

Status: Point in time view as at 01/10/2010.

Changes to legislation: National Health Service (Scotland) Act 1978, Part I is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1F1}SCHEDULE 7A

NATIONAL HEALTH SERVICE TRUSTS

Textual Amendments

- F1** Schs. 7A, 7B inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 32, Sch. 6](#)
- F1** [Sch. 7A](#) repealed (1.9.2004 but only for the purpose stated in art. 2(a)(i) of the commencing S.S.I.) by [National Health Service Reform \(Scotland\) Act 2004 \(asp 7\), ss. 1\(1\), 12\(1\), S.S.I. 2004/361, art. 2\(a\)\(i\)](#)

Modifications etc. (not altering text)

- C1** [Sch. 7A](#) applied in part (1.4.1999) by [S.I. 1999/686, art. 5\(1\)\(2\)](#)

PART I

ORDERS ESTABLISHING NHS TRUSTS ETC.

- 1 Any reference in this Part of this Schedule to an order is a reference to an order under section 12A(1) establishing an NHS trust or any subsequent order under that provision amending or revoking a previous order.

Subordinate Legislation Made

- P1** [Sch. 7A para. 1](#): s. 12A(1)(4) (with Sch. 7A paras. 1, 3, 4, 5, 6(2)(d)) power exercised (18.12.1991) by [S.I. 1991/2898](#).
- [Sch. 7A para. 1](#): s. 12A(1)(4) (with Sch. 7A paras. 1, 3, 4, 5, 6(2)(d)) power exercised (18.12.1991) by [S.I. 1991/2899](#).

- 2 The provisions made by an order shall be in conformity with any general provision made by regulations under section 12A(5).
- 3 (1) Without prejudice to any amendment made by subsequent order, the first order to be made in relation to any NHS trust shall specify—
- the name of the trust;
 - the functions of the trust;
 - the number of executive directors and [^{F2}trustees];
 - where the trust is to be regarded as having a significant teaching commitment, a provision to secure the inclusion in the [^{F2}trustees] referred to in paragraph (c) of a person appointed from a university with a medical or dental school specified in the order;
 - the operational date of the trust, that is to say, the date on which the trust is to begin to undertake the whole of the functions conferred on it; and

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- (f) if a scheme is to be made under section 12B, the body (being a Health Board or the Agency) which is to make the scheme.
- (2) For the purposes of sub-paragraph (1)(d), an NHS trust is to be regarded as having a significant teaching commitment in the following cases—
- (a) if the trust is established to [^{F3}provide services at] a hospital or other establishment or facility which, in the opinion of the Secretary of State, has a significant teaching and research commitment; and
- (b) in any other case, if the Secretary of State so provides in the order.
- (a) is employed by the university in question; and
- (b) would also, apart from this sub-paragraph, be regarded as employed by the trust,
- his employment by the trust shall be disregarded in determining whether, if appointed, he will be a [^{F2}trustee] of the trust.
- (4) An order shall specify the accounting date of the trust.

Textual Amendments

- F2** Words in Sch. 7A para. 3(1)(c)(d), (3) substituted (1.10.1999) by virtue of 1999 c. 8, s. 65, Sch. 4 para. 62; S.S.I. 1999/90, art. 2(b), Sch. 1
- F3** Words in Sch. 7A para. 3(2)(a) substituted (*retrospectively*) by 1999 c. 8, s. 46(6)(8); S.S.I. 1999/90, art. 2(a), Sch. 1

- 4 (1) An order may require a Health Board and the Agency to make staff, premises and other facilities available to an NHS trust pending the transfer or appointment of staff to or by the trust and the transfer of premises or other facilities to the trust.
- (2) An order making provision under this paragraph may make provision with respect to the time when the Health Board's functions under the provision are to come to an end.
- 5 (1) An order may provide for the establishment of an NHS trust with effect from a date earlier than the operational date of the trust and, during the period between that earlier date and the operational date, the trust shall have such limited functions for the purposes of enabling it to begin to operate satisfactorily with effect from the operational date as may be specified in the order.
- (2) If an order makes the provision referred to in sub-paragraph (1), then, at any time during the period referred to in that sub-paragraph, the NHS trust shall be regarded as properly constituted (and may carry out its limited functions accordingly) notwithstanding that, at that time, all or any of the executive officers have not yet been appointed.
- (3) If an order makes the provisions referred to in sub-paragraph (1) above, the order may require a Health Board to discharge such liabilities of the NHS trust as—
- (a) may be incurred during the period referred to in that sub-paragraph; and
- (b) are of a description specified in the order.]

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