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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 10 (C. 2)**

**NATIONAL HEALTH SERVICE**

**The Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1 and Savings) (Scotland) Order 2007**

*Made* - - - - *16th January 2007*  
*Coming into force* - - *28th January 2007*

The Scottish Ministers, in exercise of the powers conferred by sections 195(1) and 199(1) of the Health and Social Care (Community Health and Standards) Act 2003(1) and of all other powers enabling them in that behalf and with the consent of the Secretary of State in terms of section 199(2) (c)(ii) of that Act, hereby make the following Order:

**Citation, commencement, interpretation and extent**

1.—(1) This Order may be cited as the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1 and Savings) (Scotland) Order 2007, and shall come into force on 28th January 2007.

(2) In this Order—

“the 1988 Act” means the Road Traffic Act 1988(2);

“the 1999 Act” means the Road Traffic (NHS Charges) Act 1999(3); and

“the Act” means the Health and Social Care (Community Health and Standards) Act 2003.

(3) This Order extends to Scotland only.

**Appointed day for provisions relating to recovery of NHS charges and repeals relating to recovery of NHS charges**

2.—(1) 28th January 2007 is the appointed day for the coming into force of section 150(1) to (7) and (10) to (14) of the Act in so far as it is not already in force(4).

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(1) 2003 c. 43. Section 199(2) defines “the appropriate authority”.

(2) 1988 c. 52.

(3) 1999 c. 3.

(4) Section 199(4) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) commenced section 150 of the Act on Royal Assent for the purpose of making regulations.

(2) 29th January 2007 is the appointed day for the coming into force of the following provisions of the Act in so far as they are not already in force<sup>(5)</sup>—

- (a) sections 151 to 162<sup>(6)</sup>;
- (b) section 163(1) and (2);
- (c) section 164;
- (d) sections 166 to 169;
- (e) section 196 so far as relating to the repeals in Part 3 of Schedule 14;
- (f) Schedule 10; and
- (g) part 3 of Schedule 14.

### **Saving provisions**

**3.**—(1) Notwithstanding article 2 above, the 1999 Act, and the powers to make regulations under it, shall continue to have effect in relation to injuries to which it applied which occurred before 29th January 2007.

(2) Where the 1999 Act continues to apply in accordance with paragraph (1)—

- (a) section 145(6) of the 1988 Act;
- (b) paragraph 56(e) of Part 2 of Schedule 1 to the Tribunals and Inquiries Act 1992<sup>(7)</sup>; and
- (c) section 20(3) of the Community Care and Health (Scotland) Act 2002<sup>(8)</sup>,

shall be read as if the repeals relating to that section in Part 3 of Schedule 14 to the Act had not been made.

St Andrew's House,  
Edinburgh  
16th January 2007

*ANDREW P KERR*  
A member of the Scottish Executive

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(5) Section 199(4) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) commenced section 151, 153, 156 to 158, 160, 162 to 164 of the Act on Royal Assent for the purpose of making regulations.

(6) Section 153(a) is amended by section 73 of the Health Act 2006 (c. 28). Section 73 of that Act is commenced for Scotland on 29th January 2007 by the Health Act 2006 (Commencement No. 1) (Scotland) Order 2007 (S.S.I. 2007/9).

(7) 1992 c. 53.

(8) 2002 asp 5.

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## EXPLANATORY NOTE

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

This Order is a commencement order under the Health and Social Care (Community Health and Standards) Act 2003 (“the Act”). It provides for the coming into force in Scotland of certain provisions of Part 3 of the Act providing for the NHS to recover the costs of hospital treatment and/or ambulance services where people receive compensation for injuries.

Article 2(1) commences section 150 of the Act (which sets out the circumstances in which NHS costs can be recovered) on 28th January 2007. Section 150(13) of the Act provides that the scheme will apply only to injuries which take place after section 150 comes into force. Article 2(2) accordingly commences all other sections in Part 3 applying to Scotland (except section 165 which contains the power to extend the scheme for the recovery of NHS costs to cases in which treatment has been provided at a non-health service hospital) on 29th January 2007. The scheme provided for in Part 3 of the Act will thus apply to injuries which take place on or after 29th January 2007.

Article 2(2) also commences the repeal of the Road Traffic (NHS Charges) Act 1999 (“the 1999 Act”) which contains the current scheme for the recovery of NHS charges for road traffic cases and consequential repeals.

Article 3 contains savings provisions in relation to the 1999 Act, and consequential repeals, which will continue to apply in respect of injuries which occur before 29th January 2007.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The provisions of the Health and Social Care (Community Health and Standards) Act 2003 (“the Act”) listed in the table below extending to Scotland have been brought into force by a commencement order made before the date of this Order.

Other provisions of the Act relating to England, Wales and Northern Ireland have been brought into force by other commencement orders.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 185	12.8.05 (partially) and 7.10.05 (partially)	<a href="#">2005/2278</a>
Sections 187 and 188	19.10.2004	<a href="#">2004/2626</a>
Section 196	7.10.2005 (partially)	<a href="#">2005/2278</a>
Schedule 12	19.10.2004s	<a href="#">2004/2626</a>