



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Supplementary

108 Interpretation and construction.

(1) In this Act, unless the contrary intention appears—

“the Agency” has the meaning indicated in section 10;

“area medical committee”, “area dental committee”, “area nursing and midwifery committee”, “area pharmaceutical committee” and “area optical committee” have the meanings indicated in section 9(2);

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“the Dental Estimates Board” has the meaning indicated in section 4;

“dental practitioner” means a person registered in the dentists register under the Dentists Act [^{F2}1984];

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“dispensing optician” means a person who is registered in the register kept under section 2 of the ^{M1}Opticians Act 1958 of dispensing opticians or a body corporate enrolled in the list kept under section 4 of that Act or such bodies carrying on business as dispensing opticians;

“education authority” has the same meaning as in the Education (Scotland) Act [^{F4M2}1980];

“equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle;

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.....

“functions” includes powers and duties;

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[^{F6}“general medical services contract” has the meaning given in section 17J(2);

[^{F7}“general ophthalmic services” is to be construed in accordance with section 26(1F);]

[^{F8}“goods” includes accommodation]

“governing body”, in relation to any hospital to which section 89 applies, includes any body, whether corporate or unincorporate, having the control and management of the hospital or any part of it or otherwise carrying on the business of the hospital or any part of it;

“Health Board” means a [^{F9}Health Board] constituted under section 2;

“the health service” means the health service established in pursuance of section 1 of the ^{M3}National Health Service (Scotland) Act 1947;

“health service hospital” means a hospital vested in the Secretary of State [^{F10}for the purposes of his functions] under this Act [^{F11}or vested in an NHS trust];

[^{F12}“HIS” has the meaning indicated in section 10A;]

“hospital” means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and any institution for providing dental treatment maintained in connection with a dental school,

and includes clinics, dispensaries, and out-patient departments maintained in connection with any such home or institution, and “hospital accommodation” shall be construed accordingly;

“the Hospital Trust” has the meaning indicated in section 11;

“illness” includes mental disorder within the meaning of [^{F13}section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003] and any injury or disability requiring medical or dental treatment or nursing;

“local authority” means a [^{F14}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“local consultative committee” means a committee recognised by the Secretary of State under section 9(1);

“local health council” has the meaning indicated in section 7;

“medical” includes surgical;

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[^{F17}“medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the Interpretation Act 1978]

“medicine” includes such chemical re-agents as are included in a list for the time being approved by the Secretary of State for the purposes of section 27;

“modifications” includes additions, omissions and amendments;

[^{F18}“National Health Service trust” has the meaning indicated by section 12A and “NHS trust” shall be construed accordingly

“NHS contract” has the meaning indicated by section 17A(3)]

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“officer” includes servant;

[^{F20}“operational date”, in relation to an NHS trust, shall be construed in accordance with paragraph 3(1)(e) of Schedule 7A;]

[^{F21}“ophthalmic optician” means a person registered in the register of optometrists maintained under section 7 of the Opticians Act 1989 [^{F22}, or in the register of visiting optometrists from relevant European States maintained under section 8B(1)(a) of that Act,] or a body corporate registered in the register of bodies corporate maintained under section 9 of that Act carrying on business as an optometrist.]

“patient” includes an expectant or nursing mother and a lying-in woman;

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[^{F23}“pilot scheme” has the meaning given by section 1 of the National Health Service (Primary Care) Act 1997 (c.46);]

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“prescribed” means prescribed by regulations made by the Secretary of State under this Act;

[^{F25}“primary medical services” is to be construed in accordance with section 2C(5);]

“property” includes rights;

[^{F26}“provide” includes manage]

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[^{F27}“registered pharmacist” means a person registered as a pharmacist in Part 1 or 4 of the register maintained under article 19 of the Pharmacy Order 2010;

[^{F28}“Regulation (EC) No. 883/2004” means Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29th April 2004 on the coordination of social security systems,]

“regulations” means regulations made by the Secretary of State under this Act;

“relevant endowment” has the meaning indicated in section 11;

[^{F29}“the Research Trust” means the Scottish Hospital Endowments Research Trust constituted under subsection (1) of section 12 of this Act (before the repeal of that subsection by section 38(2)(a) of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13);]

[^{F30}“section 17C arrangements” has the same meaning as in section 17E(9);]

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[^{F32}“Special Health Board” means a Special Health Board constituted under section 2;]

[^{F33}“state hospital” has the meaning indicated in section 102(2)]

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“superannuation benefits” means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits;

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.....

“the Tribunal” has the meaning indicated in section 29;

“the Trust” has the meaning indicated in section 11;

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“University Liaison Committee” means a committee such as is referred to in section 8;

[^{F35}“voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.]

[^{F36}(1A) References in this Act to “carrying on the business of dentistry” are to be construed in accordance with section 40 of the Dentists Act 1984 (c. 24).]

- (2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.
- (3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment including this Act.
- (4) In this Act, except where otherwise indicated,—
 - (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered;
 - (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered;
 - (c) a reference in a section, subsection or Schedule to a numbered or lettered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered or lettered; and
 - (d) a reference to any provision of an Act (including this Act) includes a reference to any Schedule incorporated in the Act by that provision.]

Textual Amendments

- F1** Definition repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\)](#), s. 24(2), [Sch. 7 para. 29](#), [Sch. 8](#)
- F2** “1984” substituted for “1957” by [Dentists Act 1984 \(c. 24, SIF 83:1\)](#), s. 54(1), [Sch. 5 para. 13](#)
- F3** S. 108(1): definition of “designated medical officer” repealed (1.10.2009) by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\)](#), ss. 126(1), 128(2), [Sch. 3](#) (with s. 127); S.S.I. 2009/319, [art. 2\(a\)](#), [Sch. 1](#)
- F4** Words substituted by [Education \(Scotland\) Act 1980 \(c. 44\)](#), [Sch. 4 para. 18](#)
- F5** Definitions repealed by [Health Services Act 1980 \(c. 53\)](#), [Sch. 7](#)
- F6** Words in s. 108 inserted (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), ss. 8, 9(1), {[Sch. para. 1\(17\)\(a\)](#); S.S.I. 2004/58, [art. 2\(3\)](#)}
- F7** Words in s. 108(1) inserted (1.4.2006) by [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), ss. 42(1), 43(3), [Sch. 2 para. 2\(19\)\(a\)\(ii\)](#); S.S.I. 2005/492, [art. 3\(e\)](#), [Sch. 3](#)
- F8** S. 108: definition of “goods” inserted (1.10.1999) by 1999 c. 8, s. 65(1), [Sch. 4 para. 61\(a\)](#); S.S.I. 1999/90, [art. 2\(a\)\(b\)](#), [Sch. 1](#)
- F9** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9 para. 19\(22\)\(a\)](#)
- F10** Words inserted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 6 para. 6\(a\)](#)
- F11** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9 para. 19\(22\)\(b\)](#)
- F12** Words in s. 108 inserted (1.10.2010 for certain purposes, otherwise prosp.) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. 110(2), 134(7), [Sch. 17 para. 22](#); S.S.I. 2010/321, [art. 3](#), [Sch. 3](#)
- F13** Words in s. 108(1) substituted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 2, [Sch. 1 para. 7\(3\)](#)
- F14** Words in s. 108: definition of “local authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 112\(3\)](#); S.I. 1996 323, art. 4(c)

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- F15** S. 108: definitions repealed (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 1(17)(b)**; S.S.I. 2004/58, **art. 2(3)**
- F16** S. 108(1): entry relating to the Medical Practices Committees repealed (1.4.2004) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), ss. 17, 21(2), **Sch. 4 para. 5(14)**; S.S.I. 2004/148, **art. 2(c)**
- F17** Definition substituted by Medical Act 1983 (c. 54, SIF 83:1), ss. 54, 56(1), **Sch. 5 para. 17(b)**
- F18** Definitions inserted (the insertion not being in force until 1.4.1991 so far as it relates to the definition of "NHS contract") by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(22)(c)**
- F19** Definition repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**
- F20** Definition inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(22)(d)**
- F21** S. 108(1): definition of "ophthalmic optician" substituted (coming into force in accordance with art. 1(2)(3)(4) of the amending S.I.) by The Opticians Act 1989 (Amendment) Order 2005 (S.I. 2005/848), art. 28, **Sch. 1 para. 10** (with Sch. 2)
- F22** S. 108: words in the definition of "ophthalmic optician" inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1, **190**
- F23** S. 108: definition of "pilot scheme" inserted (28.2.2003) by 2002 asp 5, ss. 25, 27(2), Sch. 2 para. 2(12); S.S.I. 2003/62, **art. 2(1)(c)**
- F24** Definition repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**
- F25** S. 108: definition inserted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), {Sch. para. 1(17)(c); S.S.I. 2004/58, **art. 2(3)**}
- F26** S. 108: definition of "provide" inserted (*retrospectively*) by 1999 c. 8, s. **46(2)(8)**; S.S.I. 1999/90, art. 2(a), **Sch. 1**
- F27** S. 108(1): definition of "registered pharmacist" substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), arts. 1, 68, **Sch. 4 para. 4(4)**; S.I. 2010/1621, **art. 2(1)**, Sch.
- F28** Words in s. 108(1) inserted (7.7.2010) by The National Health Service (Reimbursement of the Cost of EEA Treatment) (Scotland) Regulations 2010 (S.S.I. 2010/283), **reg. 5**
- F29** Words in s. 108(1) inserted (1.11.2005) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(1), 43(3), **Sch. 2 para. 2(19)(a)(iv)**; S.S.I. 2005/492, **art. 3(b)**, Sch. 2
- F30** S. 108: definition of "section 17C arrangements" inserted (1.4.1998) by 1997 c. 46, s. 41(3)(10), **Sch. 2 Pt. 1 para. 57**; S.I. 1998/631, art. 2(1)(b), **Sch. 2**
- F31** S. 108: definitions repealed (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), {Sch. para. 1(17)(d); S.S.I. 2004/58, **art. 2(3)**}
- F32** Definition inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(22)(e)**
- F33** S. 108: definition of "state hospital" substituted (1.10.1999) by 1999 c. 8, s. 65(1), **Sch. 4 para. 61(b)**; S.S.I. 1999/90, art. 2(a)(b), **Sch. 1**
- F34** Definition repealed by Health Services Act 1980 (c. 53), **Sch. 7**
- F35** Definition substituted by Health Services Act 1980 (c. 53), **Sch. 6 para. 6(b)**
- F36** S. 108(1A) inserted (2.7.2010) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(1), 43(3), {Sch. 2 para. 2(19)(b)}; S.S.I. 2010/185, **art. 3(b)**, Sch. 2

Marginal Citations

- M1** 1958 c. 32.
M2 1980 c. 44.
M3 1947 c. 27.

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