

These notes relate to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) which received Royal Assent on 11 March 2003

PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

General provisions

Schedule 4 – Miscellaneous provision

Paragraph 5 – National Health Service (Scotland) Act 1978 (c.29)

90. *Paragraph 5* makes modifications to the National Health Service (Scotland) Act 1978 for the purposes of the Act.
91. *Sub-paragraph (2)* repeals section 3, which provides for the establishment of the Scottish Medical Practices Committee (SMPC).
92. *Sub-paragraph (3)* repeals section 11 of the 1978 Act under which the Scottish Hospital Trust is constituted.
93. *Sub-paragraph (4)* amends subsection 19A(2) of the 1978 Act. Section 19A provides for the basis on which a medical practitioner is entitled to be included in a Health Board's medical list of persons with whom the Board may arrange to provide general medical services. The amendment is needed because, on abolition of the SMPC, a medical practitioner will no longer be nominated to the Committee for appointment to fill a vacancy.
94. *Sub-paragraph (5)* amends subsections 19B(2)(a)(b)(c) and (e) of the 1978 Act. Section 19B gives the Scottish Ministers power to make regulations on filling vacancies for medical practitioners to provide general medical services. Subsection 19B lists matters which the regulations may, in particular, include. Under subsections 19B(2)(a) to (c), regulations may include provision for references by a Health Board to the SMPC as to whether there is or will be a vacancy for a general medical practitioner in a locality; the determination of such references by the SMPC; and the determination by the SMPC of conditions of practice to be imposed on a practitioner who fills a particular vacancy. The amendments are needed to strip out the involvement of the SMPC and make consequential adjustments to the role of the Health Board.
95. *Sub-paragraph (6)* amends section 20 of the 1978 Act. Section 20 provides that all applications made to a Health Board for inclusion in a list kept by that Board of the names of medical practitioners undertaking to provide general medical services shall be referred by the Board to the SMPC, which shall then consider and grant applications. *Sub-paragraph (6)(a)* removes the role of the SMPC and provides for applications to be considered and granted by the Health Board.
96. For an applicant who is a national of a member state of the European Union, section 20(1A) of the 1978 Act requires the Health Board to apply a knowledge of English test to the procedure under section 20. *Sub-paragraph (6)(b)* amends

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section 20(1A) to reflect the abolition of the SMPC while retaining the procedure on knowledge of English.

97. *Sub-paragraph (7)* amends section 21 of the 1978 Act. Section 21 provides that regulations under section 19B of the 1978 Act must secure that a medical practitioner is not nominated (to the SMPC) or approved by the Health Board for appointment to fill a vacancy unless he or she is suitably experienced. The amendment is needed because, on abolition of the SMPC, a medical practitioner will no longer be nominated to the Committee.
98. *Sub-paragraph (8)* amends the definition of “applicant” in section 22 of the 1978 Act. Section 22 gives the Scottish Ministers power to make regulations for prescribing the medical experience needed for the purposes of section 21 of the 1978 Act. The amendment is needed because, on abolition of the SMPC, a medical practitioner will no longer be nominated to the Committee.
99. Section 23 of the 1978 Act gives Scottish Ministers the power to specify the maximum number of medical practitioners with whom all Health Boards taken as a whole may enter into arrangements for the provision of general medical services. *Sub-paragraph (9)* amends section 23(1B) to remove reference to the SMPC.
100. *Sub-paragraph (10)* repeals section 24, which provides for the conferring or imposing on the SMPC of additional functions in relation to arrangements for the provision of general medical services.
101. *Sub-paragraphs (11)-(14)* repeal miscellaneous references to the SMPC where they appear in the 1978 Act.
102. *Sub-paragraph (15)* repeals Schedule 1 (health boards), paragraph 16 of the National Health Service (Scotland) 1978 Act which gave Health Boards the power to transfer endowments to the Scottish Hospital Trust.
103. *Sub-paragraph (16)* repeals Schedule 2 of the 1978 Act, which details the membership and procedure of the SMPC.
104. *Sub-paragraph (17)* repeals Schedule 6 to the National Service (Scotland) 1978 Act under which the Scottish Hospital Trust is constituted.
105. *Sub-paragraph (18)* amends Schedule 9 of the 1978 Act. Schedule 9 supplements section 35 of that Act which sets out provisions under which it is unlawful to sell the goodwill of a medical practice. *Sub-paragraph (18)* amends Schedule 9 to transfer to the Health Board functions of the SMPC in providing certificates to the effect that a transaction does not amount to a sale of the goodwill.