



Health Act 1999

1999 CHAPTER 8

PART II

THE NATIONAL HEALTH SERVICE: SCOTLAND

NHS trusts

46 Establishment orders

- (1) In section 12A of the 1978 Act (NHS trusts)—
 - (a) in subsection (1), for paragraphs (a) and (b) there is substituted “to provide goods and services for the purposes of the health service”,
 - (b) for subsection (4) there is substituted—

“(4) The functions which may be specified in an order under subsection (1) include a duty to provide goods or services so specified at, from, or through a hospital or other establishment or facility so specified.”
- (2) In section 108(1) (interpretation) after the definition of “property” there is inserted—

““provide” includes manage”.
- (3) Any order under section 12A(1) of that Act—
 - (a) is to be treated as always having had effect with the omission of any obligation for the NHS trust to which the order relates to own land specified in the order, and
 - (b) so far as any functions specified in it could have been specified under that provision as amended by this Act, is to be treated as having been made under that provision as so amended.
- (4) Any restriction preventing the acquisition by any NHS trust (including any NHS trust dissolved before the commencement of this section) of land merely because the land did not comprise a hospital or other establishment or facility previously managed or provided by a Health Board or the Agency is to be treated as never having had effect.

Status: This is the original version (as it was originally enacted).

- (5) An order under section 63 of this Act may—
- (a) provide for any provision made by it for the purposes of, in consequence of, or for giving full effect to, this section to be treated as having had effect from a time before the commencement of this section,
 - (b) make such provision about an NHS trust dissolved before that commencement.
- (6) In paragraph 3(2) of Schedule 7A to the 1978 Act (establishment orders), for “assume responsibility for the ownership and management of” there is substituted “provide services at”.
- (7) In paragraph 3 of Schedule 7B to that Act (borrowing limits), in sub-paragraph (1), for the words from “established” to “manage” there is substituted “which are required to provide services at or from”.
- (8) The 1978 Act is to be treated as always having had effect subject to the amendments made by this section.

47 Directions as to delegation of functions

After section 12A of the 1978 Act there is inserted—

“12AA Additional functions of NHS trusts

The Secretary of State may direct a Health Board to delegate to an NHS trust or NHS trusts some or all of their functions—

- (a) under section 2(1) of making arrangements on his behalf for the provision of services mentioned in Part II; or
- (b) relating to pilot schemes under Part I of the National Health Service (Primary Care) Act 1997; or
- (c) relating to arrangements under section 17C for the provision of personal medical services and personal dental services.”

48 Constitution of NHS trust boards

In section 12A of the 1978 Act (NHS trusts), in subsection (3), for paragraph (a) there is substituted—

- “(a) shall be a body corporate having a board of directors consisting of a chairman who is not an employee of the trust, appointed by the Secretary of State; and, subject to paragraph 5(2) of Schedule 7A, executive directors (directors who, subject to subsection (5), are employees of the trust) and non-executive directors (directors who, subject to subsection (5), are not employees of the trust and who shall be known as “trustees”).”

49 Duties of NHS trusts

- (1) Paragraph 6 of Schedule 7A to the 1978 Act is amended as follows.
- (2) For sub-paragraph (1) there is substituted—

“(1) In carrying out the functions for the time being conferred on it an NHS trust shall comply with any directions given to it by the Secretary of State, whether of a general or of a particular nature.”

(3) Sub-paragraph (2) is omitted.