

1990 No. 1793 (C.47) (S.172)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service and Community Care Act
1990 (Commencement No.3 and Transitional Provisions)
(Scotland) Order 1990**

Made - - - - *28th August 1990*

The Secretary of State, in exercise of the powers conferred upon him by section 67(2) and (3) of the National Health Service and Community Care Act 1990(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the National Health Service and Community Care Act 1990 (Commencement No. 3 and Transitional Provisions) (Scotland) Order 1990.

(2) In this Order—

- (a) “the Act” means the National Health Service and Community Care Act 1990;
- (b) “the 1978 Act” means the National Health Service (Scotland) Act 1978(b);

(3) In this Order, unless the context requires otherwise, any reference to a section is to a section of the Act and reference to a Schedule is to a Schedule to this Order.

Appointed days

2.—(1) 17th September 1990 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of Schedule I.

(2) 1st January 1991 is the day appointed for the coming into force of sections 38 (Scottish Medical Practices Committee) and 39 (Distribution of general medical services) and section 66(2) and Schedule 10 to the Act insofar as they relate to the repeal of section 23(7) of the 1978 Act.

(3) 31st March 1991 is the day appointed for the coming into force of sub-sections (1) and (2) of section 27 so far as those provisions have effect in relation to members of a Health Board or the management committee of the Common Services Agency for the Scottish Health Service.

(4) 1st April 1991 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of Schedule II.

(5) 31st March 1992 is the day appointed for the coming into force of sub-sections (1) and (2) of section 27 insofar as not already in force.

(6) 1st April 1992 is the day appointed for the coming into force of section 35.

Transitional provisions

3. Where, prior to 1st January 1991, the Medical Practices Committee has refused an application made under section 20 of the 1978 Act or has granted such an application subject

(a) 1990 c.19.
(b) 1978 c.29.

to a condition which excludes the provision of general medical services in a part or parts of the area of a Health Board, sections 23(5), (7) and (8) and 24 of the 1978 Act shall, in relation to that refusal or grant, have effect as if section 39(4) to (7) of the Act had not come into force.

St Andrew's House, Edinburgh
28th August 1990

Sanderson of Bowden
Minister of State
Scottish Office

SCHEDULE I

Article 2(1)

PROVISIONS OF THE ACT COMING INTO FORCE ON 17TH SEPTEMBER 1990

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In Section 27—subsection (3)	Health Boards, the Common Services Agency and state hospitals
Section 28	Special Health Boards
Section 29 insofar as not already in force	Abolition of Scottish Health Service Planning Council and amendments in relation to local consultation committees
Section 34 in relation to the provisions of section 87A and of section 87B(1) (insofar as section 87B(1) provides for the meaning of “recognised fund—holding practice” and “allotted sum”), to be inserted into the 1978 Act	Fund-holding practices—recognition
In section 36, subsection (2) to (8)	Accounts and audit of NHS trust and fund-holding practices
Section 37	Relationship of Health Boards and medical practitioners (references to ‘relevant Health Board’)
Section 40	Limitations on the right to be included in the list of dental practitioners
Section 41	Schemes for meeting losses and liabilities etc. of certain health service bodies
Section 66(1) so far as it relates to the provisions of Schedule 9 to the Act referred to in this Schedule	Minor and consequential amendments
Section 66(2) so far as it relates to repeal of those enactments specified in Schedule 10 to the Act referred to in this Schedule	Repeals
Schedule 5	Amendments in relation to Health Boards, the Common Services Agency and state hospitals
Schedule 9 insofar as it relates to the following provisions of paragraph 19:— sub-paragraphs (1) to (3), (6), (7)(insofar as not already in force), (8), (15), (20) and (22)(a) and (e).	Minor and consequential amendments
Schedule 10 in so far as it relates to the following enactments —	Repeals In the 1978 Act, sections 5 and 6, 10(4), 85(1)(a), 108(1), and Schedule 3 In the Health and Medicines Act 1988(a) Schedule 2, paragraph 11

SCHEDULE II

Article 2(4)

PROVISIONS OF THE ACT COMING INTO FORCE ON 1ST APRIL 1991

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
Section 30	NHS Contracts
Section 34, insofar as not already in force	Fund-holding practices of general medical practitioners
Section 66(1) and Schedule 9 insofar as they relate to Paragraph 19(22)(c) (insofar as not already in force) and (23)	Minor and consequential amendments
Section 66(2) and Schedule 10 insofar as they relate to sections 7(2) and 57(3) of the 1978 Act	Repeals

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on various dates provisions of Part II (the National Health Service: Scotland) and Part V (Miscellaneous and General) of, and of Schedules 5, 9 and 10 to, the National Health Service and Community Care Act 1990 relating to Scotland. The Order also contains a transitional provision relative to appeals from certain decisions of the Scottish Medical Practices Committee made before 1st January 1991.

The provisions are brought into force on 17th September 1990 and 1st January, 31st March and 1st April 1991 and 31st March and 1st April 1992.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

This Order has been preceded by two earlier Orders entitled respectively The National Health Service and Community Care Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1329) commencing provisions of Parts I and V of the Act relating to England and Wales and The National Health Service and Community Care Act 1990 (Commencement No 2) (Scotland) Order 1990 (S.I. 1990/1520) commencing certain provisions of Parts II and V of, and Schedules 6, 9 and 10 to, the Act relating to Scotland.

These Orders made respectively on 2nd and 18th July 1990, brought into force at various dates, both before and after the date of this Order, provisions of Parts I, II and V of, and of Schedules 1 to 6 and 8 to 10 to, the National Health Service and Community Care Act 1990.

The following Tables of this Note set out in chronological order the provisions of the Act, the subject matter of the provisions, the dates of coming into force and the number of the order bringing the provisions into force, as provided in those earlier commencement orders. In the Tables references to "the 1977 Act" are to the National Health Service Act 1977, and to "the 1978 Act" are to the National Health Service (Scotland) Act 1978.

TABLE A

PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 5TH JULY 1990 BY S.I. 1990/1329

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In section 1—subsection (1)(c)	Regional and District Health Authorities
In section 2—subsection (3)(b)	Family Health Services Authorities
Section 5	NHS trusts
Section 6	Transfer of staff to NHS trusts
Section 7	Supplementary provisions as to transfer of staff
Section 8	Transfer of property, rights and liabilities to NHS trusts
Section 9	Originating capital debt of, and other financial provisions relating to NHS trusts
Section 10	Financial obligations of NHS trusts
Section 11	Trust-funds and trustees for NHS trusts
In section 20—subsection (1) so far as it relates to paragraph 4 of Schedule 4 and subsections (4), (5), (6) and (7)	Extension of functions etc. of Audit Commission to cover the health service
In section 26—subsection (1) and in subsection (2) paragraphs (a), (c), (d) so far as it relates to the definition of “National Health Service trust”, (e), (g) and (i)	Interpretation of Part 1 of the Act
In section 59—subsection (2)	Parliamentary disqualification
Section 64	Financial provisions
Section 65	Regulations, orders and directions
Section 66(1) and Schedule 9 so far as relating to the following provisions of that Schedule:—paragraphs 2, 5(4), 6, 7, 8, 9, 13, 17, 18(1)(b) and (3) to (13), 20, 21(a) and (b), 22, 23, 24(1), (2), (3)(a) and (b), (4), (5) and (7) to (9), 26, 27, 29, 30(1)(a) and (2), 31, 32, 33, 35, 36 and 37	Minor and consequential amendments
Section 66(2) and Schedule 10 so far as relating to the following enactments:—sections 8(5) and 10(7) of the 1977 Act	Repeals
Schedule 2	National Health Service trusts
Schedule 3	Financial provisions relating to NHS trusts
In Schedule 4—paragraph 4	Amendment of section 14 of the Local Government Finance Act 1982

TABLE B

**PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 24TH JULY 1990
BY S.I. 1990/1520**

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In section 29, sub-section (3)(a), (b) and (c) and (4)	Local health councils and University Liaison Committees
Section 31	National Health Service trusts
Section 32	Further provisions relating to NHS trusts
Section 33	Trust property of NHS trusts
Section 66(1) so far as it relates to the following provisions of Schedule 9:— paragraphs 1, 3, 4, 10(12) and (14)(b), 14, 19(4), (5), (7)(a)(ii), (9) to (14), (16) to (19), (21), (22)(b), (c) (so far as it relates to the definition of “National Health Service trust”) and (d) and (24), 21(c) and 28	Minor and consequential amendments
Schedule 6	Schedules about NHS trusts to be inserted after Schedule 7 to the 1978 Act.

TABLE C

PROVISIONS OF THE ACT BROUGHT INTO FORCE ON VARIOUS DATES
FROM 25TH JULY to 16TH SEPTEMBER 1990 BY S.I. 1990/1329

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Date brought into force</i>
In section 1—subsections (4)(a) and (5)	Members of Health Authorities to cease to be members (so far as relating to Regional Health Authorities)	25th July 1990
In section 1—subsection (1)(a)	Regional and District Health Authorities (so far as relating to Regional Health Authorities)	26th July 1990
In section 1—subsection (2)	Membership of Health Authorities (so far as relating to paragraph 1 of Schedule 1 and to paragraph 1 of Schedule 5 to the 1977 Act)	26th July 1990
In section 1—subsection (3)	Supplementary provisions as to Health Authorities (so far as relating to paragraphs 6, 8 and 9 of Schedule 1 to the Act and paragraphs 7 and 10 of that Schedule so far as relating to Regional Health Authorities)	26th July 1990
In section 59—subsection 1	Parliamentary Disqualification (so far as relating to Regional Health Authorities)	26th July 1990
In Schedule 1— paragraph 1	Health Authorities and Family Health Services Authorities Membership of Regional Health Authorities	26th July 1990
paragraphs 6, 8 and 9, and, in so far as relating to Regional Health Authorities, paragraphs 7 and 10	Amendments of Part III of Schedule 5 to the 1977 Act	26th July 1990
In section 1—subsections (4) and (5) insofar as not already in force	Membership of Health Authorities	16th September 1990
In section 2—subsection (5)	Members of Family Practitioner Committees ceasing to be members	16th September 1990

TABLE D
PROVISIONS OF THE ACT COMING INTO FORCE ON 17TH SEPTEMBER
1990 BY S.I. 1990/1329

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
Section 1	Regional and District Health Authorities
Section 2	Family Health Services Authorities
In section 3—subsections (3) and (4)	Exercise of functions by health authorities etc.
In section 12—subsections (1), (2), (3) and (5)	Functions of Family Health Services Authorities
Section 14	Recognition of fund-holding practices of doctors
Section 21	Schemes for meeting losses and liabilities etc.
Section 24	Limitations on right to be included on list of dental practitioners
In section 26—subsection (2)(b) and (f)	Interpretation of Part I of the Act
In section 59—subsection (1)	Parliamentary Disqualification
Section 61	Health service bodies: taxation
Section 62	Clinical Standards Advisory Group
Section 66(1) so far as it relates to paragraphs 18(1)(a) and (c) and (2), 24(3)(c) and 34 of Schedule 9	Minor and consequential amendments
Schedule 1	Health Authorities and Family Health Services Authorities
Section 66(2) and Schedule 10 so far as they relate to the following enactments—	Repeals
Sections 8(1) to (3), 11(1), 12(a), 13(1), 14, 16, 18(3), 41(b), 55, 91(3)(b), 97(6) and 99(1)(b) of and paragraph 8 of Schedule 5 to the 1977 Act	
Section 22 of and Schedule 1 to the Health Services Act 1980	
The Public Health (Control of Disease) Act 1984	

TABLE E

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st OCTOBER 1990
and 1ST JANUARY 1991 BY VIRTUE OF S.I. 1990/1329

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Date brought into force</i>
Section 20	Extension of functions of the Audit Commission	1st October 1990
Section 66(2) and Schedule 10	Repeals	1st October 1990
Section 98(1)(b) and (3) of the 1977 Act and the Local Government and Housing Act 1989		
Schedule 4	Amendments of Part III of the Local Government Finance Act 1982	1st October 1990
In section 12—subsection 4	Recognition of certain local committees	1st January 1991
Section 22	Medical Practices Committee	1st January 1991
Section 23	Distribution of general medical services	1st January 1991
Section 66(2) and Schedule 10 so far as relating to section 33(7) of the 1977 Act	Repeals	1st January 1991

TABLE F

PROVISIONS OF THE ACT COMING INTO FORCE ON 1ST APRIL 1991 BY
VIRTUE OF S.I. 1990/1329

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In section 3—subsections (1), (2) and (5) to (8)	Primary and other functions of health authorities etc.
Section 4	NHS contracts
Section 13	Financial duties in relation to Family Health Services Authorities
Section 15	Payments to recognised fund-holding practices
Section 16	Renunciation and removal of recognition as a fund-holding practice and withholding of funds
Section 17	Transfer of functions relating to recognised fund-holding practices
Section 18	Indicative amounts for doctors' practices
Section 19	Amendments relating to funding of health authorities etc.
Section 25	Transfer to DHA of certain functions relating to private patients
Section 26	Interpretation of Part I, so far as not already in force
Section 60	Removal of Crown immunities
Section 63	Repeal of remaining provisions of Health Services Act 1976
Section 66(2) and Schedule 10 so far as they relate to the following enactments—	Repeals
The Nursing Homes Registration (Scotland) Act 1938	
The Fire Precautions Act 1971	
The Health Services Act 1976	
Paragraph 15(2) of Schedule 5 to the 1977 Act	
Sections 2(9) and 10(9) of the National Health Service (Scotland) Act 1978	
The Employment Protection (Consolidation) Act 1978	
Sections 12 to 15 of and Schedules 2, 3 and 4 to the Health Services Act 1980	
The Registered Homes Act 1984	
The National Health Service (Amendment) Act 1986	
Schedule 8	Provisions arising out of removal of Crown immunities from health service bodies

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