SCOTTISH STATUTORY INSTRUMENTS

2002 No. 534

NATIONAL HEALTH SERVICE

The NHS Quality Improvement Scotland Order 2002

Made - - - - 30th November 2002
Laid before the Scottish Parliament - - - - 2nd December 2002
Coming into force in accordance with article 1(2) and (3)

The Scottish Ministers, in exercise of the powers conferred by sections 2(1)(b), (1A), (1B) and (1C) and 105(6) and (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.—(1) This Order may be cited as the NHS Quality Improvement Scotland Order 2002.

(2) This Order, except for article 7, shall come into force 1st January 2003.

(3) Article 7 of this Order shall come into force on 2nd January 2003.

Interpretation

2. For the purposes of this Order–

"the Act" means the National Health Service (Scotland) Act 1978;

"the Board" means the Special Health Board, to be known by the name of NHS Quality Improvement Scotland, which is constituted by this Order.

Constitution, name and area of the Board

3. There is hereby constituted a Special Health Board for the whole of Scotland to be known as NHS Quality Improvement Scotland.

(**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, and by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 28 which inserted sub-sections (1)(b), (1A), (1B) and (1C); section 105(7) was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), Schedule 6, paragraph 5(1) and Schedule 7, the 1983 Act, Schedule 9, paragraph 24, and the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 60. 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).

Functions of the Board

4.—(1) The Board shall exercise the following functions of the Scottish Ministers:–

(a) functions in relation to–

(i) supporting, ensuring and monitoring the quality of healthcare provided by the National Health Service in Scotland including without prejudice to the foregoing generality, providing quality assurance and accreditation; and

(ii) the evaluation and provision of advice to the National Health Service in Scotland on the clinical and cost effectiveness of new and existing health technologies including drugs,

conferred on them by the Act including, without prejudice to the foregoing generality, those specified in section 1(1) of the Act; and

(b) functions specified in paragraph (2) subject, however, to any limitations specified.

(2) The functions specified in this paragraph are as follows:–

(a) the power of the Scottish Ministers under section 16(1) of the Act to assist voluntary organisations whose activities include the provisions of a service similar or related to the functions of the Board;

(b) the power of the Scottish Ministers under section 16B(**2**) of the Act to give financial assistance to voluntary organisations limited to assistance to such organisations whose activities consist of or include the provision of services similar to or related to the functions of the Board or for the provision of which the Board is under a duty to make arrangements and such assistance shall be given on such terms and conditions as the Scottish Ministers determine;

(c) the power of the Scottish Ministers under section 42 of the Act to disseminate information relating to the promotion and maintenance of health and the prevention of illness;

(d) the duty of the Scottish Ministers under section 47 of the Act to make available such facilities reasonably necessary for undergraduate and post-graduate clinical teaching and research and for the education and training of persons providing or intending to provide services under the Act and to conduct or assist by grants or otherwise under that section research into any matters relating to the functions of the Board;

(e) the powers of the Scottish Ministers under section 79(1) of the Act(**3**) to take on lease or to purchase moveable property and land so far as required for the purposes of the Board and to use for those purposes and manage any heritable or moveable property so acquired;

(f) the powers of the Scottish Ministers under sub section (1A) of section 79 of the Act(**4**) to dispose of land no longer required for the purposes of the Board;

(g) the power of the Scottish Ministers under paragraph 4 of Schedule 1(**5**) to the Act, as applied in relation to the Board by article 5, to pay remuneration to the Chairman of the Board and to such other members thereof as may be prescribed but excluding the power to determine the remuneration or to prescribe the members to whom it may be paid; and

(h) the power of the Scottish Ministers under paragraph 13 of Schedule 1 to the Act, as applied in relation to the Board by article 5, to pay to members of the Board, and any committees and sub-committees thereof, travelling and other allowances but excluding the power to determine the amount of such allowances.

(**2**) Section 16B was inserted by the 1983 Act, section 3.
(**3**) Section 79(1) was amended by the 1990 Act, Schedule 9, paragraph 19(15)(a).
(**4**) Section 79(1A) was inserted by the 1983 Act, Schedule 7, paragraph 3, and repealed in part by the Requirements of Writing (Scotland) Act 1995 ("the 1995 Act") (c.7), section 14(2) and Schedule 5.
(**5**) Paragraph 4 of Schedule 1 was amended by the 1990 Act, Schedule 5, paragraph 3.

(3) In exercising any functions of the Scottish Ministers to acquire, use, manage or dispose of land the Board shall ensure–

(a) that any instrument in connection with the exercise of those functions is in the name of Scottish Ministers and not that of the Board; and

(b) that, where any such instrument requires to be executed on behalf of the Scottish Ministers and it is not executed in accordance with section 1(8) of the Reorganisation of Offices (Scotland) Act 1939(**6**), it is executed on their behalf in accordance with paragraph 6 of Schedule 2 to the Requirements of Writing (Scotland) Act 1995(**7**).

(4) Nothing in this Order shall prevent or restrict any of the following from exercising any function under the Act:–

(a) the Scottish Ministers;

(b) any Health Board;

(c) any other Special Health Board; or

(d) the Agency.

Applications of Enactments

5.—(1) Each of the enactments specified in column 1 of each Part of the Schedule (the subject matter of which is described generally in column 2) shall apply in relation to the Board as it applies in relation to Health Boards subject, however, to the modifications and limitations (if any) specified opposite thereto in column 3 and to paragraph (2).

(2) The enactments which are applied in relation to the Board by virtue of paragraph (1) are so applied only for the purposes of the exercise by the Board of the functions conferred on it by this Order.

Transfer of Property

6. On 1st January 2003, all property and liabilities vested in the Clinical Standards Board for Scotland(**8**) and the Health Technology Board for Scotland(**9**) shall transfer to and vest in the Board.

Dissolution and Revocation

7.—(1) The Clinical Standards Board for Scotland and the Health Technology Board for Scotland are hereby dissolved.

(2) The Clinical Standards Board for Scotland Order 1999(**10**) and the Health Technology Board for Scotland Order 2000(**11**) are hereby revoked.

St Andrew's House,
Edinburgh
30th November 2002

MALCOLM CHISHOLM
A member of the Scottish Executive

(**6**) 1939 c. 20; section 1(8) was amended by the 1995 Act, Schedule 5.
(**7**) 1995 c. 7.
(**8**) Established by article 3 of the Clinical Standards Board for Scotland Order 1999 (S.I.1999/726).
(**9**) Established by article 3 of the Health Technology Board for Scotland Order 2000 (S.S.I. 2000/47).
(**10**) S.I. 1999/726.
(**11**) S.S.I. 2000/47.

SCHEDULE Article 5(1)

ENACTMENTS APPLIED TO THE BOARD

PART I

THE ACT

Column 1 *Enactment*	*Column 2* *Nature of Provision*	*Column 3* *Modifications and Limitations (where applicable)*
In the Act–		
In Part I		
In section 2–	Health Boards	
Sub section (3)	Variation of area and functions of Health Board	
Sub section (4)	Provisions incidental to variation of area or functions of Health Boards	
Sub section (5)	Health Boards to act in accordance with regulations or directions(**12**)	
Sub section (8)	Health Board to act as principal	
In section 10–	Common Services Agency	
Sub section (4)	Power to provide that functions of Health Boards may be referred to the Agency(**13**)	
Section 13	Co-operation between Health Boards and other Authorities(**14**)	
Section 13A	Co operation in planning of services for disabled persons, the elderly and others(**15**)	
Section 15–		
Sub-section (1)(b)	Supply of goods to local and education authorities and other public bodies	

(**12**) Section 2(5) was amended by the 1990 Act, Schedule 9, paragraph 19(1).
(**13**) Section 10(4) was amended by the 1990 Act, Schedule 10 and by the 1999 Act, Schedule 4, paragraph 44.
(**14**) Section 13 was amended by the 1990 Act, Schedule 9, paragraph 19(4).
(**15**) Section 13A was inserted by the National Health Service (Amendment) Act 1986 (c. 66) Section 5(1) and amended by the 1990 Act, Schedule 9, paragraph 19(5).

Column 1 *Enactment*	*Column 2* *Nature of Provision*	*Column 3* *Modifications and Limitations (where applicable)*
Sub-section (1)(c)	Provision of services to local and education authorities(**16**)	
Sub-section (1)(d)	Use of health service premises by local and education authorities	
Sub-section (1)(e)	Use of health service vehicles etc. by local and education authorities	
Sub-section (2)	Arrangements with third parties for the supply of goods and materials	Applied so far as it relates to sub section (1)(b)
Section 17A	Power to enter into arrangements with NHS bodies for the provision of goods and services ("NHS contracts")(**17**)	
In Part IV		
Section 77	Default powers(**18**)	
In Part V		
In section 79–		
Sub section (1A)	Power of the Scottish Ministers to dispose of land(**19**)	
Sub section (3)	Power to acquire moveable property on behalf of the Scottish Ministers	
In section 83–		
Sub section (1)	Power to hold property on trust	
Section 84	Power to trustees to make payments to Health Boards(**20**)	
Section 84A	Power to raise money and property by appeals, collections and other similar activities(**21**)	

(**16**) Section 15 (1)(c) was amended by the 1980 Act, section 3(2).
(**17**) Section 17A was inserted by the 1990 Act, section 30 and amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 102 and amended by the 1999 Act, Schedule 4, paragraph 46.
(**18**) Section 77 was amended by the 1990 Act, Schedule 9, paragraph 19(14).
(**19**) Section 79(1A) was inserted by section 14(2) and Schedule 7, paragraph 3 of the 1983 Act and was repealed in part by the 1995 Act, section 14(2) and Schedule 5.
(**20**) Section 84 was amended by the 1990 Act, Schedule 9, paragraph 19(10).
(**21**) Section 84A was inserted by the 1980 Act, section 5(2) and amended by the 1990 Act, Schedule 9, paragraph 19(17).