

## 1983 No. 1027 (S. 93)

## NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Functions of Health Boards)  
(Scotland) Order 1983

<i>Made - - - -</i>	14th July 1983
<i>Laid before Parliament</i>	25th July 1983
<i>Coming into Operation</i>	15th August 1983

In exercise of the powers conferred on me by sections 2(1) and 105(6) and (7) of the National Health Service (Scotland) Act 1978 (a) and of all other powers enabling me in that behalf, I hereby make the following order:—

*Citation, commencement and interpretation*

1. This order may be cited as the National Health Service (Functions of Health Boards) (Scotland) Order 1983 and shall come into operation on 15th August 1983.

2. In this order, “the Act” means the National Health Service (Scotland) Act 1978.

*Functions to be exercised by Health Boards*

3.—(1) The functions of the Secretary of State under the Act which are to be exercised by every Health Board shall be the functions conferred or imposed upon him by the provisions of the Act which are specified in the following sub-paragraphs, subject to any exception, qualification or condition specified therein and in the other provisions of this order—

- (a) section 7(6) (Payment of allowances to members of local health councils etc) but not including the function of the Secretary of State to determine, with the approval of the Treasury (b), the amount of the allowances so payable;
- (b) section 16(1) (Assistance to voluntary organisations);
- (c) section 16B (c) (Financial assistance by Secretary of State to voluntary organisations) but not including the function of the Secretary of State to determine, with the approval of the Treasury, the terms and conditions upon which such assistance may be given;
- (d) Part III (Other Services and Facilities), but not including any function of the Secretary of State under sections 44, 45 and 46;
- (e) section 50 (d) (Power as to accommodation and services);

(a) 1978 c.29; section 2(1) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 14(2) and Schedule 7, paragraph 1. Section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1)(c) and (d) and Schedule 7.

(b) Section 7(6) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 1(1). The function of the Minister for the Civil Service under section 7(6) of the Act was transferred to the Treasury by S.I. 1982/1670.

(c) Section 16B was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 3.

(d) Section 50 was amended by the Health Services Act 1980 (c.53), section 10(2).

- (f) section 55(1) (Hospital accommodation on part payment) but not including the function of the Secretary of State to determine the charges for part of the cost of the accommodation which is being made available;
- (g) section 57(1) (a) and (2) (Accommodation and services for private resident patients) but not including the functions of the Secretary of State under section 57(1) to authorise accommodation and services to be made available and to determine the charges payable therefor;
- (h) section 58(1) (b) and (2) (Accommodation and services for private non-resident patients) but not including the function of the Secretary of State under section 58(1)(a) to authorise the accommodation and services to be made available;
- (i) section 64 (Permission for use of facilities in private practice);
- (j) section 79(1) (Purchase of land and moveable property) but not including the function of the Secretary of State to acquire land compulsorily;
- (k) section 79(1A) (c) (Disposal of land) but not including the function of the Secretary of State to authorise certain officers to execute instruments on his behalf;
- (l) paragraph 4 of Schedule 1 (Payment of remuneration to Chairman of a Health Board) but not including the function of the Secretary of State, with the approval of the Treasury (d), to determine the amount of the remuneration so payable; and
- (m) paragraph 13 of Schedule 1 (Payment of allowances to members of a Health Board etc) but not including the function of the Secretary of State, with the approval of the Treasury (d), to determine the amount of the allowances so payable.

(2) In exercising, by virtue of paragraph (1)(e) of this article, the powers conferred by section 50 of the Act, a Health Board shall exercise any function conferred upon the Secretary of State by section 54 of the Act in relation to the exercise of those powers.

(3) In exercising, by virtue of paragraph (1)(g) or (h) of this article, the powers conferred by section 57 or 58 of the Act, a Health Board shall exercise any function conferred upon the Secretary of State by section 54, as read with section 58A (e), of the Act in relation to the exercise of those powers.

(4) In exercising, by virtue of paragraph (1)(j) or (k) of this article, the functions conferred by section 79(1) or 79(1A) of the Act, a Health Board shall have power to manage any land vested in the Secretary of State under the Act.

4.—(1) Notwithstanding the foregoing provisions of this order a Health Board shall not, except with the consent of the Secretary of State—

- (a) in exercising, by virtue of article 3(1)(d) of this order, the powers conferred by section 36 of the Act, undertake any building or civil engineering project or scheme, the estimated cost of which exceeds £1 million;

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(a) Section 57(1) was amended by the Health Services Act 1980 (c.53), section 11(2).

(b) Section 58(1) was amended by the Health Services Act 1980 (c.53), section 11(2).

(c) Section 79(1A) was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 7, paragraph 3.

(d) The functions of the Minister for the Civil Service under paragraphs 4 and 13 of Schedule 1 to the Act were transferred to the Treasury by S.I. 1982/1670.

(e) Section 58A was inserted by the Health Services Act 1980 (c.53), section 11(2).

(b) in exercising, by virtue of article 3(1)(i) of this order, the powers conferred by section 64 of the Act, refuse any application under that section; or

(c) in exercising, by virtue of article 3(1)(j) or (k) or (4) of this order, the powers conferred by section 79(1) or 79(1A) of the Act, acquire or dispose of land in any case where the consideration paid or received for that land exceeds £100,000.

(2) In exercising, by virtue of article 3(1)(j) or (k) or (4) of this order but subject to paragraph (1)(c) of this article, any of the functions conferred upon the Secretary of State by section 79 or 79(1A) to acquire, manage or dispose of land, a Health Board shall ensure—

(a) that any instrument in connection with the exercise of those functions is in the name of the Secretary of State for Scotland and not that of the Health Board; and

(b) that, where any such instrument requires to be executed by the Secretary of State for Scotland and it is not executed in accordance with section 1(8) of the Reorganisation of Offices (Scotland) Act 1939 (a), it is executed, on his behalf, in accordance with section 79(1A) of the Act.

(3) Nothing in this order shall prevent the Common Services Agency for the Scottish Health Service from exercising any function conferred on it by or under section 10 of the Act.

(4) Nothing in this order shall prevent the Secretary of State from exercising any function conferred or imposed upon him by the provisions of the Act.

#### *Revocation*

5. The National Health Service (Functions of Health Boards) (Scotland) Order 1974 (b) and the National Health Service (Functions of Health Boards) (Scotland) Order 1981 (c) are hereby revoked.

*George Younger,*  
One of Her Majesty's Principal  
Secretaries of State.

New St Andrew's House,  
Edinburgh.  
14th July 1983.

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(a) 1939 c.20.

(b) S.I. 1974/466.

(c) S.I. 1981/106.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order specifies the functions of the Secretary of State under the National Health Services (Scotland) Act 1978 ("the Act") which are to be exercised by Health Boards.

The functions specified in the order are the functions conferred or imposed upon the Secretary of State by the following provisions of the Act, but subject to the exceptions, qualifications or conditions specified in articles 3 and 4 of the order, namely section 7(6) (Payment of allowances to members of local health councils etc), section 16(1) and 16B (Assistance to voluntary organisations), Part III (Other Services and Facilities), section 50 (Power as to accommodation and services), section 55 (Hospital accommodation part payment), section 57 (Accommodation and services for private resident patients), section 58 (Accommodation and services for private non-resident patients), section 64 (Permission for use of facilities in private practice), section 79(1) (Purchase of land and moveable property), section 79(1A) (Disposal of land) and paragraphs 4 and 13 of Schedule 1 (Payment of remuneration to Chairmen and allowances to members of a Health Board).

Article 5 of this order also revokes the National Health Service (Functions of Health Boards) (Scotland) Order 1974 and the National Health Service (Functions of Health Boards) (Scotland) Order 1981.

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