
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 34

NATIONAL HEALTH SERVICE

**The Community Care and Health
(Scotland) Act 2002 (Savings) Order 2004**

Made - - - - 30th January 2004
Laid before the Scottish
Parliament - - - - 2nd February 2004
Coming into force - - 4th March 2004

The Scottish Ministers, in exercise of the powers conferred on them by section 24(1) of the Community Care and Health (Scotland) Act 2002(1) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Community Care and Health (Scotland) Act 2002 (Savings) Order 2004 and shall come into force on 4th March 2004.

Interpretation

2. In this Order—

“the 1978 Act” means the National Health Service (Scotland) Act 1978(2);

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(3);

“the 2002 Act” means the Community Care and Health (Scotland) Act 2002;

“the 2004 Order” means the Community Care and Health (Scotland) Act 2002 (Commencement No. 3) Order 2004(4); and

“the Tribunal” means the Tribunal constituted in accordance with section 29 (disqualification of persons providing services) of the 1978 Act.

(1) 2002 asp 5.
(2) 1978 c. 29.
(3) 1997 c. 46.
(4) S.S.I. 2004/33.

Saving provision in consequence of the 2002 Act

3.—(1) In relation to any representations made to the Tribunal under paragraph 3 of Schedule 1 (preferential treatment on transferring to medical lists) to the 1997 Act before 4th March 2004, the provisions of paragraphs 3(1) and 4(1) of Schedule 1 to the 1997 Act shall continue to have effect on and after that date as if section 19 (representations against preferential treatment) of the 2002 Act had not been brought into force by article 2 of the 2004 Order.

(2) In relation to any representations made to the Tribunal under section 29 (disqualification of persons providing services) of the 1978 Act before 4th March 2004 the provisions of sections 29, 32A (applications for interim suspension) and 32B (continuation of suspension pending appeal) of the 1978 Act shall continue to have effect on and after that date as if—

- (a) on 4th March 2004, paragraph 2(4)(a), (b)(i) and (iii), 9(c), and (10) of schedule 2 to the 2002 Act; and
- (b) on 1st April 2004, so far as not already in force, paragraph 2(4) and (9) of schedule 2 to the 2002 Act,

had not been brought into force by article 2 of the 2004 Order.

St Andrew's House, Edinburgh
30th January 2004

MALCOLM CHISHOLM
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes certain saving provisions in consequence of the Community Care and Health (Scotland) Act 2002 (“the 2002 Act”).

The 2002 Act makes amendments to certain provisions of the National Health Service (Scotland) Act 1978 (“the 1978 Act”) and the National Health Service (Primary Care) Act 1997 (“the 1997 Act”) which relate to representations to the NHS Tribunal regarding the disqualification of practitioners who provide services under Part II of the 1978 Act, or who have preferential rights of transfer to medical lists. Some of these amendments are commenced on 4th March 2004 and others on 1st April 2004 by article 2 of the Community Care and Health (Scotland) Act 2002 (Commencement No. 3) Order 2004 ([S.S.I. 2004/33](#)).

This Order provides that, in relation to representations made to the Tribunal before 4th March 2004, those provisions of the 1978 and the 1997 Acts shall continue to apply on and after that date as if those amendments had not been made. The provisions of the 1978 and 1997 Acts in question relate to representations to, and powers of, the NHS Tribunal, including in relation to applications for interim suspension and suspension pending appeal