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STATUTORY INSTRUMENTS

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**1991 No. 607 (C. 13) (S. 62)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

The National Health Service and Community  
Care Act 1990 (Commencement No.8 and  
Transitional Provisions) (Scotland) Order 1991

Made - - - - 8th March 1991

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(1), 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.8 and Transitional Provisions) (Scotland) Order 1991.

(2) In this Order—

- (a) “the Act” means the National Health Service and Community Care Act 1990; and
- (b) “the 1978 Act” means the National Health Service (Scotland) Act 1978(2);
- (c) “the Medical Practices Committee” means the Scottish Medical Practices Committee constituted under section 3 of the 1978 Act.

**Appointed day**

2. 1st April 1991 is the day appointed for the coming into force of—

- (a) section 38 of the Act (Scottish Medical Practices Committee);
- (b) section 39 of the Act (Distribution of general medical services) except sub-section (4) insofar as it has effect to repeal the second paragraph of section 23(5) of the 1978 Act (exclusive of right of appeal against refusal of an application to provide general medical services on certain grounds); and
- (c) sub-section (3) of section 59 of the Act (Parliamentary disqualification).

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(1) 1990 c. 19.  
(2) 1978 c. 29.

### Transitional provisions

3.—(1) The amendments to section 23 of the 1978 Act made by section 39(2) of the Act shall not have effect in relation to the making of, or the determination by the Medical Practices Committee of, an application under section 20 of the 1978 Act which—

- (a) is made before, but is not determined by the Medical Practices Committee before, 1st April 1991; or
- (b) is made on or after that date in relation to a vacancy arising from the death of a doctor or the withdrawal of a doctor from the medical list as respect which notice was first given pursuant to regulation 7(2) of the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974<sup>(3)</sup> before that date.

(2) Where the Medical Practices Committee has determined an application under section 20 of the 1978 Act—

- (a) which was made before 1st April 1991 pursuant to regulation 6(1) of those Regulations; or
- (b) pursuant to regulations 7(2) and 8 of those Regulations, in relation to a vacancy as respects which notice was first given under regulation 7(2) of those Regulations before 1st April 1991,
- (c) pursuant to regulation 12 of those regulations in relation to a vacancy in respect of which an application was received before that date,

sections 23(5), (7) and (8) and 24 of the 1978 Act shall, subject to paragraph (3) of this article, have effect from that date in relation to any appeal from that determination as if section 39(4) to (7) of the Act had not come into force.

(3) In relation to the determination of any appeal to which paragraph (2) of this article applies, section 23(5) of the 1978 Act shall have effect subject to the modification that, for the words from “either unconditionally” to “specify” there shall be substituted the words

“, in which case—

- (a) the Medical Practices Committee shall grant the application subject to such further condition as the Secretary of State may specify; and
- (b) subsection (4)(a) shall apply to the granting of the application following the appeal as it applies to the granting of an application in the first instance.”.

St. Andrew’s House,  
Edinburgh  
8th March 1991

*Michael B. Forsyth*  
Minister of State, Scottish Office

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(3) S.I. 1974/506; the relevant amending instruments are S.I. 1985/1625 and 1989/1990.

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## EXPLANATORY NOTE

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

Article 2 of this Order brings into force on 1st April 1991 section 38 of the National Health Service and Community Care Act 1990 (“the 1990 Act”), which makes provision in relation to the Scottish Medical Practices Committee section 39 of the Act, which makes provisions in relation to the selection of general medical practitioners, conditions in relation to their hours of work and job-sharing and appeals and sub-section (3) of section 59 which extends the application of the House of Commons Disqualification Act 1975 (c. 24) to chairmen and members (not being also employees) of Health Boards, the Common Services Agency and the Management Committee of a state hospital. Section 39(4) of the 1990 Act is not brought into force in so far as that sub-section repeals words in section 23(5) of the National Health Service (Scotland) Act 1978 which preclude a right of appeal to the Secretary of State where an application for inclusion in a medical list is refused on the ground that the applicant is not suitably experienced or is over the age at which doctors must retire.

Article 3 of this Order contains transitional provisions in connection with the coming into force of section 39 of the 1990 Act as it relates to the determination of applications for inclusion in a medical list and of appeals from such determinations.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

This Order has been preceded by seven earlier Orders entitled respectively the National Health Service and Community Care Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1329) commencing provisions in Parts I and V of the Act relating to England and Wales, 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, the National Health Service and Community Care Act (Commencement No.3 and Transitional Provisions) (Scotland) Order 1990 (S.I. 1990/1793) commencing certain provisions of Parts II and V of, and Schedules 5, 9 and 10 to, the Act relating to Scotland, the National Health Service and Community Care Act 1990 (Commencement No.4 and Transitional Provision) Order 1990 (S.I. 1990/2218) commencing certain provisions of Parts 111 and V of, and Schedules 9 and 10 to, the Act relating to England and Wales, the National Health Service and Community Care Act 1990 (Commencement No.5 and Revocation) (Scotland) Order 1990 (S.I. 1990/2510) commencing certain provisions of Parts IV and V of, and Schedules 9 and 10 to, the Act relating to Scotland and revoking two provisions of S.I. 1990/1793, the National Health Service and Community Care Act 1990 (Commencement No.6 Amendment, and Transitional and Saving Provisions) Order 1990 (S.I. 1990/2511) amending these provisions of S.I. 1990/1329 and commencing provision of Part I of the Act relating to England and Wales and the National Health Service and Community Care Act 1990 (Commencement No.7) Order 1991 (S.I. 1991/388) which brought into force in relation to England and Wales certain provisions of section 4 of the Act.

These Orders, made respectively on 2nd and 18th July 1990, 28th August 1990, 7th November 1990 and 7th & 8th December 1990 and 28th February 1991 brought into force at various dates, both before and after the date of this Order, provisions of Parts I, II, III and IV and V of, of and Schedules 1 to 10 to, the National Health Service and Community Care Act 1990.

A list of the various provisions of the Act which have been the subject of earlier commencement orders, including details of the subject matter of those provisions, the dates of their coming into

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force and the numbers of the relevant commencement orders, may be obtained free of charge on application to the Scottish Office Home and Health Department at Room 3/54, New St Andrew's House, St James Centre, Edinburgh EH1 3TE.