
STATUTORY INSTRUMENTS

1998 No. 2709 (S. 136)

NATIONAL HEALTH SERVICE, SCOTLAND

**The Borders Primary Care National Health
Service Trust (Establishment) Order 1998**

Made - - - - *30th October 1998*

Coming into force - - *2nd November 1998*

The Secretary of State, in exercise of powers conferred on him by sections 12A(1) and (4) of and paragraphs 1, 3, 4, 5 and 6(2)(d) of Schedule 7A to the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, having received and considered the results of the consultation carried out by Borders Health Board under the National Health Service Trusts (Consultation before Establishment) (Scotland) Regulations 1991(2) and the National Health Service Trusts (Consultation on Dissolution) (Scotland) Regulations 1993(3), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Borders Primary Care National Health Service Trust (Establishment) Order 1998 and shall come into force on 2nd November 1998.

(2) In this Order, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“establishment date” means 2nd November 1998;

“operational date” has the meaning assigned to it in paragraph 3(1)(e) of Schedule 7A to the Act;

“the trust” means Borders Primary Care National Health Service Trust established by article 2 of this Order.

Establishment of the trust

2. There is hereby established an NHS trust which shall be called Borders Primary Care National Health Service Trust.

(1) 1978 c. 29; section 12A(1) was inserted by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 31; Schedule 7A was inserted by the 1990 Act, Schedule 6; paragraph 1 of Schedule 7A is cited for the definition of “an order”.

(2) S.I. 1991/358.

(3) S.I. 1993/3057.

Nature and functions of the trust

3.—(1) The trust is established for the purpose specified in section 12A(1)(b) of the Act.

(2) The trust's functions (which include functions which the Secretary of State considers appropriate in relation to the provision of services by the trust for one or more Health Boards) shall be to provide and manage hospital accommodation and facilities at Kelso Hospital, Kelso and Hay Lodge Hospital, Peebles, and at establishments associated with those hospitals, and also including the management of any teaching and research facilities associated with those establishments and the support services related thereto.

Directors of the trust

4. The trust shall have, in addition to the chairman, 5 non-executive directors and 5 executive directors.

Operational date and accounting date of the trust

5.—(1) The operational date of the trust shall be 1st April 1999.

(2) The accounting date of the trust shall be 31st March.

Limited functions before operational date

6. Between its establishment date and its operational date in order to enable it to begin to operate satisfactorily from the operational date the trust shall have the limited functions—

- (a) of entering into NHS contracts;
- (b) of entering into other contracts including contracts of employment;
- (c) of doing such other things as are reasonably necessary for the said purposes.

Assistance by Health Board before operational date

7.—(1) The Borders Health Board shall discharge the liabilities of the trust, incurred between the establishment date and the operational date, that are of a description specified in paragraph (2) of this article, and provided that the liabilities have been incurred with the prior consent of the said Board.

(2) The liabilities referred to in the preceding paragraph are—

- (a) liability for the remuneration and travelling or other allowances of the chairman and non-executive directors of the trust;
- (b) liability for the travelling or other allowances of the members of committees and sub-committees of the trust who are not also directors of the trust;
- (c) liability for the remuneration of persons employed by the trust; and
- (d) any other liability which may reasonably be incurred by the trust for the purpose of enabling it to begin to operate satisfactorily with effect from the operational date.

(3) The Health Board specified for the purposes of paragraph 3(1)(f) of Schedule 7A to the Act (body which is to make the scheme under section 12B of the Act for the transfer of staff) in relation to the trust shall be the Borders Health Board.

Restriction on disposal of assets

8. The sum specified for the purposes of paragraph 6(2)(d) of Schedule 7A to the Act (maximum value of freely disposable assets) in relation to the trust shall be £500,000.

St Andrew's House,
Edinburgh
30th October 1998

Sam Galbraith
Minister for Health, Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes the Borders Primary Care National Health Service Trust, an NHS trust provided for in section 12A of the National Health Service (Scotland) Act 1978. It also provides for the functions of the trust both before (article 6) and after (article 3) its operational date (the date on which it assumes all its functions). It specifies the operational date and the accounting date of the trust (article 5) and makes provision for assistance to the trust by the appropriate Health Board before its operational date (article 7).