exclude from the provisions of that Schedule action described in paragraph 4 or 5 of that Schedule.
- (6) In determining whether to initiate, continue or discontinue an investigation under this Part, the Commissioner shall, subject to the foregoing provisions of this section, act in accordance with his own discretion; and any question whether a complaint is duly made under this Part shall be determined by the Commissioner.

94 Provisions relating to complaints

- (1) A complaint under this Part may be made by any individual or by any body of persons, whether incorporated or not, not being—
 - (a) a local authority or other authority or body constituted for purposes of the public service or of local government or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking ;
 - (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department, or whose revenues consist wholly or mainly of moneys provided by Parliament.
- (2) Where the person by whom a complaint might have been made under the foregoing provisions of this Part has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or by some body or individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Part unless made by the person aggrieved himself.
- (3) A complaint shall not be entertained under this Part unless it is made in writing to the Commissioner by or on behalf of the person aggrieved not later than 12 months from the day on which the matters alleged in the complaint first came to the notice of the person aggrieved; but the Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers it proper to do so.
- (4) Before proceeding to investigate a complaint the Commissioner shall satisfy himself that the complaint has been brought by or on behalf of the person aggrieved to the notice of the body subject to investigation and that that body has been afforded a reasonable opportunity to investigate and reply to the complaint; but the Commissioner may disregard the preceding provisions of this subsection in relation to a complaint made by an officer of the body subject to investigation on behalf of the person aggrieved if the officer is authorised by virtue of subsection (2) to make the complaint and the Commissioner is satisfied that in the particular circumstances those provisions ought to be disregarded.

- (5) Notwithstanding the foregoing provisions of this section, a body subject to investigation may itself refer to the Commissioner a complaint made against it by or on behalf of a person aggrieved, and the provisions of subsection (3) regarding time limits shall apply to such a reference as it applies to a complaint.

95 Application of certain provisions of the Parliamentary Commissioner Act 1967

The following provisions of the Parliamentary Commissioner Act 1967 shall, with any necessary modifications, apply to the Commissioner, to his officers and to a body subject to investigation as they apply to the Commissioner under that Act, to his officers and to a department or authority concerned:—

- section 7 (procedure in respect of investigations);
- section 8 (evidence);
- section 9 (obstruction and contempt);
- section 11 (secrecy of information), except subsection (4);

and in sections 7(1) and 8(1) of the said Act of 1967 as applied by this section the words "the principal officer of" and " Minister " shall be omitted.

96 Reports by Commissioner

- (1) In any case where the Commissioner conducts an investigation under this Part, he shall send a report of the results of his investigation to—
 - (a) the person who made the complaint;
 - (b) the body subject to investigation;
 - (c) any person who is alleged in the complaint to have taken or authorised the action complained of;
 - (d) subject to subsection (2), the Secretary of State.
- (2) Where the investigation is in respect of the Scottish Committee of the Health Services Board, paragraph (d) of subsection (1) shall not apply, but the Commissioner may, if he thinks fit, publish his report.
- (3) In any case where the Commissioner decides not to conduct an investigation under this Part, he shall send a statement of his reasons for doing so to the persons and bodies described in paragraphs (a) and (b) of subsection (1).
- (4) If, after an investigation under this Part has been conducted by the Commissioner or an officer authorised by him, it appears to the Commissioner that injustice or hardship has been caused to the person aggrieved in the circumstances described in section 93(2), and that the injustice or hardship has not been or will not be remedied, he may, if he thinks fit—
 - (a) in relation to an investigation conducted in respect of the Scottish Committee, lay before each House of Parliament a special report;
 - (b) in relation to any other investigation, make a special report to the Secretary of State who shall, as soon as is reasonably practicable, lay a copy of the report before each House of Parliament
- (5) The Commissioner shall annually make to the Secretary of State a general report on the performance of his functions under this Part (other than his functions thereunder in respect of the Scottish Committee), and may from time to time make to the Secretary of State such other reports with respect to those functions as the Commissioner thinks

fit; and the Secretary of State shall lay a copy of any such report before each House of Parliament.

- (6) The Commissioner shall annually lay before each House of Parliament a general report on the performance of his functions under this Part in respect of the Scottish Committee, and may from time to time lay before each House of Parliament such other reports with respect to his said functions under this Part as he thinks fit.
- (7) For the purpose of the law of defamation, any report or statement made, sent or laid in pursuance of this section, shall be absolutely privileged.

97 Interpretation of Part VI

- (1) In this Part and in Schedule 14
- " action " includes failure to act, and other expressions connoting action shall be construed accordingly;
 - " body subject to investigation " has the meaning assigned to it by section 93(1);
 - " the Commissioner " means the Health Service Commissioner for Scotland;
 - " person aggrieved" means a person who claims or is alleged to have sustained such injustice or hardship as is mentioned in section 93(2).
- (2) It is hereby declared that nothing in this Part authorises or requires the Commissioner to question the merits of a decision taken without maladministration by a body subject to investigation in the exercise of a discretion vested in that body.

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

98 Charges in respect of non-residents

Regulations may provide for the making and recovery in such manner as may be prescribed of such charges as may be prescribed in respect of the provision of such services under this Act as may be prescribed for such persons not ordinarily resident in Great Britain as may be prescribed ; and the regulations may provide that the charges are only to be made in such cases as may be determined in accordance with the regulations.

99 Evasion of charges

If any person, for the purpose of evading the payment of any charge under this Act, or of reducing the amount of any such charge—

- (a) knowingly makes any false statement or false representation, or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

the charge, or as the case may be the balance of the charge, may be recovered from him as a simple contract debt by the person by whom the cost of the service in question was defrayed.

100 Accommodation for persons displaced in course of development

- (1) Where the carrying out of a scheme for the provision by the Secretary of State in pursuance of this Act or the Mental Health (Scotland) Act 1960 of accommodation or other facilities will involve the displacement from any premises of persons residing in them, the Secretary of State may make arrangements with one or more of the following bodies—

- (a) an authority who are a local authority for the purposes of the Housing (Scotland) Act 1966,
- (b) a housing association within the meaning of that Act (including the Scottish Special Housing Association),
- (c) a development corporation established under the New Towns (Scotland) Act 1968,

for securing, in so far as it appears to him that there is no other residential accommodation suitable for the reasonable requirements of those persons available on reasonable terms, the provision of residential accommodation in advance of the displacements from time to time becoming necessary as the carrying out of the scheme proceeds.

- (2) Arrangements made under subsection (1) may include provision for the making by the Secretary of State to the body with whom the arrangements are made of payments of such amounts, and for such purposes, as may be approved by the Treasury.

101 Protection of Health Boards and Common Services Agency

Section 166 of the Public Health (Scotland) Act 1897 (which relates to the protection of local authorities and their officers) shall apply in relation to a Health Board and the Agency in like manner as the said section applies in relation to a local authority, but with the substitution for any reference to that Act of a reference to this Act.

102 State hospitals

- (1) The Secretary of State may provide for the management of a state hospital either by a committee constituted under section 90(2) of the Mental Health (Scotland) Act 1960 or by a Health Board or the Agency to the extent that power to do so is delegated to the Board or Agency by the Secretary of State.
- (2) The Secretary of State shall have power by order to dissolve any such committee and any such order may contain such provision as he considers necessary or expedient in connection with the dissolution of the committee and the winding up of their affairs.

103 Arbitration

Any question which is required by this Act or by any regulation thereunder to be determined by arbitration shall be determined by a single arbiter agreed upon by the parties, or, failing such agreement, appointed by the Court of Session on the application of any of the parties to the question; and at any stage in the proceedings in any such arbitration the arbiter may, and shall if so directed by the Court of

Session, state a case for the opinion of that Court on any question of law arising in the arbitration.

104 Exemption from stamp duty

- (1) Stamp duty shall not be payable on any conveyance, agreement or assignation made, or instrument executed, solely for the purpose of giving effect to any transfer of property, rights or liabilities by, or by an order made under, sections 2 or 82 or paragraph 7 of Schedule 6.
- (2) Section 12 of the Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) shall not apply to the transfer of property, rights or liabilities by, or by an order made under, section 2, and stamp duty shall not be payable on any such order.

Supplementary

105 Orders, regulations and directions

- (1) Any power to make orders and regulations conferred by this Act shall be exercisable by statutory instrument.
- (2) A statutory instrument made by virtue of this Act shall, subject to subsections (3) and (4), be subject to annulment in pursuance of a resolution by either House of Parliament.
- (3) No regulations shall be made under sub-paragraphs (1) or (2) of paragraph 6 of Schedule 6 (capital value of and borrowings from relevant endowments) unless a draft has been laid before Parliament and approved by a resolution of each House of Parliament.
- (4) Subsection (2) does not apply to—
 - (a) an order made under section 2(1) constituting a Health Board;
 - (b) orders made under sections 2(11), 8, 10(3) to (5), 70(2) and 102(2);
- (5) Any power to make regulations conferred on the Secretary of State by this Act is, if the Treasury so direct, exercisable by the Treasury and the Secretary of State jointly except in the case of—
 - (a) regulations made under section 22 ;
 - (b) regulations made under section 69(1) in respect of charges for the drugs, medicines or appliances referred to in paragraph (a) of that subsection, or under paragraph 1(1) of Schedule 11 in respect of the remission or repayment of any charge payable under that section in the cases provided for in paragraph 1(1) of that Schedule;
 - (c) regulations made under paragraph 2(2) of that Schedule ;
 - (d) regulations made under paragraph 2(6) of that Schedule.
- (6) Where under any provision of this Act—
 - (a) power to make an order may be exercisable, or
 - (b) directions may be given, or
 - (c) schemes may be made,

that provision includes power to vary or revoke the order or direction or scheme, as the case may be, by subsequent order or subsequent directions or subsequent scheme made in the like manner and subject to the same provisions.

- (7) Any power to make regulations or orders under sections 2, 6, 7(8), 8(1), 9, 10(3), 10(5), 14, 15(3), 16(2), 49, 72, 86, 102, 107(2), 107(3), paragraph 6, 11 and 19 of Schedule 1, paragraph 3 of Schedule 3, and paragraphs 8 and 12 of Schedule 5, may be exercised—
- (a) either in relation to all cases to which the power extends, or in those cases subject to exceptions, or in relation to any particular case or cases, and
 - (b) subject to such other exceptions or conditions as the Secretary of State thinks fit,

and shall include power to make such incidental or supplementary provision as appears to the Secretary of State to be expedient.

106 Supplementary regulatory powers

Regulations may make provision for all or any of the following matters,—

- (a) for prescribing the forms of notices and other documents, and the manner of service of notices and other documents;
- (b) for prescribing the manner in which documents may be executed or proved ;
- (c) for prescribing the manner in which resolutions of any bodies constituted under this Act are to be proved.

107 Local enactments

- (1) Subject to subsection (2), where any local enactment provides for any matter which is also provided for by any provision of this Act or of any order or regulations made under this Act, the provisions of this Act, or as the case may be, of that order or those regulations, shall have effect in substitution for the local enactment, which shall cease to have effect.
- (2) The Secretary of State may by order except from the operation of subsection (1) such local enactments as may be specified in the order and direct that corresponding provisions of this Act or of any order or regulations made under this Act, shall not have effect in the areas in which the specified local enactments have effect.
- (3) If it appears to the Secretary of State that any local enactment not being an enactment which has ceased to have effect by virtue of subsection (1), is inconsistent with any provision of this Act or that any order or regulations made under this Act, or is no longer required, or regulations to be amended, having regard to any such provision, order or regulation, he may by order repeal or amend the local enactment as he may consider appropriate.

108 Interpretation and construction

- (1) In this Act, unless the contrary intention appears—
 - " the Agency " has the meaning indicated in section 10;
 - " area medical committee ", " area dental committee ", " area nursing and midwifery committee", " area pharmaceutical committee" and " area optical committee " have the meanings indicated in section 9(2);

Status: This is the original version (as it was originally enacted).

" certified midwife " means a person who is for the time being certified under the Midwives (Scotland) Act 1951 ;

"the Dental Estimates Board " has the meaning indicated in section 4;

" dental practitioner" means a person registered in the dentists register under the Dentists Act 1957;

" designated medical officer " means an officer designated under section 14;

" dispensing optician " means a person who is registered in the register kept under section 2 of the Opticians Act 1958 of dispensing opticians or a body corporate enrolled in the list kept under section 4 of that Act or such bodies carrying on business as dispensing opticians;

" education authority " has the same meaning as in the Education (Scotland) Act 1962 ;

" equipment " includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle;

" full-time education in a school " means full-time instruction in a school within the meaning of the Education (Scotland) Act 1962 or the Education Act 1944 ;

" functions " includes powers and duties ;

" governing body ", in relation to any hospital to which section 89 applies, includes any body, whether corporate or unincorporate, having the control and management of the hospital or any part of it or otherwise carrying on the business of the hospital or any part of it;

" Health Board " means a board constituted under section 2;

" the health service " means the health service established in pursuance of section 1 of the National Health Service (Scotland) Act 1947;

" health service hospital " means a hospital vested in the Secretary of State under this Act;

" Health Services Board " means the body established by section 1 of the Health Services Act 1976;

" hospital" means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and any institution for providing dental treatment maintained in connection with a dental school,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution, and "hospital accommodation" shall be construed accordingly;

" the Hospital Trust " has the meaning indicated in section

" illness " includes mental disorder within the meaning of the Mental Health (Scotland) Act 1960 and any injury or disability requiring medical or dental treatment or nursing ;

" local authority " means a regional, islands or district council ;

"local consultative committee " means a committee recognised by the Secretary of State under section 9(1);

" local health council " has the meaning indicated in section 7;

" medical " includes surgical;

Status: This is the original version (as it was originally enacted).

" the Medical Practices Committee " has the meaning indicated in section 3 ;

" medical practitioner " means a fully registered person within the meaning of the Medical Act 1956;

" medicine " includes such chemical re-agents as are included in a list for the time being approved by the Secretary of State for the purposes of section 27;

" modifications " includes additions, omissions and amendments ;

" national consultative committees " has the meaning indicated in section 6 ;

" officer " includes servant;

" ophthalmic optician " means a person registered in either of the registers kept under section 2 of the Opticians Act 1958 of ophthalmic opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as ophthalmic opticians;

" patient " includes an expectant or nursing mother and a lying-in woman;

" the Planning Council " has the meaning indicated in section 5;

" prescribed " means prescribed by regulations made by the Secretary of State under this Act;

" property " includes rights ;

" registered nurse " means a nurse registered in the register of nurses kept under the Nurses (Scotland) Act 1951 ;

" registered pharmacist " means a pharmacist registered in the register of pharmaceutical chemists ;

" regulations " means regulations made by the Secretary of State under this Act;

" relevant endowment " has the meaning indicated in section 11;

" the Research Trust " has the meaning indicated in section 12;

" Scottish Committee " means the committee constituted under section 1(3) of the Health Services Act 1976.

" state hospital " has the same meaning as in the Mental Health (Scotland) Act 1960 ;

" superannuation benefits " means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits;

" the Tribunal " has the meaning indicated in section 29 ;

" the Trust " has the meaning indicated in section 11;

" University Liaison Committee " means a committee such as is referred to in section 8 ;

" voluntary " means not carried on for profit and not provided by a local or public authority ;

- (2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.
- (3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment including this Act.
- (4) In this Act, except where otherwise indicated,—
 - (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered ;
 - (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered;

- (c) a reference in a section, subsection or Schedule to a numbered or lettered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered or lettered; and
- (d) a reference to any provision of an Act (including this Act) includes a reference to any Schedule incorporated in the Act by that provision.

109 Transitional provisions and savings, consequential amendments and repeals

Schedule 15 to this Act is hereby given effect, and subject to the transitional provisions and savings contained in that Schedule—

- (a) the enactments and the order specified in Schedule 16 have effect subject to the amendments (being amendments consequent on this Act) specified in that Schedule, and
- (b) the enactments specified in Schedule 17 (which include enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule ;

but nothing in this Act shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the operation of repeals).

110 Citation, extent and commencement

- (1) This Act may be cited as the National Health Service (Scotland) Act 1978.
- (2) Subject to subsection (3), this Act extends only to Scotland.
- (3) Paragraph 3 of Schedule 10 extends to other parts of the United Kingdom.
- (4) This Act shall come into force on 1st January 1979.

SCHEDULES

SCHEDULE 1

Section 2.

HEALTH BOARDS

PART I

CONSTITUTION

- 1 A Health Board shall be a body corporate and shall have a common seal.
- 2 A Health Board shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State thinks fit.
- 3 Appointments under paragraph 2 shall be made after consultation with the following bodies—
 - (a) each local authority (within the meaning of the Local Government (Scotland) Act 1973) in the area of the Health Board concerned;
 - (b) any university appearing to the Secretary of State to have an interest in the provision of health services in that area ;
 - (c) such organisations as the Secretary of State may recognise as representative in that area of the medical, dental, nursing, pharmaceutical and ophthalmic professions and such other professions as the Secretary of State considers appropriate, or of those professions generally; and
 - (d) such other organisations as appear to the Secretary of State to be concerned.
- 4 The Secretary of State may pay to the chairman of a Health Board such remuneration as he may, with the approval of the Minister for the Civil Service, from time to time determine.
- 5 A Health Board may employ such officers and servants on such terms as to remuneration and conditions of service as the Board may, subject to regulations, determine.
- 6 Regulations may make provision with respect to the method of appointment of officers or servants of a Health Board and as to the qualifications, remuneration and conditions of service of those persons.
- 7 No officer or servant of a Health Board to whom regulations apply shall be employed otherwise than in accordance with the regulations.
- 8 Regulations under paragraph 6 shall not contain a requirement that all consultants employed for the purpose of hospitals shall be employed whole-time.
- 9 The application of the seal of a Health Board to any document shall be attested by at least one member of the Board and by the person for the time being acting as Secretary of the Board.
- 10 Every document purporting to be an instrument issued by a Health Board, and to be sealed and attested as aforesaid or to be duly signed on behalf of the Board, shall be

received in evidence and shall be deemed to be such an instrument without further proof, unless the contrary is shown.

PART II

SUPPLEMENTARY PROVISIONS

- 11 Regulations may make provision—
- (a) as to the appointment, tenure and vacation of office of chairman and members of Health Boards ;
 - (b) as to the delegation of functions to committees or sub-committees composed, as to a majority, of members of Health Boards ;
 - (c) as to the procedure of Health Boards, their committees and sub-committees ; and
 - (d) for the payment by Health Boards of subscriptions, of such amounts as the Secretary of State may approve, to the funds of such associations or other bodies as he may from time to time approve.
- 12 The proceedings of a Health Board shall not be invalidated by any vacancy in membership or by any defect in the appointment of any member thereof.
- 13 The Secretary of State shall pay to members of a Health Board, 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.
- 14 Allowances shall not be paid under paragraph 13 except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.
- 15 Payment under paragraph 13 shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.
- 16 A Health Board may by agreement transfer to the Hospital Trust any endowments or income referred to in paragraph 4(e) of Schedule 6 for investment and management on their behalf, subject to any terms or conditions set out in the agreement, notwithstanding any restriction on the powers of investment of such endowments or income.
- 17 A Health Board may borrow from the Hospital Trust against their share in the capital of the Hospital Trust.
- 18 The functions transferred to and exercisable by Health Boards under section 56 of the National Health (Scotland) Act 1972 (functions under the Nursing Homes Registration (Scotland) Act 1938) shall continue to be exercisable by them under this paragraph.
- 19 The Secretary of State may, with any necessary modifications, by order apply any of the provisions of paragraph 1 of Schedule 9 to the Civil Aviation Act 1971 to the case of a person who enters the employment of a Health Board after having been employed in employment to which the said paragraph 1 applies, and any such order may provide that for the purposes of any enactment specified in the order, or for any other purposes so specified, there shall be deemed to have been no break in the employment of any such person.

SCHEDULE 2

Section 3.

THE MEDICAL PRACTICES COMMITTEE

- 1 The Medical Practices Committee shall consist of a chairman, who shall be a medical practitioner, and 5 other members of whom 3 shall be medical practitioners actively engaged in medical practice.
- 2 The chairman and members shall be appointed by the Secretary of State after consultation with such organisations as the Secretary of State may recognise as representative of the medical profession.
- 3 The Secretary of State may make regulations with respect to the appointment, tenure of office and vacation of office of the members of the Committee.
- 4 The Secretary of State may provide the services of such officers as the Committee may require.
- 5 The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any member thereof.

SCHEDULE 3

Section 5.

THE PLANNING COUNCIL

- 1 The Planning Council shall consist of a chairman appointed by the Secretary of State, and other members appointed as follows—
 - (a) one member appointed by each Health Board ;
 - (b) one member appointed by each university in Scotland which has a medical school;
 - (c) not more than 6 officers of the Secretary of State appointed by him; and
 - (d) such other members, not being officers of the Secretary of State, as may be appointed by him.
- 2 The Secretary of State shall have power to appoint a vice-chairman from among the membership of the Council.
- 3 Regulations may make provision for—
 - (a) the appointment, tenure and vacation of office of the chairman, vice-chairman and members of the Council;
 - (b) enabling alternative members to attend in place of any member of the Council who may be absent;
 - (c) the attendance as assessors at meetings of the Council of the chairmen of the national consultative committees ;
 - (d) the appointment by the Council of committees whose membership may include persons who are not members of the Council; and
 - (e) the procedure of the Council or of any committee thereof.
- 4 The proceedings of the Council or of any committee thereof shall not be invalidated by any vacancy in the membership of the Council or committee, or by any defect in the appointment or qualification of any member thereof.

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- 5 The Secretary of State shall pay to members of the 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.
- 6 Allowances shall not be paid under paragraph 5 except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.
- 7 The Secretary of State shall have power, after consultation with the Council, to make such arrangements for the provision of secretarial and other services and facilities for the Council as appear to him to be appropriate.

SCHEDULE 4

Section 8.

UNIVERSITY LIAISON COMMITTEES

The University Liaison Committee for any area or combination of areas shall consist of such number of members as the Secretary of State thinks fit; and of those members—

- (a) not less than one-third shall be appointed by any university or universities appearing to the Secretary of State to have an interest in the health service in the area or combined areas ;
- (b) a number, equal to the number appointed under paragraph (a), shall be appointed by the Health Board for the area or, as the case may be, by the Health Boards for the combined areas acting jointly ; and
- (c) any other members shall be appointed in such manner as may be provided in the order constituting the Committee.

The Committee shall appoint one of their number to be chairman.

SCHEDULE 5

Section 10.

THE AGENCY

- 1 The Agency shall be a body corporate and shall have a common seal.
- 2 The affairs of the Agency shall be managed by a management committee constituted in accordance with paragraph 3.
- 3 The management committee shall consist of a chairman appointed by the Secretary of State and other members appointed as follows—
- (a) 5 members appointed by the Secretary of State;
 - (b) 6 members appointed by the Secretary of State on the nomination of the Health Boards acting jointly ; and
 - (c) such other members as may be appointed by the Secretary of State after consultation with the Health Boards, acting jointly.
- 4 The proceedings of the management committee shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any member thereof.

- 5 The Secretary of State shall pay to members of the management committee 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.
- 6 Allowances shall not be paid under paragraph 5 except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.
- 7 The Agency may employ such officers and servants on such terms as to remuneration and conditions of service as the management committee may, subject to regulations, determine.
- 8 Regulations may make provision with respect to—
- (a) the appointment, tenure and vacation of office of the chairman and members of the management committee ;
 - (b) enabling alternative members to attend in place of any member of the committee who may be absent;
 - (c) the appointment by the management committee of sub-committees, whose membership may include persons who are not members of the management committee ;
 - (d) the procedure of the management committee; and
 - (e) the method of appointment of officers or servants of the Agency and the qualifications, remuneration and conditions of service of those persons.
- 9 No officer or servant of the Agency to whom regulations apply shall be employed otherwise than in accordance with the regulations.
- 10 The application of the seal of the Agency to any document shall be attested by at least one member of the management committee and by an officer authorised for the purpose by the management committee.
- 11 Every document purporting to be an instrument issued by the Agency and to be sealed and attested as aforesaid or to be duly signed on behalf of the Agency shall be received in evidence, and shall be deemed to be such an instrument without further proof unless the contrary is shown.
- 12 The Secretary of State may exercise the powers conferred by paragraph 19 of Schedule 1 in the case of a person who enters the employment of the Agency and to whom that paragraph otherwise applies.

SCHEDULE 6

Section 11.

THE HOSPITAL TRUST

PART I

CONSTITUTION

- 1 The Hospital Trust (hereafter in this Schedule referred to as " the Trust") shall consist of a chairman appointed by the Secretary of State and not more than 7 and not less than 5 other members so appointed.

- 2 The Trust shall be a body corporate.
- 3 The proceedings of the Trust shall not be invalidated by any vacancy in the membership thereof or by any defect in the appointment of a member.

PART II

POWERS

- 4 The Trust shall have the following powers—
- (a) the like powers in relation to their funds as trustees have in relation to their trust estate under section 4(1) of the Trusts (Scotland) Act 1921 ;
 - (b) power to purchase and lease land and to invest in any security in which trustees are authorised to invest under or in pursuance of the Trusts (Scotland) Act 1921 and—
 - (i) to retain any investment which they from time to time receive,
 - (ii) to make a narrower-range investment falling within Part II of Schedule 1 to the Trustee Investments Act 1961 without first obtaining advice as required by section 6 of that Act,
 - (iii) to invest in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of securities or of land ;
 - (c) power to make loans to Health Boards against their share in the capital of the Trust;
 - (d) power to pay all the expenses of the constitution and administration of the Trust from their funds ;
 - (e) power to accept from any Health Board for investment and management on behalf of the Board any endowments or accumulated income thereof transferred to the Board under Part VI of the National Health Service (Scotland) Act 1972 and any endowments, or accumulated income thereof, otherwise held by a Health Board ;
 - (f) power to accept, hold, administer and dispose of any property (other than a relevant endowment or such an endowment as is referred to in sub-paragraph (e)) on trust for purposes similar to those for which property is held by a Health Board ;
 - (g) power to give advice to a Health Board relating to the investment or management of any such endowment or income as is referred to in sub-paragraph (e) and which is not transferred to the Trust under paragraph 16 of Schedule 1, and to recover from the Board concerned any expenses reasonably incurred by them in giving such advice.
- 5 (1) It shall be the duty of the Trust to obtain advice on the investment of any property held by them under this Act from a person whom the Trust reasonably believe to be qualified to give such advice by his ability in, and practical experience of, financial matters.
- (2) For the purposes of sub-paragraph (1), the advice referred to therein may be obtained from a person other than an officer or servant of the Trust on such terms as may be agreed between the Trust and that person.

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- 6 (1) Regulations may prescribe the method of calculating the capital value of relevant endowments transferred from Boards of Management and Regional Hospital Boards to the Trust under section 2(1) of the Hospital Endowments (Scotland) Act 1971 and the shares of Health Boards in the total endowments so transferred.
- (2) Regulations may prescribe the terms and conditions on which sums may be borrowed from the Trust by Health Boards.
- 7 (1) The Trust shall, at such date or dates in each year as the Secretary of State may determine, distribute the income from all relevant endowments transferred to them under section 2(1) of the Hospital Endowments (Scotland) Act 1971 and from property accepted by them in pursuance of paragraph 4(f), after deduction of such expenses as have been incurred under this Act or the said Act of 1971 or regulations made thereunder, among Health Boards and state hospitals in accordance with schemes made from time to time by the Secretary of State by statutory instrument.
- (2) Before making a scheme under this paragraph the Secretary of State shall give to Health Boards and the bodies charged with the management of state hospitals an opportunity to make representations to him about the scheme.
- (3) Such schemes shall provide for the income from such relevant endowments—
- (a) in so far as it is distributed among Health Boards, being used by those Boards for purposes relating to services provided under this Act in or in relation to hospitals, or to research into any such matters as are mentioned in section 47(2), or for purposes intended to preserve the memory of any person or class of persons ;
 - (b) in so far as it is distributed to a state hospital, being used by that hospital for any purpose for which the hospital was provided, including research in connection with any such purpose.
- (4) In making a scheme under this paragraph the Secretary of State shall have regard to the arrangements for the distribution of income under any scheme, being a scheme made under section 7 of the said Act of 1971 and in operation immediately before 1st April 1974 ; and any scheme made under this paragraph may provide that any accumulated income held by a Health Board by virtue of section 2(2)(a) of the said Act of 1971 may be used only for such purposes as may be specified in the scheme.
- (5) No scheme shall be made under this paragraph unless a draft has been laid before Parliament and has been approved by a resolution of each House of Parliament.
- 8 The total annual expenses of administration of the Trust shall be limited to such maximum amount as the Secretary of State may from time to time determine.
- 9 Regulations may make provision in respect of any of the following matters—
- (a) the appointment, and tenure and vacation of office, of the members of the Trust;
 - (b) the procedure of the Trust;
 - (c) the appointment, remuneration and conditions of service of officers and servants of the Trust;
 - (d) the making of payments, not exceeding limits to be determined from time to time by the Secretary of State, from the funds of the Trust to the members thereof in respect of any loss of earnings they would otherwise have made or any additional expenses (including travelling and subsistence expenses) to which they would not otherwise have been subject, being loss

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- or expenses necessarily suffered or incurred by them for the purpose of enabling them to perform duties as members of the Trust;
- (e) any matters consequential on, or incidental to, any of the aforesaid matters.
- 10 (1) The accounts of the Trust shall be audited annually by an auditor appointed by the Trust.
- (2) No person shall be qualified to be appointed auditor under this paragraph unless he is a member of one or more of the following bodies:—
- (a) the Institute of Chartered Accountants of Scotland;
 - (b) the Institute of Chartered Accountants in England and Wales;
 - (c) the Association of Certified and Corporate Accountants ;
 - (d) the Institute of Chartered Accountants in Ireland;
 - (e) any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State ;
- but a Scottish firm may be so appointed if each of the partners therein is qualified to be so appointed.

SCHEDULE 7

Section 12.

THE RESEARCH TRUST

- 1 The Research Trust shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State may from time to time determine.
- 2 The Research Trust shall be a body corporate.
- 3 The Secretary of State may make regulations for—
- (a) the appointment, and tenure and vacation of office, of the members of the Research Trust;
 - (b) the procedure of the Trust;
 - (c) the appointment, remuneration and conditions of service of officers of the Trust;
 - (d) the making of payments from the funds of the Trust to its members in respect of any loss of earnings they would otherwise have made or any additional expenses (including travelling and subsistence expenses) to which they would not otherwise have been subject, being loss of expenses necessarily suffered or incurred by them for the purpose of enabling them to perform duties as members of the Trust; and
 - (e) any matters consequential or incidental to those matters.
- 4 The Research Trust shall have power to purchase land and to invest in any securities in which trustees are authorised to invest under or in pursuance of the Trusts (Scotland) Act 1921 ; and they may—
- (a) retain any investment which they from time to time receive;
 - (b) make a narrower-range investment falling within Part II of Schedule 1 to the Trustee Investments Act 1961 without first obtaining advice as required by section 6 of that Act;

- (c) invest in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of securities or of land.

5 The Research Trust shall have, in relation to their funds, the like powers as trustees have in relation to their trust estate under subsection (1) of section 4 of the Trusts (Scotland) Act 1921.

6 Where the Research Trust borrow money or draw upon capital to meet expenditure of a capital nature, they shall set aside annually a sum sufficient to repay such loan or draft within a period which, unless the Secretary of State otherwise approves in any case, shall not exceed 30 years ; but this paragraph shall not apply in the case of a draft on capital to the extent only of surplus income added to capital.

7 The proceedings of the Research Trust shall not be invalidated by any vacancy in the membership thereof or by any defect in the appointment of a member.

SCHEDULE 8

Section 29.

THE TRIBUNAL

1 The Tribunal for the purposes of section 29 shall consist of a chairman and 2 other members.

2 The chairman shall be a practising advocate or solicitor of not less than 10 years' standing appointed by the Lord President of the Court of Session.

3 One of the other members shall be a person appointed by the Secretary of State after consultation with such body as the Secretary of State may recognise as being representative of Health Boards.

4 The remaining member (hereafter referred to as "the practitioner member ") shall be appointed by the Secretary of State from such one of the panels appointed under paragraph 5 as the Secretary of State considers appropriate having regard to the profession or calling of the person whose case is being investigated.

5 For the purposes of paragraph 4, the Secretary of State shall, after consultation with such organisations as he may recognise as representative of the several professions or callings concerned, appoint the following panels, none of which shall exceed 6 persons, that is to say:—

- (a) a panel of medical practitioners ;
- (b) a panel of medical practitioners having the qualifications prescribed under section 26 ;
- (c) a panel of dental practitioners;
- (d) a panel of ophthalmic opticians;
- (e) a panel of dispensing opticians; and
- (f) a panel of registered pharmacists.

6 If any member of the Tribunal is unable to act in any case a deputy may be appointed by the Lord President of the Court of Session or the Secretary of State, as in the case of the appointment of the member in question; and, if the member is the chairman, the deputy shall possess the professional qualifications required for the

office of chairman, and, if the member is the practitioner member, the deputy shall be appointed from the same panel.

- 7 Regulations may make provision—
- (a) with respect to the appointment, tenure of office and vacation of office of members of the Tribunal;
 - (b) with respect to the appointment of officers of the Tribunal.

SCHEDULE 9

Section 35.

ADDITIONAL PROVISIONS AS TO PROHIBITION OF SALE OF MEDICAL PRACTICES

Prohibition, and certificate of Practices Committee

- 1 (1) Any person who sells or buys the goodwill, or any part of the goodwill, of a medical practice which it is unlawful to sell by virtue of section 35(1) is guilty of an offence and liable on conviction on indictment to a fine not exceeding—
- (a) such amount as will in the court's opinion secure that he derives no benefit from the offence, and
 - (b) the further sum of £500,
- or to imprisonment for a term not exceeding 3 months, or to both such fine and such imprisonment.
- (2) Any medical practitioner or his personal representative may apply to the Medical Practices Committee for their opinion whether a proposed transaction or series of transactions involves the sale of the goodwill, or any part of the goodwill, of a medical practice which it is unlawful to sell by virtue of section 35(1).
- (3) The Committee shall consider any such application, and, if they are satisfied that the transaction or series of transactions does not involve the giving of valuable consideration in respect of the goodwill, or any part of the goodwill, of such a medical practice, they shall issue to the applicant a certificate to that effect, which shall be in the prescribed form and shall set out all material circumstances disclosed to the Committee.
- (4) Where any person is charged with an offence under this paragraph in respect of any transaction or series of transactions, it shall be a defence to the charge to prove that the transaction or series of transactions was certified by the Medical Practices Committee under sub-paragraph (3).
- (5) Any document purporting to be such a certificate shall be admissible in evidence and shall be deemed to be such a certificate unless the contrary is proved.
- (6) If it appears to the court that the applicant for any such certificate failed to disclose to the Committee all the material circumstances, or made any misrepresentation with respect thereto, the court may disregard the certificate, and sub-paragraph (4) shall not apply thereto.
- (7) The Medical Practices Committee shall, at the request of the Lord Advocate, furnish him with a copy of any certificate issued by them under sub-paragraph (3), and with copies of any documents produced to them in connection with the application for that certificate.

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- (8) For the purposes of this paragraph (and paragraph 2) references to the goodwill of a medical practice shall, in relation to a medical practitioner practising in partnership, be construed as referring to his share of the goodwill of the partnership practice.

Certain transactions deemed sale of goodwill

2 (1) Where—

- (a) any medical practitioner or his personal representative knowingly sells or lets premises previously used by that practitioner for the purposes of his practice to another medical practitioner, or in any other way disposes or procures the disposition of the premises, whether by a single transaction or a series of transactions, with a view to enabling another practitioner to use the premises for the purposes of his practice, and
- (b) the consideration for the sale, letting or other disposition is substantially in excess of the consideration which might reasonably have been expected to be paid by a medical practitioner for the premises as such irrespective of goodwill,

the sale, letting or other disposition of the premises shall be deemed for the purposes of section 35(1) and paragraph 1 to be a sale by the first medical practitioner or his personal representative of the goodwill, or part of the goodwill, of the practice of that practitioner to that other practitioner.

Where a medical practitioner or his personal representative sells, lets or disposes or procures the disposition of any premises together with any other property, the court shall, for the purposes of this sub-paragraph, make such apportionment of the consideration as it thinks just.

- (2) Where in pursuance of any partnership agreement between medical practitioners—
- (a) any valuable consideration, other than the performance of services in the partnership business, is given by a partner or proposed partner as consideration for his being taken into partnership.
 - (b) any valuable consideration is given to a partner, on or in contemplation of his retirement or of his acceptance of a reduced share of the partnership profits, or to the personal representative of a partner on his death, not being a payment in respect of that partner's share in past earnings of the partnership or in any partnership assets or any other payment required to be made to him as the result of the final settlement of accounts, as between him and the other partners, in respect of past transactions of the partnership, or
 - (c) services are performed by any partner for a consideration substantially less than those services might reasonably have been expected to be worth having regard to the circumstances at the time when the agreement was made,

there shall be deemed for the purposes of section 35(1) and paragraph 1 to have been a sale of the goodwill, or part of the goodwill, of the practice of any partner to whom, or to whose personal representative, the consideration or any part thereof is given or, as the case may be, for whose benefit the services are performed, to the partner or each of the partners by or on whose behalf the consideration or any part thereof was given or, as the case may be, the partner who performed the services, and the said sale shall be deemed for the purposes of section 35(1) and paragraph 1 to have been effected—

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- (i) in a case to which paragraph (a) or paragraph (b) applies, at the time when the consideration was given, or, if the consideration was not all given at the same time, at the time when the first part thereof was given, or
- (ii) in a case to which paragraph (c) applies, at the time when the agreement was made.

(3) Where any medical practitioner—

- (a) performs services as an assistant to another medical practitioner for a remuneration substantially less than those services might reasonably have been expected to be worth, having regard to the circumstances at the time when the remuneration was fixed, and
- (b) subsequently succeeds, whether as the result of a partnership agreement or otherwise, to the practice or any part of the practice of the second practitioner,

there shall be deemed for the purposes of section 35(1) and paragraph 1 to have been a sale (effected at the time when the remuneration was fixed) of the goodwill, or part of the goodwill, of that practice by the second practitioner to the first practitioner, unless it is shown that the said remuneration of the first practitioner was not fixed in contemplation of his succeeding to the practice, or any part of it.

(4) For the purposes of section 35(1) and paragraph 1—

- (a) if a medical practitioner or the personal representative of a medical practitioner agrees, for valuable consideration, to do or refrain from doing any act, or to allow any act to be done, for the purpose of facilitating the succession of another medical practitioner to the practice, or any part of the practice, of the first practitioner, the transaction shall be deemed to be a sale of the goodwill, or part of the goodwill, of that practice by the first practitioner or his personal representative to the second practitioner ; and
- (b) if any medical practitioner, or any person acting on his behalf, gives any valuable consideration to another medical practitioner, or the personal representative of another medical practitioner, and the first medical practitioner succeeds, or has succeeded, whether before or after the transaction aforesaid, to the practice, or any part of the practice, of the second practitioner, the transaction shall be deemed to be a sale of the goodwill, or part of the goodwill, of the practice of the second practitioner by him or by his personal representative to the first practitioner, unless it is shown that no part of the consideration was given in respect of the said goodwill or part of it.

(5) Sub-paragraph (4) shall not apply to anything done in relation to the acquisition of premises for the purposes of a medical practice, or in pursuance of a partnership agreement, or to the performance of services as an assistant to a medical practitioner.

(6) In determining for the purposes of section 35(1) and this Schedule the consideration given in respect of any transaction, the court shall have regard to any other transaction appearing to the court to be associated with the first transaction, and shall estimate the total consideration given in respect of both or all the transactions, and shall apportion it between those transactions in such manner as it thinks just.

(7) Where any consideration is, with the knowledge and consent of a medical practitioner or his personal representative, given to any other person, and it appears to the court that the medical practitioner or, if he has died, his estate or some person beneficially interested in his estate derives a substantial benefit from the giving of the

consideration, the consideration shall be deemed for the purposes of section 35(1) and this Schedule to have been given to the medical practitioner or his personal representative, as the case may be.

SCHEDULE 10

Section 49.

ADDITIONAL PROVISIONS AS TO THE CONTROL OF MAXIMUM PRICES FOR MEDICAL SUPPLIES

Orders and directions

- 1 (1) Any power of making orders under section 49 includes power to provide for any incidental and supplementary provisions which the Secretary of State thinks it expedient for the purposes of the order to provide.
- (2) An order under section 49 may make such provisions (including provision for requiring any person to furnish any information) as the Secretary of State thinks necessary or expedient for facilitating the introduction or operation of a scheme of control for which provision has been made, or for which, in his opinion, it will or may be found necessary or expedient that provision should be made, under that section.
- (3) An order under section 49 may prohibit the doing of anything regulated by the order except under the authority of a licence granted by such authority or person as may be specified in the order, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and so as to have effect either generally or in any particular area.
- (4) The Interpretation Act 1889 shall apply to the interpretation of any order made under section 49 as it applies to the interpretation of an Act of Parliament and for the purposes of section 38 of that Act any such order shall be deemed to be an Act of Parliament.

Notices, authorisations and proof of documents

- 2 (1) A notice to be served on any person for the purposes of section 49, or of any order or direction made or given under that section, shall be deemed to have been duly served on the person to whom it is directed if—
 - (a) it is delivered to him personally ; or
 - (b) it is sent by registered post or the recorded delivery service addressed to him at his last or usual place of abode or place of business.
- (2) Where under section 49 and this Schedule a person has power to authorise other persons to act thereunder, the power may be exercised so as to confer the authority either on particular persons or on a specified class of persons.
- (3) Any permit, licence, permission or authorisation granted for the purposes of section 49 may be revoked at any time by the authority or person empowered to grant it.
- (4) Every document purporting to be an instrument made or issued by the Secretary of State or other authority or person in pursuance of section 49 and this Schedule or any provisions so having effect and to be signed by or on behalf of the Secretary of

State, or that authority or person, shall be received in evidence and shall until the contrary is proved, be deemed to be an instrument made or issued by the Secretary of State, or that authority or person.

- (5) Prima facie evidence of any such instrument as is described in sub-paragraph (4) may in any legal proceedings (including arbitrations) be given by the production of a document purporting to be certified to be a true copy of the instrument by or on behalf of the Secretary of State or other authority or person having power to make or issue the instrument.

Territorial extent

- 3 So far as any provisions contained in or having effect under section 49 and this Schedule impose prohibitions, restrictions or obligations on persons, those provisions apply to any persons in the United Kingdom and all persons on board any British ship or aircraft, not being an excepted ship or aircraft, and to all other persons, wherever they may be, who are ordinarily resident in the United Kingdom and who are citizens of the United Kingdom and Colonies or British protected persons.

In this paragraph—

" British aircraft " means an aircraft registered in—

- (a) any part of her Majesty's dominions ;
- (b) any country outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction ;
- (c) any country consisting partly of one or more colonies and partly of one or more such countries as are mentioned in paragraph (b);

" British protected person " means the same as in the British Nationality Acts 1948 to 1965 ;

" excepted ship or aircraft " means a ship or aircraft registered in any country for the time being listed in section 1(3) of the British Nationality Act 1948 or in any territory administered by the government of any such country, not being a ship or aircraft for the time being placed at the disposal of, or chartered by or on behalf of, Her Majesty's Government in the United Kingdom.

False documents and false statements

- 4 (1) A person shall not, with intent to deceive—
- (a) use any document issued for the purposes of section 49 and this Schedule or of any order made under that section ;
 - (b) have in his possession any document so closely resembling such a document as is described in paragraph (a) as to be calculated to deceive;
 - (c) produce, furnish, send or otherwise make use of for purposes connected with that section and this Schedule or any order or direction made or given under that section, any book, account, estimate, return, declaration or other document which is false in a material particular.
- (2) A person shall not, in furnishing any information for the purposes of section 49 and this Schedule or of any order made under that section, make a statement which he knows to be false in a material particular or recklessly make a statement which is false in a material particular.

Restrictions on disclosing information

- 5 No person who obtains any information by virtue of section 49 and this Schedule shall, otherwise than in connection with the execution of that section and this Schedule or of an order made under that section, disclose that information except for the purposes of any criminal proceedings, or of a report of any criminal proceedings, or with permission granted by or on behalf of a Minister of the Crown.

Offences by corporations

- 6 Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this paragraph, the expression "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Penalties

- 7 (1) If any person contravenes or fails to comply with any order made under section 49, or any direction given or requirement imposed under that section, or contravenes or fails to comply with this Schedule (except for paragraph 8(3) or paragraph 9(4)) he is, save as otherwise expressly provided, guilty of an offence.
- (2) Subject to any special provisions contained in this Schedule, a person guilty of such an offence shall—
- (a) on summary conviction, be liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding £100, or to both ; or
 - (b) on conviction on indictment, be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding £500, or to both.
- (3) Where a person convicted on indictment of such an offence is a body corporate, no provision limiting the amount of the fine which may be imposed shall apply, and the body corporate shall be liable to a fine of such amount as the court thinks just.

Production of documents

- 8 (1) For the purposes—
- (a) of securing compliance with any order made or direction given under section 49 by or on behalf of the Secretary of State, or
 - (b) of verifying any estimates, returns or information furnished to the Secretary of State in connection with section 49 or any order made or direction given under that section,

an officer of the Secretary of State duly authorised in that behalf has power, on producing (if required to do so) evidence of his authority, to require any person carrying on an undertaking or employed in connection with an undertaking to produce to that officer forthwith any documents relating to the undertaking which that officer may reasonably require for the purpose set out in this paragraph.

- (2) The power conferred by this paragraph to require any person to produce documents includes power—
- (a) if the documents are produced, to take copies of them or extracts from them and to require that person, or where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them;
 - (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (3) If any requirement to produce documents or provide an explanation or make a statement which is imposed by virtue of this paragraph is not complied with, the person on whom the requirement was so imposed is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £100, or to both.

Where a person is charged with such an offence in respect of a requirement to produce any document, it shall be a defence to prove that they were not in his possession or under his control and that it was not reasonably practicable for him to comply with the requirements.

- 9 (1) If a sheriff, magistrate or justice of the peace is satisfied, on information on oath laid on the Secretary of State's behalf, that there are any reasonable grounds for suspecting that there are on any premises any documents of which production has been required by virtue of paragraph 8 and which have not been produced in compliance with that requirement, he may issue a warrant under this paragraph.

A warrant so issued may authorise any constable, together with any other persons named in the warrant and any other constables—

- (a) to enter the premises specified in the information (using such force as is reasonably necessary for the purpose); and
 - (b) to search the premises and take possession of any documents appearing to be such documents as are mentioned above, or to take in relation to any documents so appearing any other steps which may appear necessary for preserving them and preventing interference with them.
- (2) Every warrant issued under this paragraph shall continue in force until the end of the period of one month after the date on which it is issued.
- (3) Any documents of which possession is taken under this paragraph may be retained for a period of 3 months, or, if within that period there are commenced any proceedings for an offence under section 49 and this Schedule to which they are relevant, until the conclusion of those proceedings.
- (4) Any person who obstructs the exercise of any right of entry or search conferred by virtue of a warrant under this paragraph, or who obstructs the exercise of any rights so conferred to take possession of any documents, is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £50, or to both.

SCHEDULE 11

Sections 69-71.

ADDITIONAL PROVISIONS AS TO REGULATIONS
FOR THE MAKING AND RECOVERY OF CHARGES

*Regulations under section 69—charges for drugs,
medicines or appliances, or pharmaceutical services*

- 1
- (1) No charge shall be made under section 69(1) in relation to the supply of drugs, medicines and appliances referred to in paragraph (a) of that subsection in respect of—

(a) the supply of any drug, medicine or appliance for a patient who is for the time being resident in hospital, or

(b) the supply of any drug or medicine for the treatment of venereal disease, or

(c) the supply of any appliance for a person who is under 16 years of age or is undergoing full-time education in a school, or

(d) the replacement or repair of any appliance in consequence of a defect in the appliance as supplied,

and regulations may provide for the remission or repayment of any charge payable under paragraph (a) of section 69(1) in such other cases as may be prescribed.

(2) Regulations made under section 69(1) in relation to the pharmaceutical services referred to in paragraph (b) of that subsection may provide for the remission or repayment of the charges made by those regulations in the case of such persons as may be prescribed.

Regulations under section 70—charges for dental or optical appliances

- 2
- (1) The dental and optical appliances mentioned in the first column below, and the charges mentioned in the second column, are the appliances and charges referred to in section 70(1).

Appliance	Charge
The dentures described in regulations made under section 70(1) and this paragraph.	The amount or the maximum amount prescribed by regulations made under section 70(1) and this paragraph.
Glasses other than children's glasses— <div>(a) The lenses described in regulations made under section 70(1) and this paragraph.</div> <div>(b) Frames.</div>	<div>The amount or the maximum amount prescribed by regulations made under section 70(1) and this paragraph.</div> <div>The current specified cost</div>

In this sub-paragraph—
" children's glasses " means glasses for which a standard type of children's frame as described in the Statement referred to below is used and which are supplied for a person who was, at the time of the examination or testing of sight leading to the supply of the glasses or of the first such examination or testing, under 16 years of age or receiving full-time education in a school, and

" current specified cost ", in relation to frames supplied under Part II, means the sum specified in the Statement as the sum payable for frames of that description by the person to whom they are supplied, and in relation to frames supplied under this Act otherwise than under Part II means a sum equal to the sum so specified, or in the case of frames of a description for which no sum is so specified, such sum as may be determined by or in accordance with directions given by the Secretary of State,

and for the purposes of this provision " the Statement " means the Statement published by the Secretary of State pursuant to the provisions of regulation 10 of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1974 or any corresponding regulation for the time being in force.

(2) Regulations may—

- (a) vary the amount or maximum amount of any charge authorised by section 70(1) for any dental or optical appliance, and this power includes power to direct that the charge shall not be payable; or
- (b) vary the descriptions of appliances for which any such charge is authorised; and regulations made for the purposes of section 70(1) may be made so as to take effect—

- (i) in the case of appliances supplied under this Act otherwise than under Part II, where the examination or testing of sight (otherwise than under that Part) leading to the supply of those appliances, or the first such examination or testing takes place on or after the date on which the regulations come into force;
- (ii) in the case of dental appliances supplied under Part II, where the contract or arrangement between the person by whom and the person to whom the appliances are supplied is made on or after that date;
- (iii) in the case of optical appliances supplied under Part II, where the testing of sight leading to the supply of those appliances, or the first such testing, takes place on or after that date.

(3) No charge shall be made under section 70(1) in respect of any appliance supplied otherwise than under Part II to a patient for the time being resident in a hospital.

(4) No charge shall be made under section 70(1) in respect of the supply of a dental appliance if at the relevant time the person for whom that appliance was supplied—

- (a) was under 16 years of age or was receiving full-time education in a school; or
- (b) was an expectant mother or had borne a child within the previous 12 months.

(5) No charge shall be made under section 70(1) for the supply under this Act of lenses for any glasses if—

- (a) the person for whom the glasses are supplied was at the relevant time of the age of 10 or more and either under the age of 16 or receiving full-time education in a school; and
- (b) the frames of the glasses are of any description specified in the Statement referred to in sub-paragraph (1) or any corresponding regulation for the time being in force.

(6) Regulations made with respect to any exemption under sub-paragraph (4) or sub-paragraph (5) may provide that it shall be a condition of the exemption that such declaration is made in such form and manner, or such certificate or other evidence is supplied in such form and manner, as may be prescribed.

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- (7) In sub-paragraphs (4) and (5), " the relevant time " means—
- (a) in relation to a dental appliance supplied otherwise than under Part II, or to an optical appliance supplied under this Act, the time of the examination or testing of sight leading to the supply of the appliance, or the first such examination or testing;
 - (b) in relation to a dental appliance supplied under Part II, the time of the making of the contract or arrangement in pursuance of which the appliance is supplied.
- (8) References in section 70 and in this paragraph to the supply of appliances shall be construed as including references to their replacement, but no charge shall be made under those provisions in respect of the replacement of dentures or lenses if the replacement is required in consequence of loss or damage.

Regulations under section 71—charges for dental treatment

- 3 (1) The amount of the charge payable under section 71(1) in respect of services provided in pursuance of any contract or arrangement shall be (subject to sub-paragraph (3)) the current authorised fee for all services so provided in respect of which a charge is payable under that section or a prescribed sum, whichever is the less.

In this sub-paragraph " current authorised fee ", in relation to any services, means the fee authorised in accordance with regulations for the time being in force under this Act as the fee payable to the practitioner in respect of those services, but does not include—

- (a) any fee so authorised in respect of a visit to a patient by a practitioner; or
- (b) any fee or part of a fee payable by the patient in pursuance of regulations under—
 - (i) section 71(2);
 - (ii) section 73, in relation to paragraph (b) of that section ;
 - (iii) section 74, in relation to paragraph (b) of that section.

- (2) Regulations may vary the amount or the maximum amount of any charge authorised by section 71(1), and this power includes power to direct that the charge shall not be payable.
- (3) Where any services in respect of which a charge is payable under section 70 are provided in pursuance of the contract or arrangement, the charges payable under that section and section 71(1) in respect of all services provided in pursuance of the contract or arrangement shall not exceed a prescribed sum in the aggregate.
- (4) No charge shall be made under section 71(1) in respect of services provided for any person who, on the date of the contract or arrangement for the services—
- (a) was under 21 years of age (other than for services in respect of the relining of a denture or the addition of teeth, bands or wires to a denture),
 - (b) was under 16 years of age or was receiving full-time education in a school,
 - (c) was an expectant mother or had borne a child within the previous 12 months,
- if (in any such case) a declaration to that effect is made by or on behalf of that person in such form and manner as may be prescribed.
- (5) Regulations under section 71(1), in relation to—
- (a) the persons described in paragraphs (b) and (c) of sub-paragraph (4), and

- (b) any exemption in respect of the relining of a denture or the addition of teeth, bands or wires to a denture,
- may provide that it shall be a condition of the exemption that such declaration is made in such form and manner, or such certificate or other evidence is supplied in such form and manner, as may be prescribed.

Miscellaneous Provisions

- 4 For the purposes of section 39(2) (which provides for the Secretary of State to arrange for the free medical treatment of certain pupils) any charge made in pursuance of regulations under this Act in respect of the supply of drugs, medicines or appliances shall be disregarded.
- 5 Regulations may provide for the remission or repayment of any charges which, in pursuance of section 70(1) or section 71(1), are payable apart from this paragraph by a person whose income as calculated in accordance with regulations is at less than the prescribed rate, in respect of the supply or replacement of dental or optical appliances or in respect of services provided as part of the general dental services.
- 6 For the purposes of sections 69 and 70 and of this Schedule, a bridge, whether fixed or removable, which takes the place of any teeth shall be deemed to be a denture having that number of teeth ; and the reference in paragraph (a) of section 71(1) to appliances described in paragraph 2(1) of this Schedule shall be construed accordingly.

SCHEDULE 12

Section 76.

INQUIRIES

- 1 The Secretary of State shall appoint a person to hold the inquiry and to report thereon to him.
- 2 The Secretary of State or the person appointed to hold the inquiry shall send to any person who appears to them to be interested, notification of the time when and the place where the inquiry is to be held.
- 3 The person appointed to hold the inquiry may by notice require any person—
- (a) to attend at the time and place set forth in the notice, to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry ; or
 - (b) to furnish within such reasonable period as is specified in the notice such information relating to any matter in question at the inquiry as the person appointed to hold the inquiry may think fit, and as the person so required is able to furnish ; but—
 - (i) no person shall be required in obedience to such a notice to attend at any place which is more than 10 miles from the place where he resides unless the necessary expenses are paid or tendered to him ; and
 - (ii) nothing in this paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled,

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on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

- 4 The person appointed to hold the inquiry may administer oaths and examine witnesses on oath, and may accept in lieu of evidence on oath by any person a statement in writing by that person.
- 5 Any person who refuses or wilfully neglects to attend in obedience to a notice under paragraph 3, or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required by any such notice to produce, or who refuses or wilfully neglects to furnish any information which he is required to furnish under sub-paragraph (b) of paragraph 3, shall be liable on summary conviction to a fine not exceeding £20 or to imprisonment for a period not exceeding 3 months.
- 6 The expenses incurred by the Secretary of State in relation to any inquiry held under this Act (including a reasonable sum for the services of any officer engaged in the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Secretary of State may order.
- 7 The Secretary of State may make orders as to the expenses incurred by the parties appearing at any such inquiry and as to the parties by whom such expenses shall be paid.
- 8 Any order by the Secretary of State under paragraph 6 or paragraph 7 may be enforced in like manner as a recorded decree arbitral.

SCHEDULE 13

Section 79.

ACQUISITION OF PROPERTY OTHER THAN LAND

- 1 Where under this Act, in connection with the acquisition of any premises, the Secretary of State proposes to acquire any equipment, furniture or other moveable property used in or in connection with the premises, he may, at any time after the acquisition of the premises (in the case of acquisition by agreement) or at any time after the service of a notice to treat (in the case of a compulsory acquisition of premises), serve a notice on the owner of the premises specifying the property proposed to be acquired and specifying the time within which and the manner in which any objection to such acquisition may be made.
- 2 If any objection is duly made the Secretary of State shall afford to the said owner an opportunity of appearing before, and being heard by, a person appointed by him for the purpose; and after considering any such objection and the report of the person so appointed by him, the Secretary of State shall either withdraw the notice aforesaid or serve upon the owner a notice confirming that notice.
- 3 The property with respect to which a notice is served under paragraph 1 and is not withdrawn shall—
 - (a) if no objection is duly made to the notice, vest in the Secretary of State at the expiration of the time for making such an objection;
 - (b) if such an objection is duly made and the notice is confirmed by a notice served under paragraph 2, vest in the Secretary of State on the service of the last mentioned notice;
 and shall in each case vest free of any pledge, lien or right in security.

Status: This is the original version (as it was originally enacted).

- 4 Where any property is acquired in accordance with this Schedule there shall be paid by way of compensation to the owner of the property concerned a sum equal to the price which he might reasonably have been expected to have obtained upon a sale of the property effected by him immediately before the acquisition of the property by the Secretary of State; and any dispute as to the amount of such compensation shall be determined by arbitration; and the compensation shall accrue due at the time when the property vested in the Secretary of State.
- 5 Where property in respect of which compensation is payable as aforesaid was, immediately before the acquisition thereof by the Secretary of State, in the possession of some person by virtue of a hire purchase agreement, that person may, by a notice served on the Secretary of State, make a claim to have apportioned to him such part of the compensation as may be specified in his claim; and in default of agreement between the parties the claim shall be determined by arbitration, and the arbiter may apportion the compensation between the owner and the other person in such manner as appears to him to be just.
- 6 Any such compensation shall carry interest, as from the time when it accrues due until payment, at such rate as the Treasury may from time to time by order prescribe.
- 7 Where any sum by way of compensation is paid in accordance with this Schedule in respect of any property and, at the time when the compensation accrues due, the property is subject to any pledge, lien or right in security, the sum so paid shall be deemed to be subject to that pledge, lien or right.

SCHEDULE 14

Section 93.

ACTION NOT SUBJECT TO INVESTIGATION BY THE COMMISSIONER

- 1 Action taken by medical practitioners, dental practitioners, ophthalmic or dispensing opticians or pharmacists in pursuance of their contracts with Health Boards under Part II or with Executive Councils under Part IV of the National Health Service (Scotland) Act 1947.
- 2 Action taken in connection with the diagnosis of illness or disease or the care or treatment of a patient, being action which, in the opinion of the Commissioner, was taken solely in the exercise of clinical judgment, whether formed by the person taking the action or by any other person.
- 3 Action taken by a Health Board or an Executive Council in the exercise of functions under—
 - (a) the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1974, or
 - (b) the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Regulations 1972, or
 - (c) any regulations or order amending or replacing those regulations or that order, or
 - (d) any regulations revoked by any of the regulations mentioned in paragraphs (a) and (c).
- 4 Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service under this Act or any Act relating to the National Health Service repealed by this Act.

Status: This is the original version (as it was originally enacted).

- 5 Action taken in matters relating to contractual or other commercial transactions other than in matters arising from arrangements between a body subject to investigation and an authority or body outwith the health service for the provision of services to patients by that authority or body.
- 6 Action which has been or is the subject of an inquiry under section 69 of the National Health Service (Scotland) Act 1947 or section 76 of this Act.
- 7 Action in relation to which the protective functions of the Mental Welfare Commission have been, are being or may be exercised under the Mental Health (Scotland) Act 1960.

SCHEDULE 15

Section 109.

TRANSITIONAL PROVISIONS AND SAVINGS

General

- 1 (1) In so far as—
 - (a) any agreement, appointment, apportionment, authorisation, determination, scheme, instrument, order or regulation made by virtue of an enactment repealed by this Act, or
 - (b) any approval, consent, direction, or notice given by virtue of such an enactment, or
 - (c) any complaint made or investigation begun by virtue of such an enactment, or
 - (d) any other proceedings begun by virtue of such an enactment, or
 - (e) anything done or having effect as if done,
 could, if a corresponding enactment in this Act were in force at the relevant time, have been made, given, begun or done by virtue of the corresponding enactment, it shall, if effective immediately before the corresponding enactment comes into force, continue to have effect thereafter as if made, given, begun or done by virtue of that corresponding enactment.
- (2) Where—
 - (a) there is any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or to a thing omitted, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act, then,
 - (b) that reference shall be construed (subject to its context) as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to or in contravention of any of the corresponding provisions of the repealed enactments.
- 2 Where any enactment passed before the commencement of this Act, or any instrument or document, refers either expressly or by implication to an enactment repealed by this Act, the reference shall (subject to its context) be construed as or as including a reference to the corresponding provision of this Act.

Status: This is the original version (as it was originally enacted).

- 3 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act has effect as if its corresponding provision had been in force when that period began to run.

Section 37 of the National Health Service (Scotland) Act 1947

- 4 Notwithstanding the repeal by this Act of section 37 of the National Health Service (Scotland) Act 1947 (compensation for loss of right to sell a medical practice) that section shall continue to have such effect as may be necessary for the purposes of sections 1 to 7 of the National Health Service (Amendment) Act 1949.

The saving made by this paragraph applies to section 51 of the National Health Service Reorganisation Act 1973 (which amended section 37 of the National Health Service (Scotland) Act 1947), and to any regulations made under that section 37 which were in force immediately before the coming into force of this Act.

Persons authorised to provide pharmaceutical services

- 5 A person who for three years immediately before 16th December 1911 acted as a dispenser to a medical practitioner or a public institution is in the same position in relation to the undertaking referred to in section 28(2) regarding the dispensing of medicines as a registered pharmacist.

Disqualification of practitioners

- 6 Where by virtue of section 43(8) of the National Health Service (Scotland) Act 1947 a person's name was disqualified for inclusion in any list referred to in section 43(1) of that Act, that person's name is disqualified for inclusion in any list referred to in section 29(1), until such time as the Tribunal or the Secretary of State directs to the contrary.

Section 4 of the Health Services and Public Health Act 1968

- 7 An undertaking given before the coming into force of section 4(1) of the Health Services and Public Health Act 1968 in respect of payment under section 4 of the National Health Service (Scotland) Act 1947 (accommodation available on part payment) continues to have the same effect as it had immediately before the coming into force of this Act.

Compensation of officers

- 8 Notwithstanding the repeal by the National Health Service (Scotland) Act 1972 of section 67 of the said Act of 1947, regulations made under paragraphs (c) to (e) of subsection (1) of that section shall continue to have effect until revoked by regulations under this Act.

Vehicles under section 33 of the Health Services and Public Health Act 1968

- 9 The provision of vehicles as mentioned in section 33 of the Health Services and Public Health Act 1968, and the taking of any such action as is mentioned in subsection (2) of that section, shall for the purposes of the National Health Service (Scotland) Act 1947 be treated as having been included among hospital

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and specialist services provided under Part II of that Act of 1947 as from its commencement.

Saving of amendments

- 10 Notwithstanding the repeal by this Act of sections 53 and 74 and Part I of Schedule 11 to the National Health Service (Scotland) Act 1947, and section 64(1) and Schedule 6 to the National Health Service (Scotland) Act 1972 and section 57(1) and Schedule 4 to the National Health Service Reorganisation Act 1973—
- (a) the amendments made by Part I of Schedule 11 to that Act of 1947 to the Public Health (Scotland) Act 1897, and
 - (b) the amendments made by section 53 and paragraphs 37 to 77, 82, 83(a), 84 to 93, 94(b), 95 to 97, 101, 102, 104 to 107(a), 108 to 115, 117, 119 to 122, 126, 127, 129, 135(a) to (c), 136(6), 138 to 140, 150, 152(b), 154 to 156A of Schedule 6 to that Act of 1972, and
 - (c) the amendments made by paragraphs 49, 69(2), 82, 96, 102, 106, 109, 123, 128, 130, 133, 134, 140 and 141 of Schedule 4 to that Act of 1973,
- shall continue to have the same effect as they had immediately before the coming into force of this Act, subject to any amendments made under this Act.

Transfer of property of voluntary organisations

- 11 Notwithstanding the repeal by this Act of section 23(2) of the National Health Service (Amendment) Act 1949, section 23(1) of that Act shall be deemed to have had effect as from 5th July 1948.

Investigations by the Health Service Commissioner for Scotland

- 12 Notwithstanding the dissolution by the National Health Service (Scotland) Act 1972 of any body subject to investigation by the Commissioner under Part VII of that Act, the Commissioner may in accordance with Part VI, commence an investigation under that Part in relation to such a body provided that the time limits mentioned in section 94(3) are observed.

Permission deemed to have been granted under section 9(5) of the Health Services Act 1976

- 13 Where under any arrangements terminated by virtue of section 9(5) of the Health Services Act 1976—
- (a) a person was deemed to have been granted under that section permission to use accommodation and facilities to the same extent and for the same purposes as were covered by those arrangements, then
 - (b) that person shall be deemed to have been granted under section 64 of the like permission (and the provisions of that section shall apply accordingly).

Borrowing from the Hospital Trust by Boards of Management and Regional Hospital Boards

- 14 Notwithstanding the repeal by this Act of the provisions of section 6(2) and (3) of the Hospital Endowments (Scotland) Act 1971 relating to borrowings from relevant endowments by Boards of Management and Regional Hospital Boards, regulations made under that section shall continue to have effect until revoked by regulations under this Act.

Health functions of local authorities

- 15 Notwithstanding the repeal by this Act of section 27 of the National Health Service (Scotland) Act 1947 (functions of local authorities relating to the prevention of illness, care and after-care), that section shall continue to have the same effect for the purposes of section 1(4) of the Social Work (Scotland) Act 1968 as it had immediately before the coming into force of this Act.

SCHEDULE 16

CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

The Polish Resettlement Act 1947

- 1 In section 11(3)(b) (application to Scotland), for the words " the National Health Service (Scotland) Acts 1947 to 1972" substitute the words " the National Health Service (Scotland) Act 1978 ".

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

- 2 In section 1(1)(d) (compulsory purchase of land by the Secretary of State), for the words " 58 of the National Health Service (Scotland) Act 1972 " substitute the words " 79 of the National Health Service (Scotland) Act 1978 ".

The National Assistance Act 1948

- 3 (1) In section 47 (removal of persons in need of care)—
(a) in subsection (8), for the words " Acts 1947 to 1972 " substitute the words " Act 1978 " ;
(b) in subsection (10), for the words "section sixteen of the National Health Service (Scotland) Act 1947" substitute the words " section 45 of the National Health Service (Scotland) Act 1978 " and for the word " sixteen " substitute the word " 45 " .
(2) In section 64 (interpretation), in the definition of " hospital", for the words " eighty " and " 1947 " substitute the words " 108 " and " 1978 " respectively ;
(3) In Schedule 6, in paragraph 9(3)(c), for the words " sixty-seven and eighty " and " 1947 " substitute the words " 108 and paragraph 8 of Schedule 15 " and " 1978 " respectively.

The Law Reform (Personal Injuries) Act 1948

- 4 In section 2(4) (measure of damages), for the words " National Health Service (Scotland) Act 1947 " substitute the words " National Health Service (Scotland) Act 1978 ".

The Children Act 1948

- 5 In section 59(1) (interpretation), in the definition of "hospital for the words " section eighty of the National Health Service (Scotland) Act 1947 " substitute the words " section 108(1) of the National Health Service (Scotland) Act 1978 ".

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The Nurseries and Child Minders Regulation Act 1948

- 6 In section 13(2) (interpretation), in the definition of " hospital", for the words " section eighty of the National Health Service (Scotland) Act 1948 " substitute the words " section 108(1) of the National Health Service (Scotland) Act 1978 ".

The Nurses (Scotland) Act 1951

- 7 In section 22 (expenditure of training nurses), in subsection (1), for the words " section 60 of the National Health Service (Scotland) Act 1972 " substitute the words " section 85 of the National Health Service (Scotland) Act 1978 ".

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

- 8 In Schedule 2 (relevant service), in item 15, for the words " Acts 1947 to 1972 " substitute the words " Act 1978 ".

The Medical Act 1956

- 9 (1) In section 16(1) (employment in health centres), for the words " section 2 of the National Health Service (Scotland) Act 1972" substitute the words " section 36 of the National Health Service (Scotland) Act 1978 ".
- (2) In paragraph (a) of subsection (2) of that section, for the words "Part IV of the National Health Service (Scotland) Act 1947" substitute the words " Part II of the National Health Service (Scotland) Act 1978 ".

The Dentists Act 1957

- 10 In section 42(4) (restrictions on employment of ancillary dental workers), for the words " sections 2, 5 or 6 of the National Health Service (Scotland) Act 1972 " substitute the words " sections 36, 38 or 39 of the National Health Service (Scotland) Act 1978 ".

The Opticians Act 1958

- 11 (1) In section 21(2) (restrictions on supply and sale and supply of optical appliances), in paragraph (b) for the words " Part IV of the National Health Service (Scotland) Act 1947, the National Health Service (Scotland) Act 1972" substitute the words " National Health Service (Scotland) Act 1978 ".
- (2) In section 30(1) (interpretation)—
- (a) in the definition of " health service ophthalmic list"—
- (i) for the word " supplementary " where it first occurs substitute the word " general ";
- (ii) for the words "section forty-two of the National Health Service (Scotland) Act 1947 " substitute the words " section 26 of the National Health Service (Scotland) Act 1978 ";
- (b) in the definition of " health service tribunal" for the words " Eighth Schedule to the said Act of 1947 " substitute the words " Schedule 8 to the said Act of 1978 ".

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The Mental Health (Scotland) Act 1960

- 12 In section 27 (medical recommendations), in paragraph (c), for the words " section 1 or 2 of the Health Services and Public Health Act 1968 " substitute the words " section 57 or 58 of the National Health Service (Scotland) Act 1978 ".
- 13 (1) In section 101(2) (pocket money for patients), for the words "Acts 1947 to 1972" substitute the words " Act 1978 " and for the words " those Acts " substitute the words " that Act ".
- (2) In section 111 (interpretation), in the definition of "hospital", for the words " 1947 " substitute the words " 1978 ".

The Public Bodies (Admission to Meetings) Act 1960

- 14 In paragraph (2) of the Schedule (bodies to which Act applies), in sub-paragraph (d), for the words " 1972 " substitute the words " 1978 ".

The Education (Scotland) Act 1962

- 15 In section 57 (regulations as to medical and dental examination and inspection), for the words " section 6 of the National Health Service (Scotland) Act 1972 " substitute the words " section 39 of the National Health Service (Scotland) Act 1978 ".
- 16 In section 58(2) (medical inspection of pupils and young persons), for the words " section 6 of the National Health Service (Scotland) Act 1972 " substitute the words " section 39 of the National Health Service (Scotland) Act 1978 ".
- 17 In section 58A(2) (dental inspection of pupils and young persons), for the words " section 6 of the National Health Service (Scotland) Act 1972 " substitute the words " section 39 of the National Health Service (Scotland) Act 1978 ".
- 18 In section 145(22A) (interpretation), for the words "section 13" and "1972" substitute the words " section 2 " and " 1978 " respectively.

The Emergency Laws (Re-enactments and Repeals) Act 1964

- 19 In section 15 (interpretation), for the words " 1947 to 1972 " substitute the words " 1978 ".

The Redundancy Payments Act 1965

- 20 In Schedule 3 (National Health Service Employers), in paragraph 7, for the words " section 13(8) of the National Health Service (Scotland) Act 1972 " substitute the words " section 2(11) of the National Health Service (Scotland) Act 1978 ".

The National Health Service Act 1966

- 21 In section 2(1), for the words " 1947 " substitute the words " 1978 ".
- 22 In section 10—
- (a) in subsection (1), for the words " Part IV " and " 1947 " substitute the words " Part II " and " 1978 " respectively, and for the words "44" substitute the words " 33 ";
- (b) for subsection (3) substitute the words—

Status: This is the original version (as it was originally enacted).

“(3) Section 19(3) of the National Health Service (Scotland) Act 1978 shall cease to have effect on the coming into operation of this section.”.

23 In section 11, for the words " 1947" substitute the words " 1978 ".

The Superannuation (Miscellaneous Provisions) Act 1967

24 In section 7(5) (superannuation provisions of the National Health Service Acts), for the words " Acts 1947 to 1972 " substitute the words " Act 1978 ".

The Abortion Act 1967

25 In section 6 (interpretation), for the words " National Health Service (Scotland) Acts 1947 to 1966 " substitute the words " National Health Service (Scotland) Act 1978 ".

The Health Services and Public Health Act 1968

26 (1) In section 59(2) (extension of power), for the words " IV " and " 1947 " substitute the words " II " and " 1978 " respectively.

(2) In section 63 (provision of instruction for employees)—

- (a) in subsection (2)(d), for the words " IV " and " 1947 " substitute the words " II " and " 1978 " respectively ;
- (b) in subsection (8), in paragraph (b) of the definition of " the relevant enactments", for the words " section 6 of the National Health Service (Scotland) Act 1972" substitute the words " section 39 of the National Health Service (Scotland) Act 1978 ".

27 In section 64 (financial assistance to voluntary organisations)—

- (a) in subsection (4)(a), for the words " 1972" substitute the words " 1978 ";
- (b) in subsection (4)(b), for the words " IV " and " 1947 " substitute the words " II " and " 1978 ".

28 In section 65(6) (assistance by local authorities to voluntary organisations), in paragraph (c) of the substituted subsection (2B), for the words " 1947 to 1972 " substitute the words " 1978 ".

The Social Work (Scotland) Act 1968

29 (1) In section 60(1)(f) (control of certain establishments), for the words " 1947 or the National Health Service (Scotland) Act 1972 " substitute the words " 1978 ".

(2) In section 86(3) for the words " Part II of the National Health Service (Scotland) Act 1947 " substitute the words " Part II of the National Health Service (Scotland) Act 1978 ".

(3) In section 94(1), in the definition of " hospital", for the words " 1947 " substitute the words " 1978 ".

Status: This is the original version (as it was originally enacted).

The Medicines Act 1968

- 30 In section 131(5) (meaning of certain expressions), for the words " Acts 1947 to 1972 " substitute the words " Act 1978 ".
- 31 In section 132(1) (interpretation), in the definition of " health centre", for the words "section 2 of the National Health Service (Scotland) Act 1972 " substitute the words " section 36 of the National Health Service (Scotland) Act 1978 ".

The Post Office Act 1969

- 32 In section 86(1) (interpretation), in paragraph (b) of the definition of " national health service authority ", for the words " 1972 " substitute the words " 1978 ".

The Chronically Sick and Disabled Persons Act 1970

- 33 In section 17(1) (separation of younger from older patients), for the words " 1972 " substitute the words " 1978 ".

The Vehicles and Excise Act 1971

- 34 In section 7(2) (miscellaneous exemptions from duty), in paragraph (b), for the words " section 33(3) of the Health Services and Public Health Act 1968 " substitute the words " section 46(3) of the National Health Service (Scotland) Act 1978 ".

The Tribunals and Inquiries Act 1971

- 35 In paragraph 41 of Part II of Schedule 1 (tribunals supervised by Scottish Committee),—
- (a) in sub-paragraph (a), for the words " 13 of the National Health Service (Scotland) Act 1972" substitute the words " 2 of the National Health Service (Scotland) Act 1978 ";
 - (b) in sub-paragraph (b), for the words "section 43 of the [National Health Service \(Scotland\) Act 1947 \(c.27\)](#)" substitute the words " section 29 of the National Health Service (Scotland) Act 1978 ";
 - (c) in sub-paragraph (c), for the words "Acts 1947 to 1972" substitute the words " Act 1978 ".

The Finance Act 1971

- 36 In Schedule 13 (health service agreement) in paragraph 1(1) for the words " 1947 " substitute the words " 1978 ".

The Finance Act 1972

- 37 In section 70 (disabled person's vehicle maintenance grant), for the words " section 33(3) of the Health Services and Public Health Act 1968 " substitute the words " section 46(3) of the National Health Service (Scotland) Act 1978 ".

The Local Government (Scotland) Act 1973

- 38 In section 197 (inspection of documents) for the words " 1972 " substitute the words " 1978 ".

Status: This is the original version (as it was originally enacted).

The Trade Union and Labour Relations Act 1974

- 39 In section 30(2) (interpretation), in paragraph (a), for the words " section 34, section 39, section 40 or section 42 of the National Health Service (Scotland) Act 1947 " substitute the words " sections 19, 25, 26 and 27 of the National Health Service (Scotland) Act 1978 ".

The Social Security Act 1975

- 40 In section 37A(6) (mobility allowance), in paragraph (a) for the words " section 33 of the Health Services and Public Health Act 1968 " substitute the words " section 46 of the National Health Service (Scotland) Act 1978 ".

The Criminal Procedure (Scotland) Act 1975

- 41 In section 462 (interpretation), in the definition of " hospital ", for the words " 1947 " substitute the words " 1978 ".

The House of Commons Disqualification Act 1975

- 42 In Schedule 1 in Part II (bodies of which all members are disqualified), in the entry relating to the Medical Practices Committee for the words " section 35 of the National Health Service (Scotland) Act 1947 " substitute the words " section 3 of the National Health Service (Scotland) Act 1978 ".

The Health Services Act 1976

- 43 In section 23 (interpretation), in the definition of "the National Health Service Acts", for the words " 1947 to 1973 " substitute the words " 1978 ".

The Social Security (Miscellaneous Provisions) Act 1977

- 44 In section 13(3), in paragraph (a), for the words " section 33 of the Health Services and Public Health Act 1968 " substitute the words " section 46 of the National Health Service (Scotland) Act 1978 ".

The Patents Act 1977

- 45 In section 56(4), in paragraph (a), for the words " Part IV of the National Health Service (Scotland) Act 1947 " substitute the words " Part II of the National Health Service (Scotland) Act 1978 ".

SCHEDULE 17

REPEALS

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act 1947.	The whole Act.

Chapter	Short Title	Extent of Repeal
12, 13 & 14 Geo. 6. c. 93.	The National Health Service (Amendment) Act 1949.	Section 8. Sections 10 and 11. Sections 14 to 18. Sections 20(1), (3) and 21. Sections 23 and 28. In section 32(1), the words " and this Act" where they second occur to " 1947 and 1949 ". In the Schedule, Part II.
14 & 15 Geo. 6. c. 31.	The National Health Service Act 1951.	The whole Act.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 25.	The National Health Service Act 1952.	The whole Act.
1 & 2 Eliz. 2. c. 41.	The Hospital Endowments (Scotland) Act 1953.	The whole Act.
9 & 10 Eliz. 2. c. 19.	The National Health Service Act 1961.	The whole Act.
1964 c. 60.	The Emergency Laws (Re-enactments and Repeals) Act 1964.	Section 5. In section 15, the words " the National Health Service (Scotland) Acts 1947 to 1972 ".
1966 c. 8.	The National Health Service Act 1966.	In section 12(2), from the words " so far as " where they second occur to the end.
1968 c. 46.	The Health Services and Public Health Act 1968.	Part I. In section 63(8), in paragraph (b) of " the relevant enactments ", the words " the 1947 Act". In section 64(4), in the substituted paragraph (a), the words " the National Health Service (Scotland) Act 1947. " In section 79(1), from the words " and the " where they second occur to the words " 1947 to 1968 ". In Schedule 2, Part II.

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
		In Schedule 3, Part I.
1968 c. 67.	The Medicines Act 1968.	In Schedule 5, paragraph 12.
1971 c. 8.	The Hospital Endowments (Scotland) Act 1971.	The whole Act.
1972 c. 58.	The National Health Service (Scotland) Act 1972.	The whole Act except sections 24(2), 26 to 28, 32 to 36, 52, 53, 61(1)-(3), and Schedule 4.
1973 c. 32.	The National Health Service Reorganisation Act 1973.	The whole Act.
1976 c. 48.	The Parliamentary and other Pensions and Salaries Act 1976.	Section 7.
1976 c. 59.	The National Health Service (Vocational Training) Act 1976.	The whole Act.
1976 c. 83.	The Health Services Act 1976.	Section 2. Sections 4 and 5. Sections 7 to 11. In section 23— (a) in subsection (1), the definitions of "the 1947 Act" and "the National Health Service Acts"; (b) subsections (3) and (4). In Schedule 1, Part VI. Schedule 3. In Schedule 4, Part II.