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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 132**

**NATIONAL HEALTH SERVICE**

**The Functions of Health Boards  
(Scotland) Amendment Order 2006**

<i>Made</i>	- - - -	<i>9th March 2006</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>10th March 2006</i>
<i>Coming into force</i>	- -	<i>1st April 2006</i>

The Scottish Ministers, in exercise of the powers conferred by sections 2(1)(a) and 105(7) of the National Health Service (Scotland) Act 1978(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 Functions of Health Boards (Scotland) Amendment Order 2006 and shall come into force on 1st April 2006.

**Amendment of the Functions of Health Boards (Scotland) Order 1991**

2.—(1) Article 4 of the Functions of Health Boards (Scotland) Order 1991(2) (functions to be exercised by Health Boards) is amended as follows.

(2) After paragraph (b) insert—

“(ba) all the functions of the Scottish Ministers under section 17I(3) (power to make accommodation available etc);”.

(3) After paragraph (e) insert—

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- (1) 1978 c. 29; section 2(1) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 1, by the National Health Service and Community Care Act 1990 (c. 19), section 28 and by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), section 10; section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, by the 1983 Act, Schedule 9, paragraph 24 and by the Health Act 1999 (c. 8), contains provisions relevant to the exercise of the powers under which this Order is made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- (2) S.I.1991/570.
- (3) Section 17I was inserted by the 1997 Act, section 41 and Schedule 2, paragraph 38 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 8 and Schedule, paragraph 1(6).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- “(ea) all the functions of the Scottish Ministers under section 38A(1)(4) (power to make arrangements regarding breastfeeding etc);
- (eb) all the functions of the Scottish Ministers under section 38A(2) (power to disseminate information about breastfeeding etc);”.
- (4) After paragraph (q) insert–
  - “(qa) all the functions of the Scottish Ministers under section 84B(5) (power to form companies etc);”.
- (5) In paragraph (s)(i) omit “by Health Boards”.

St Andrew’s House,  
Edinburgh  
9th March 2006

*ANDREW P KERR*  
A member of the Scottish Executive

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(4) Section 38A was inserted by the [Breastfeeding etc. \(Scotland\) Act 2005 \(asp 1\)](#), section 4.  
(5) Section 84B was inserted by the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), section 37.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Order amends the Functions of Health Boards (Scotland) Order 1991 (“the Order”) which specifies the functions to be exercised by Health Boards on behalf of the Scottish Ministers by virtue of section 2(1) of the National Health Service (Scotland) Act 1978 (“the Act”).

Article 2 amends article 4 of the Order which specifies the functions to be exercised by reference to the provisions of the Act.

Article 2(2) confers on Health Boards all the functions of the Scottish Ministers under section 17I of the Act (power to make accommodation available etc).

Article 2(3) confers on Health Boards all the functions of the Scottish Ministers under section 38A of the Act (power to make arrangements regarding breastfeeding and power to disseminate information about breastfeeding etc).

Article 2(4) confers on Health Boards all the functions of the Scottish Ministers under section 84B of the Act (power to form companies etc).

Article 2(5) confers on Health Boards the powers of the Scottish Ministers under section 98 of the Act relating to the making of charges for the provision of services under the Act to persons not ordinarily resident in Great Britain, to all services provided under the Act, not only services provided by Health Boards, as was previously the case.