



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART IV

POWERS OF THE SECRETARY OF STATE

Inquiries, and default and emergency powers

77 Default powers.

(1) Where the Secretary of State is of the opinion, on representations made to him or otherwise, that—

- (a) any Health Board; ^{F1}...
- ^{F2}(aa) an NHS trust]
- (b) ^{F3}
- (c) the Dental Estimates Board ^{F4}; or
- (d) HIS,]

have failed to carry out any functions conferred or imposed on them by or under this Act ^{F5}or by or under the 2021 Act], or have in carrying out those functions failed to comply with any regulations, schemes, proposals or directions relating to those functions, he may after holding an inquiry make an order declaring them to be in default

(2) When such an order is made, the members of the body shall forthwith vacate their office, and the order—

- (a) shall provide for the appointment ^{F6}or, as the case may be, election], in accordance with the provisions of this Act, of new members of the body; and
- (b) may contain such provisions as seem to the Secretary of State expedient for authorising any person to act in the place of the body in question pending the appointment ^{F7}or, as the case may be, election] of new members.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service (Scotland) Act 1978. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) An order made under this section may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient.

Textual Amendments

- F1** Word in s. 77(1) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 9(a)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F2** S. 77(1)(aa) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(14)**
- F3** S. 77(1)(b) repealed (1.4.2004) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), ss. 17, 21(2), **Sch. 4 para. 5(11)**; S.S.I. 2004/148, **art. 2(e)**
- F4** S. 77(1)(d) and word inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 9(b)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F5** Words in s. 77(1) inserted (1.4.2022) by Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 (asp 3), s. 20(2), **sch. para. 1(8)** (with s. 3); S.S.I. 2022/24, reg. 2
- F6** Words in s. 77(2)(a) inserted (temp. from 24.6.2009 for certain purposes, otherwise prosp.) by Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), **ss. 3(a)**, 4, 6(2)(3), 7, 11(1); S.S.I. 2009/242, **art. 2**
- F7** Words in s. 77(2)(b) inserted (temp. from 24.6.2009 for certain purposes, otherwise prosp.) by Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), **ss. 3(b)**, 4, 6(2)(3), 7, 11(1); S.S.I. 2009/242, **art. 2**

Modifications etc. (not altering text)

- C1** S. 77 extended by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), ss. 17(2), 91(2), **Sch. 1 para. 8(a)**
- C2** S. 77 applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
- C3** S. 77 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
S. 77 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
S. 77 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
S. 77 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**
S. 77 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**
S. 77 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
S. 77 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
S. 77 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
- C4** S. 77 applied (1.4.2012) by Patient Rights (Scotland) Act 2011 (asp 5), **ss. 21(2)**, 26(3) (with ss. 18(3), 20); S.S.I. 2012/35, art. 2(a)
- C5** S. 77 modified (1.4.2012) by Patient Rights (Scotland) Act 2011 (asp 5), **ss. 21(1)**, 26(3) (with ss. 18(3), 20); S.S.I. 2012/35, art. 2(a)
- C6** S. 77 applied (7.12.2019) by The Public Health Scotland Order 2019 (S.S.I. 2019/336), art. 1(2), **sch. 1 Pt. 1** (with art. 4(4)(5))
- C7** S. 77 modified (15.8.1997) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I paras. 32, **51**; S.I. 1997/1780, art. 2(1), **Sch.**

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Changes and effects yet to be applied to :

- s. 77(1)(aa) repealed by [2004 asp 7 sch. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10C(3A) inserted by [2019 asp 6 s. 6\(3\)\(a\)](#)
- s. 10I(1)(b)(c) and word inserted by [2019 asp 6 s. 6\(4\)\(b\)](#)
- s. 16A(5) added by [2002 asp 5 Sch. 2 para. 2\(2\)](#)
- s. 19A(2)(b) words repealed by [2003 asp 4 sch. 4 para. 5\(4\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(a) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(b) substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(c) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(e) word substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 70A inserted by [1997 c. 46 s. 26\(2\)](#)
- s. 70A(2) word substituted by [2005 asp 13 s. 14\(3\)](#)
- s. 85AB(7) inserted by [2005 asp 13 sch. 2 para. 2\(18\)\(b\)](#)
- Sch. 11 para. 2(1A) inserted by [2005 asp 13 s. 14\(6\)\(a\)](#)