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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 336**

**NATIONAL HEALTH SERVICE**

**The Public Health Scotland Order 2019**

*Made* - - - - - 23rd October 2019

*Laid before the Scottish*

*Parliament* - - - - - 25th October 2019

*Coming into force in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2(1)(b), (1A), (1B), (1C) and 105(6) and (7) of the National Health Service (Scotland) Act 1978<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

- 1.—(1) This Order may be cited as the Public Health Scotland Order 2019.  
(2) Subject to paragraph (3) this Order comes into force on 7 December 2019.  
(3) The following provisions of this Order come into force on 1 April 2020—  
(a) articles 6 and 7, and  
(b) paragraphs 1(2)(a) and 2 to 16 of schedule 2.

**Interpretation**

2. In this Order—  
“the Act” means the National Health Service (Scotland) Act 1978, and  
“the Board” means the Special Health Board, to be known as Public Health Scotland, which is constituted by this Order.

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(1) 1978 c.29; section 2(1)(b) was inserted by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 28(a)(ii) and was amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) (“the 2005 Act”), schedule 2, paragraph 2(2); section 2(1A) was inserted by the 1990 Act, section 28(b); section 2(1B) was inserted by the 1990 Act, section 28(b) and was amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, paragraph 1(2)(b); section 2(1C) was inserted by the 1990 Act, section 28(b); section 105(7) was amended by the Health Services Act 1980 (c.53), schedule 6, paragraph 5(1)(a), (c) and (d) and schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 29(1) and schedule 9, Part 1, paragraph 24 and the Health Act 1999 (c.8), schedule 4, paragraph 60. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

**Constitution, name and area of the Board**

3. There is constituted a Special Health Board for the whole of Scotland to be known as Public Health Scotland.

**Functions of the Board**

- 4.—(1) The Board is to exercise the following functions of the Scottish Ministers—
- (a) functions conferred by the Act in relation to—
    - (i) health education, including that specified in section 42 of the Act (health education),
    - (ii) the provision of research and development services in the field of public health, and
    - (iii) the collection, dissemination and analysis of epidemiological data and the participation in epidemiological investigations,
  - (b) examining data relating to prescriptions for drugs, medicines and appliances supplied under the arrangements for the provision of pharmaceutical services,
  - (c) the provision of information services in support of the functions conferred on the Board,
  - (d) the protection of public health including those specified in section 1 of the Public Health etc. (Scotland) Act 2008(2) (duty of Scottish Ministers to protect public health), and
  - (e) functions specified in paragraph (2) subject to any limitations specified in that paragraph.
- (2) The functions specified for the purposes of paragraph (1)(e) are as follows:
- (a) the power of the Scottish Ministers under section 16 of the Act(3) to assist any voluntary organisations whose activities include the provision of a service similar or related to a service provided by the Board under the Act,
  - (b) the power of the Scottish Ministers to give financial assistance to voluntary organisations under section 16B of the Act(4) limited to assisting such organisations to which that section would apply if the expression “relevant service” as defined in section 16B(3) were limited to the provision of services provided by the Board,
  - (c) the duty of the Scottish Ministers under section 37 of the Act to make arrangements to such extent as the Board considers necessary in relation to its functions for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons,
  - (d) the power of the Scottish Ministers under section 43 of the Act (control of spread of infectious disease),
  - (e) the duty and power of the Scottish Ministers under section 47 of the Act (educational and research facilities),
  - (f) the powers of the Scottish Ministers under section 79(1) of the Act(5) to take on lease or to purchase moveable property or land which is required for the purposes of the Board and to use for those purposes and manage any heritable or moveable property so acquired,
  - (g) the power of the Scottish Ministers under section 79(1A) of the Act(6) to dispose of land no longer required for the purposes of the Board,

(2) 2008 asp 5.

(3) Section 16 was amended by the Vehicle Excise and Registration Act 1994 (c.22), schedule 3, paragraph 13 and by the Health Services Act 1980 (c.53), schedule 7.

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

(5) Section 79(1) was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1) and schedule 9, paragraph 19(15)(a).

(6) Section 79(1A) was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 14(2) and schedule 7, paragraph 3 and was amended by the Requirements of Writing (Scotland) Act 1995 (c.7), schedule 5, paragraph 1.

- (h) the powers of the Scottish Ministers under section 84B of the Act<sup>(7)</sup> (joint ventures) so far as relating to the functions of the Board,
  - (i) the power of the Scottish Ministers under paragraph 4 of schedule 1 of the Act<sup>(8)</sup> (health boards), as applied in relation to the Board by article 5, to pay remuneration to the chairman of the Board and to such other members of the Board and of the committees and sub-committees of the Board as may be prescribed, but this does not extend to the power—
    - (i) to determine remuneration, or
    - (ii) to prescribe the members of the Board and of committees and sub-committees of the Board to whom it may be paid,
  - (j) the power of the Scottish Ministers under paragraph 13 of schedule 1 of the Act (health boards), as applied in relation to the Board by article 5, to pay to members of the Board, any committees and sub-committees, travelling and other allowances, but this does not extend to the power to determine the amount of such allowances, and
  - (k) the powers of the Scottish Ministers referred to in section 7(1) of the Health and Medicines Act 1988<sup>(9)</sup> (extension of powers of secretary of state for financing the health service).
- (3) In exercising any functions of the Scottish Ministers to acquire, use, manage or dispose of land the Board must ensure—
- (a) that any instrument in connection with the exercise of those functions is in the name of the Scottish Ministers and not that of the Board, and
  - (b) that, where any such instrument requires to be executed by the Scottish Ministers, and it is not executed in accordance with section 1(8) of the Reorganisation of Offices (Scotland) Act 1939<sup>(10)</sup>, it is executed on their behalf in accordance with—
    - (i) paragraph 6 of schedule 2 of the Requirements of Writing (Scotland) Act 1995<sup>(11)</sup>,  
or
    - (ii) regulation 5 of the Electronic Documents (Scotland) Regulations 2014<sup>(12)</sup>.
- (4) Nothing in this Order will prevent or restrict the following persons from exercising any function under the Act or any other enactment specified in this Order—
- (a) the Scottish Ministers,
  - (b) any Health Board,
  - (c) any other Special Health Board,
  - (d) the Common Services Agency, or
  - (e) Healthcare Improvement Scotland.
- (5) Paragraph (4)(b) includes functions of a Health Board being exercised by an integrated joint board or a local authority in accordance with section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014<sup>(13)</sup> and the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014<sup>(14)</sup>.

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<sup>(7)</sup> Section 84B was inserted by the 2005 Act, section 37(1) and was amended by the Public Bodies (Joint Working) (Scotland) Act 2014 ([asp 9](#)), section 66.

<sup>(8)</sup> Schedule 1, paragraph 4 was amended by the Health Boards (Membership and Elections) (Scotland) Act 2009 ([asp 5](#)), schedule 1, paragraph 1.

<sup>(9)</sup> 1988 c.49. Relevantly amended by the National Health Service (Consequential Provisions) Act 2006 (c.43), schedule 1, paragraph 116(a).

<sup>(10)</sup> 1939 c.20. Relevantly amended by the Requirements of Writing (Scotland) Act 1995 (c.7), schedule 5, paragraph 1.

<sup>(11)</sup> 1995 c.7. Relevantly amended by the Land Registration etc. (Scotland) Act 2012 ([asp 5](#)), schedule 3, paragraph 25(g).

<sup>(12)</sup> S.S.I. 2014/83. Relevantly amended by S.S.I. 2014/347.

<sup>(13)</sup> 2014 asp 9.

<sup>(14)</sup> S.S.I. 2014/344, amended by S.S.I. 2016/15, S.S.I. 2017/381 and S.S.I. 2018/66.

### **Application of enactments**

5.—(1) Each of the enactments specified in column 1 of each part of schedule 1 (the subject matter of which is described generally in column 2 of each part of that schedule) applies in relation to the Board as it applies in relation to Health Boards, subject to the modifications and limitations (if any) specified in column 3 of each part of schedule 1 and to paragraph (2).

(2) The enactments which are applied in relation to the Board by virtue of paragraph (1) are so applied only for the purposes of the exercise by the Board of its functions.

### **Dissolution and revocation**

6.—(1) NHS Health Scotland(15) is dissolved.

(2) The following enactments are revoked—

(a) the Health Education Board for Scotland Order 1990(16), and

(b) the Health Education Board for Scotland Amendment Order 2003(17).

### **Transfer of property, rights and liabilities**

7. The property and all other rights and liabilities of NHS Health Scotland will transfer to and vest in Public Health Scotland with effect from 1 April 2020.

### **Consequential amendments**

8. Schedule 2 (consequential amendments) has effect.

St Andrew's House,  
Edinburgh  
23rd October 2019

*JEANE FREEMAN*  
A member of the Scottish Government

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(15) NHS Health Scotland is a Special Health Board constituted by article 3 of the Health Education Board for Scotland Order 1990 (S.I. 1990/2639). The name “NHS Health Scotland” was substituted by S.S.I. 2003/154, for “the Health Education Board for Scotland”.

(16) S.I. 1990/2639, amended by S.S.I. 2003/154.

(17) S.S.I. 2003/154.

# SCHEDULES

## SCHEDULE 1

Article 5(1)

Enactments applied to the Board

### PART 1

The Act

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
In the Act—		
In part 1—	Organisation	
In section 2—	Health Boards	
Subsection (3)	Variation of area of Health Board	
Subsection (4)	Provision incidental to variation of area of Health Board	
Subsection (5)	Health Boards to act in accordance with regulations or directions <sup>(18)</sup>	
Subsection (8)	Health Board to act as principal	
In section 10—	Common Services Agency	
Subsection (4)	Power to provide that functions of Health Boards may be referred to the Agency <sup>(19)</sup>	
Section 12J	Co-operation with other Health Boards, Special Health Boards and the Agency <sup>(20)</sup>	In subsection (1) for “one another” substitute “Health Boards”.  In subsection (2)(a) for “another” substitute “a”.

<sup>(18)</sup> Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1) and schedule 9, paragraph 19(1).

<sup>(19)</sup> Section 10(4) was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(2) and schedule 10, paragraph 1 and the Health Act 1999 (c.8), schedule 4, paragraph 44.

<sup>(20)</sup> Section 12J was inserted by the National Health Service Reform (Scotland) Act 2004 (asp 7), section 5.

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

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
		Omit “other”.  In subsection (2)(b) omit “other”.  In subsection (3)(a) for “another” substitute “a”.
Section 12K	Power of Health Board to carry out other Health Board’s functions(21)	For “another” substitute “a”.  After “Health Board” insert “or Special Health Board” each time it appears.
Section 13	Co-operation between Health Boards and other Authorities(22)	After “integration joint boards” insert “, Health Boards”.
Section 13A	Co-operation in planning of services for disabled persons, the elderly and others(23)	After “(including HIS” insert “and Health Boards”.
In section 15—	Supply of goods and services to local authorities, etc.	
Subsection (1)(b)	Supply etc. of equipment, goods or materials to local and education authorities, government departments and other public bodies	
Subsection (1)(c)	Provision of services to local and education authorities(24)	
Subsection (1)(d)	Use of health service premises by local and education authorities	
Subsection (1)(e)	Use of health service vehicles etc. by local and education authorities(25)	
Subsection (2)	Arrangements with third parties for the supply of equipment, goods and materials(26)	For “paragraphs (a) and” substitute “paragraph”.

(21) Section 12K was inserted by the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9), section 67.

(22) Section 13 was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1) and schedule 9, paragraph 19(4), the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 5 and S.S.I. 2015/157.

(23) Section 13A was inserted by the National Health Service (Amendment) Act 1986 (c. 66), section 5(1) and amended by the National Health Service and Community Care Act 1990 (c. 19), section 66, schedule 9, paragraph 19(5) and schedule 10, paragraph 1 and the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 6.

(24) Section 15(1)(c) was amended by the Health Services Act 1980 (c.53), section 3(2) and the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9), section 63(3)(a)(i).

(25) Section 15(1)(e) was amended by the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9), section 63(3)(a)(ii).

(26) Section 15(2) was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 7(b) and the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9), section 63(3)(c).

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
		Omit paragraph (a) to “subsection (1A)”.
Section 16A	Power to make payments towards expenditure on community services(27)	
In part IV—	Powers of the Scottish Ministers	
Section 77	Default powers(28)	
Section 78B	Relationship of sections 77, 78 and 78A(29)	
In part V—	Property and Finance	
In section 79—	Purchase of land and moveable property	
Subsection (3)	Power to acquire moveable property on behalf of the Scottish Ministers(30)	
In section 83—	Power of Health Boards and local health councils to hold property on trust	
Subsection (1)	Power to hold property on trust(31)	
Subsection (1A)	Power to hold property on trust(32)	
Section 84	Power of trustees to make payments to Health Boards(33)	

(27) Section 16A was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 2, the Housing (Consequential Provisions) Act 1985 (c.71), section 4(1) and schedule 23, paragraph 41, the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13, paragraph 112(2) and schedule 14, the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), schedule 3, paragraph 2 and S.I 1996/974.

(28) Section 77 was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1) and schedule 9, paragraph 19(14), the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), schedule 4, paragraph 5(11), the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), section 3 and the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 9.

(29) Section 78B was inserted by the National Health Service Reform (Scotland) Act 2004 (asp 7), section 6.

(30) Section 79(3) was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 11.

(31) Section 83(1) was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 12(a).

(32) Section 83(1A) was inserted by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), section 10(3).

(33) Section 84 was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1) and schedule 9, paragraph 19(16) and the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 13.

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

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
Section 84A	Power to raise money and property by appeals, collections and other similar activities(34)	
Section 84B	Joint ventures(35)	
Section 85AA	Means of meeting expenditure of health boards out of public funds(36)	
In section 85A	Financial duties of bodies referred to in section 85	
Subsection (4)	Disregard for the purposes of the section of certain trust funds(37)	
Section 86	Provision in relation to the keeping and auditing of accounts and their submission to the Scottish Ministers(38)	
Section 87	Power to make regulations as to financial arrangements of health service bodies(39)	
In schedule 1–	Health Boards	
Paragraph 1	Health Boards to be bodies corporate and have a common seal	
In paragraph 2	Appointment of Chairman and members(40)	
Sub-paragraph (1)	Health Boards to consist of certain types of members	In sub-paragraph 1(b), omit “following nomination” to the end.

(34) Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2) and amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1) and schedule 9, paragraph 19(17) and the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 14.

(35) Section 84B was inserted by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 37(1) and was amended by the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9), section 66.

(36) Section 85AA was inserted by the Health Act 1999 (c.8), section 52 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), schedule 1, paragraph 1(16) and the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 15.

(37) Section 85A(4) was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 17.

(38) Section 86 was amended by the National Health Service and Community Care Act 1990 (c.19), section 36 and schedule 10, paragraph 1, the Health Act 1999 (c.8), schedule 5, paragraph 1, the Public Finance and Accountability (Scotland) Act 2000 (asp 1), schedule 4, paragraph 4(3), the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 19.

(39) Section 87 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 20.

(40) Paragraph 2 was amended by the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), sections 1(2) and 6(4).



<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
Paragraph 3A	Chairman may not be an employee of that Health Board(41)	
Paragraph 4	Payment of remuneration to the Chairman and such members of Health Boards as may be prescribed(42)	
Paragraph 5	Employment of officers and servants(43)	
Paragraph 5A	Provision concerning regulations and directions made under paragraph 5 above(44)	
Paragraph 6	Power to make regulations as to method of appointment, qualifications, remuneration and conditions of service of officers and servants	
Paragraph 7	Officers and servants employed in accordance with regulations and directions(45)	
Paragraph 7A	Power to make regulations providing for transfer of officers and servants(46)	In sub-paragraph (a) for “another” substitute “a”. After sub-paragraph (a), insert “(aa) another Special Health Board;”.
Paragraph 7B	Directions to Health Boards to place officers or servants at disposal of other bodies(47)	
Paragraph 11	Power to make regulations as to appointments, committees and procedure(48)	

(41) Paragraph 3A was inserted by the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), section 1(5).

(42) Paragraph 4 was amended by the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), schedule 1, paragraph 1.

(43) Paragraph 5 was amended by the Health Services Act 1980 (c.53), schedule 6, paragraph 7(2) and schedule 7.

(44) Paragraph 5A was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 14(2) and schedule 7, paragraph 4(1) and amended by the National Health Service and Community Care Act 1990 (c.19), section 27(3) and schedule 5, paragraph 4.

(45) Paragraph 7 was amended by the Health Services Act 1980 (c.53), schedule 6, paragraph 7(3).

(46) Paragraph 7A was inserted by the National Health Service and Community Care Act 1990 (c.19), section 27(3) and schedule 5, paragraph 5.

(47) Paragraph 7B was inserted by the National Health Service and Community Care Act 1990 (c.19), section 27(3) and schedule 5, paragraph 5.

(48) Paragraph 11 was amended by the Health Services Act 1980 (c.53), schedule 6, paragraph 7(4) and schedule 7, the National Health Service and Community Care Act 1990 (c.19), section 27(3) and schedule 5, paragraph 7 and the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), section 1(7).

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

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
Paragraph 11A	Subscription to funds of other bodies(49)	
Paragraph 12	Proceedings not to be invalidated by vacancies(50)	
Paragraph 13	Payment to members of a Health Board and its committees and sub-committees of travelling and other allowances, including compensation for loss of remunerative time	Omit “, including compensation for loss of remunerative time,”.
Paragraph 14	Allowances not payable except in circumstances determined by the Scottish Ministers	
Paragraph 15	Time and method of payment of allowances	
In schedule 5—	The Agency	
Paragraph 7B	Power to make regulations providing for the transfer of officers and servants(51)	
Paragraph 7C	Power to make directions as to placing of staff with other bodies(52)	

## PART 2

### Acts other than the Act

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
The Public Bodies (Admission to Meetings) Act 1960(53)	Admission of the public to meetings	

(49) Paragraph 11A was inserted by the Health Services Act 1980 (c.53), schedule 6, paragraph 7(5).

(50) Paragraph 12 was amended by the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), section 1(8).

(51) Paragraph 7B was inserted by the National Health Service and Community Care Act 1990 (c.19), section 27(3) and schedule 5, paragraph 11.

(52) Paragraph 7C was inserted by the National Health Service and Community Care Act 1990 (c.19), section 27(3) and schedule 5, paragraph 11.

(53) 1960 c.67.

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
Requirements of Writing (Scotland) Act 1995 <sup>(54)</sup> Schedule 2, paragraph 6	Where they have delegated any function relating to the acquisition, management or disposal of land, power of the Scottish Ministers to authorise any officer of a Health Board to sign a document on their behalf	

## PART 3

## Enactments other than Acts of Parliament

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
The National Health Service (Professions Supplementary to Medicine) (Scotland) Regulations 1974 <sup>(55)</sup>	Prohibits employment for provision of services under the National Health Service of certain health professionals unless they are registered under the Health and Social Work Professions Order 2001	
The National Health Service (Financial Provisions) (Scotland) Regulations 1974 <sup>(56)</sup>	Preparation of estimates of income and expenditure and accounts of Health Boards and related matters of a financial nature	Limited to exclude the application of any provisions which relate to Local Health Councils or the Common Services Agency.
The National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 <sup>(57)</sup>	The determination of remuneration and conditions of service of officers of Health Boards	
The Health Boards (Membership and Procedure) (Scotland) Regulations 2001 <sup>(58)</sup>	Provision as to the membership of, and procedure to be applied by, Health Boards	

<sup>(54)</sup> 1995 c.7. Relevantly amended by the Land Registration etc. (Scotland) Act 2012 (asp 5), schedule 3, paragraph 25(g).

<sup>(55)</sup> S.I. 1974/549, amended by S.S.I. 2000/202, S.I. 2003/1590, S.I. 2004/2033 and S.I. 2012/1479.

<sup>(56)</sup> S.I. 1974/468.

<sup>(57)</sup> S.I. 1991/537.

<sup>(58)</sup> S.S.I. 2001/302, amended by S.S.I. 2005/108 and S.S.I. 2016/3.

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

<b>Column 1 Enactment</b>	<b>Column 2 Nature of Provision</b>	<b>Column 3 Modifications and Limitations (where applicable)</b>
The Electronic Documents (Scotland) Regulations 2014(59) Regulation 5	Where they have delegated any function relating to the acquisition, management or disposal of land, power of the Scottish Ministers to authorise any officer of a Health Board to authenticate an electronic document on their behalf	

## SCHEDULE 2

Article 8

### Consequential Amendments

## PART 1

### Acts

#### **The Ethical Standards in Public Life etc. (Scotland) Act 2000**

- 1.—(1) The Ethical Standards in Public Life etc. (Scotland) Act 2000(60) is amended as follows.
- (2) In paragraph 1 of schedule 3 (devolved public bodies)—
- (a) omit the entry for “NHS Health Scotland”, and
  - (b) after “The Poverty and Inequality Commission” insert “Public Health Scotland”.

#### **The Freedom of Information (Scotland) Act 2002**

- 2.—(1) The Freedom of Information (Scotland) Act 2002(61) is amended as follows.

(59) S.S.I. 2014/83. Relevantly amended by S.S.I. 2014/347.

(60) 2000 asp 7. Relevantly amended by the Water Industry (Scotland) Act 2002 (asp 3), schedule 7, paragraph 28, the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), schedule 4, paragraph 15, the Water Services etc. (Scotland) Act 2005 (asp 3), schedule 5, paragraph 6(e), the Further and Higher Education (Scotland) Act 2005 (asp 6), schedule 3, paragraph 9, the Gaelic Language (Scotland) Act 2005 (asp 7), schedule 2, paragraph 1, the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), schedule 4, paragraph 12, the Transport (Scotland) Act 2005 (asp 12), schedule 1, paragraph 17, the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), schedule 3, paragraph 1, the Tourist Boards (Scotland) Act 2006 (asp 15), schedule 2, paragraph 6, the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), schedule 5, paragraph 4, the Judiciary and Courts (Scotland) Act 2008 (asp 6), schedule 1, paragraph 19, the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 1, paragraph 28, schedule 10, paragraph 1, schedule 14, paragraph 1 and schedule 17, paragraph 24, the Crofting Reform (Scotland) Act 2010 (asp 14), schedule 4, paragraph 4, the Housing (Scotland) Act 2010 (asp 17), schedule 2, paragraph 6, the National Library of Scotland Act 2012 (asp 3), schedule 2, paragraph 4, the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 1, paragraph 14, schedule 7, paragraph 61 and schedule 8, paragraph 1, the Post-16 Education (Scotland) Act 2013 (asp 12), schedule 1, paragraph 4, the Revenue Scotland and Tax Powers Act 2014 (asp 16), schedule 4, paragraph 4, the Historic Environment (Scotland) Act 2014 (asp 19), schedule 6, paragraph 1, the Food (Scotland) Act 2015 (asp 1), section 17(1), the Community Justice (Scotland) Act 2016 (asp 10), schedule 1, paragraph 14(1) and schedule 2, paragraph 3, the Scottish Fiscal Commission Act 2016 (asp 17), section 29(1), the Land Reform (Scotland) Act 2016 (asp 18), section 21(1), the Child Poverty (Scotland) Act 2017 (asp 6), schedule 1, paragraph 13(1), the Social Security (Scotland) Act 2018 (asp 9), schedule 1, paragraph 18, S.I. 2012/1659, S.S.I. 2002/201, S.S.I. 2003/1, S.S.I. 2003/119, S.S.I. 2003/279, S.S.I. 2004/543, S.S.I. 2009/286, S.S.I. 2011/113, S.S.I. 2015/157, S.S.I. 2017/36 and S.S.I. 2018/148.

(61) 2002 asp 13. Relevantly amended by S.S.I. 2008/297.

- (2) In Part 4 (the national health service) of schedule 1 (Scottish public authorities)—
- (a) omit paragraph 32B, and
  - (b) after paragraph 35 insert—  
“**35A.** Public Health Scotland.”

### **The Public Appointments and Public Bodies etc. (Scotland) Act 2003**

**3.**—(1) The Public Appointments and Public Bodies etc. (Scotland) Act 2003(**62**) is amended as follows.

(2) In schedule 2 (the specified authorities) under the heading “National Health Service bodies”, in the entry for “any Special Health Board” omit paragraph (iv) and the “or” immediately preceding it.

### **The Civil Contingencies Act 2004**

**4.**—(1) The Civil Contingencies Act 2004(**63**) is amended as follows.

(2) In Part 4 (category 2 responders: Scotland) of schedule 1 (category 1 and 2 responders), after paragraph 38 insert—

“**38A.** Public Health Scotland constituted by the Public Health Scotland Order 2019(**64**).”.

### **The Local Electoral Administration and Registration Services (Scotland) Act 2006**

**5.**—(1) The Local Electoral Administration and Registration Services (Scotland) Act 2006(**65**) is amended as follows.

- (2) In section 57 (keeping of central register for health and local authority purposes)—
- (a) in subsection (1) after “Health Boards,” insert “Public Health Scotland,” and
  - (b) in subsection (2)(b) after “Health Board” insert “, Public Health Scotland”.

### **The Public Health etc. (Scotland) Act 2008**

**6.**—(1) The Public Health etc. (Scotland) Act 2008(**66**) is amended as follows.

- (2) In section 15 (notifiable diseases and health risk states: duties on health boards)—
- (a) in subsection (1) after “common services agency”, insert “and Public Health Scotland”, and
  - (b) in subsection (5)(a) after “common services agency”, insert “and Public Health Scotland”.
- (3) In section 16(5) (notifiable organisms: duties on directors of diagnostic laboratories)—
- (a) in paragraph (a) omit “and”,
  - (b) in paragraph (b) for “agency.” substitute “agency; and”, and
  - (c) after paragraph (b) insert—  
“(c) Public Health Scotland.”.

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(62) 2003 asp 4. Relevantly amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 17, paragraph 26, S.S.I. 2005/540, S.S.I. 2010/50 and S.S.I. 2018/299.

(63) 2004 c.36.

(64) S.S.I. 2019/336.

(65) 2006 asp 14. Relevantly amended by the Statistics and Registration Service Act 2007 (c.18), section 60(2).

(66) 2008 asp 5.

- (4) In section 21(2) (public health investigations) after paragraph (c) insert—  
“(ca) Public Health Scotland;”.

#### **The Certification of Death (Scotland) Act 2011**

- 7.—(1) The Certification of Death (Scotland) Act 2011(67) is amended as follows.  
(2) In section 24(1)(b) (fees in respect of medical reviewer functions) for “the Common Services Agency for the Scottish Health Service” substitute “Public Health Scotland”.  
(3) In section 31 (interpretation) after the definition of “medical reviewer” insert—  
““Public Health Scotland” means the Special Health Board of that name constituted by the Public Health Scotland Order 2019(68);”.

#### **The Islands (Scotland) Act 2018**

- 8.—(1) The Islands (Scotland) Act 2018(69) is amended as follows.  
(2) In the schedule (duties in relation to island communities: relevant authorities)—  
(a) Omit paragraph 49, and  
(b) After paragraph 57 insert—  
“57A. Public Health Scotland.”.

## **PART 2**

### **Enactments other than Acts of Parliament**

#### **The Abortion (Scotland) Regulations 1991**

- 9.—(1) The Abortion (Scotland) Regulations 1991(70) are amended as follows.  
(2) In regulation 5(a) (restriction on disclosure of information) for “the Common Services Agency for the Scottish Health Service” substitute “Public Health Scotland”.

#### **The National Health Service Central Register (Scotland) Regulations 2006**

- 10.—(1) The National Health Service Central Register (Scotland) Regulations 2006(71) are amended as follows.  
(2) In schedule 1 (additional information which may be contained in an entry in, and obtained from persons or places to create and maintain, the register), in the table, in entry 4(a)(i) in column (1), for “the Common Services Agency” substitute “Public Health Scotland”.

#### **The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009**

- 11.—(1) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009(72) are amended as follows.

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(67) 2011 asp 11.

(68) S.S.I. 2019/336.

(69) 2018 asp 12.

(70) S.I. 1991/460. Relevantly amended by S.I. 1999/1042.

(71) S.S.I. 2006/484. Relevantly amended by S.I. 2013/235.

(72) S.I. 2009/1348. Relevantly amended by S.I. 2019/598.

(2) In paragraph 6(6)(a)(iv) (duties of drivers, escort commanders, masters, carriers and consignors in the event of a radiation emergency) of part 1 (radiation emergencies) of schedule 2 (radiation emergencies and notifiable events) for “Health Protection Scotland” substitute “Public Health Scotland”.

#### **The Public Water Supplies (Scotland) Regulations 2014**

**12.**—(1) The Public Water Supplies (Scotland) Regulations 2014(**73**) are amended as follows.

(2) In regulation 38(1)(c) (notification of health risk events) for “Health Protection Scotland” substitute “Public Health Scotland”.

#### **The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015**

**13.**—(1) The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015(**74**) is amended as follows.

(2) In schedule 1 (listed bodies) under the heading “National health service” after “NHS Education for Scotland” insert “Public Health Scotland”.

#### **The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018**

**14.**—(1) The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018(**75**) are amended as follows.

(2) In paragraph 7(c) (storage of vaccines) of schedule 6 (other contractual terms) for “Health Protection Scotland” substitute “Public Health Scotland”.

#### **The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018**

**15.**—(1) The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018(**76**) are amended as follows.

(2) In paragraph 5(c) (storage of vaccines) of schedule 1 (content of agreements) for “Health Protection Scotland” substitute “Public Health Scotland”.

#### **The Radiation (Emergency Preparedness and Public Information) Regulations 2019**

**16.**—(1) The Radiation (Emergency Preparedness and Public Information) Regulations 2019(**77**) are amended as follows.

(2) In regulation 10(5)(f)(ii) (operator’s emergency plan) for “Health Protection Scotland” substitute “Public Health Scotland”.

(3) In regulation 11(5)(g)(ii) (local authority’s off-site emergency plan) for “Health Protection Scotland” substitute “Public Health Scotland”.

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(73) [S.S.I. 2014/364](#).

(74) [S.S.I. 2015/347](#).

(75) [S.S.I. 2018/66](#).

(76) [S.S.I. 2018/67](#).

(77) [S.I. 2019/703](#).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order constitutes, under article 3, a Special Health Board for the whole of Scotland to be known as Public Health Scotland (the “Board”). In accordance with article 1 the Order comes into force on 7 December 2019, except articles 6 and 7, which relate to the dissolution of the Special Health Board known as NHS Health Scotland, and the consequential amendments in paragraphs 1(2)(a) and 2 to 16 of schedule 2, which come into force on 1 April 2020.

Article 4 of the Order confers on the new Board functions in relation to:

- health education, including that specified in section 42 of the National Health Service (Scotland) Act 1978 (“the Act”),
- the provision of research and development services in the field of public health,
- the collection, dissemination and analysis of epidemiological data and the participation in epidemiological investigations,
- examining data relating to prescriptions for drugs, medicines and appliances supplied under the arrangements for the provision of pharmaceutical services,
- the provision of information services in support of the functions conferred on the Board, and
- the protection of public health including those specified in section 1 of the Public Health etc. (Scotland) Act 2008.

Article 4 also enables the Board to exercise in connection with its functions, certain functions of the Scottish Ministers, such as the giving of assistance to voluntary organisations, the duty to make arrangements for the purposes of the prevention of illness and in connection with the acquisition, management and disposal of property.

Article 5 and schedule 1 apply various provisions to the Board in enactments which apply to Health Boards in general. These include provisions as to the funding of Health Boards and the keeping and auditing of accounts, provisions in schedule 1 of the Act including those for appointment and remuneration of Board members and staff and other provisions in statutory instruments relating to Health Boards.

Article 6 dissolves the Special Health Board known as NHS Health Scotland and revokes the enactments relating to its constitution.

Article 7 provides that the property and all other rights and liabilities of NHS Health Scotland will transfer to and vest in Public Health Scotland with effect from 1 April 2020.

Article 8 gives effect to the consequential amendments in schedule 2.