SCOTTISH STATUTORY INSTRUMENTS

1999 No. 56

NATIONAL HEALTH SERVICE

The Health Act 1999 (Fund-Holding Practices) (Transfer of Assets, Savings, Rights and Liabilities and Transitional Provisions) (Scotland) Order 1999

Made - - - -	*8th September 1999*
Laid before the Scottish Parliament - - - -	*10th September 1999*
Coming into force - -	*1st October 1999*

The Scottish Ministers, in exercise of the powers conferred on them by section 63 of the Health Act 1999(**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 Health Act 1999 (Funding-Holding Practices) (Transfer of Assets, Savings, Rights and Liabilities and Transitional Provisions) (Scotland) Order 1999 and shall come into force on 1st October 1999.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

"the 1978 Act" means the National Health Service (Scotland) Act 1978(**2**);

"the 1997 Regulations" means the National Health Service (Fund-Holding Practices) (Scotland) Regulations 1997(**3**);

"allotted sum" means any sum payable by a Board under section 87B of the 1978 Act(**4**);

"former members of a fund-holding practice" means those who were involved in one of the regulated fund-holding schemes at any time from 1st April 1991 to 31st March 1999;

(**1**) 1999 c. 8; section 63 is to be read with section 45 of the Health Act 1999 ("the 1999 Act"). 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**) 1978 c. 29.
(**3**) S.I.1997/1014, amended by S.I.1998/658 and 1999/365.
(**4**) Section 87B was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 34 and amended by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 54, and is repealed by section 45 of the 1999 Act.

"former members of a residual fund-holding practice" means those who were former members of a fund-holding practice and who joined the residual fund-holding scheme on 1st April 1999;

"fund-holding account" means a bank account maintained by the former members of a fund-holding practice or of a residual fund-holding practice for the purpose of receiving an allotted sum or any part of it;

"part financial year 1999-2000" means the period of the financial year 1999-2000 from 1st April 1999 until 30th September 1999 inclusive.

(2) In this Order, any reference to a Board is a reference to the relevant Health Board, as defined in section 19(8) of the 1978 Act.

(3) Any reference in this Order to a numbered article is a reference to the article bearing that number in this Order.

Transfer of allotted sums

3.—(1) Any allotted sum, or any remaining part of it, for the part financial year 1999-2000 or any previous year, whether held by the former members of a residual fund-holding practice or by the Board on behalf of the former members of a fund-holding practice, shall on 1st October 1999 be transferred to the Board.

(2) On 1st October 1999 the Board shall be substituted as the account holder of the fund-holding account.

(3) The Board shall deal with an allotted sum transferred under paragraph (2) in accordance with articles 5 and 6.

Transfer of rights and liabilities

4.—(1) Subject to the following paragraphs of this article—

(a) any rights to which the former members of a residual fund-holding practice were entitled, or which were enforceable by them, immediately before 1st October 1999; and

(b) any liabilities to which such former members were subject, or which were enforceable against them immediately before that date,

and which were acquired or incurred in connection with the application of an allotted sum, shall on that date be transferred to or, as the case may be, shall on and after that date be enforceable by or against, the Board.

(2) Paragraph (1) shall not apply to any rights or liabilities incurred in connection with—

(a) the spending of savings in accordance with regulation 22 of the 1997 Regulations as that regulation had effect on the day the savings were spent; or

(b) the application of the allotted sum for the purpose of—

(i) the purchase of goods and materials for the use of the former fund-holding practice, including support and maintenance contracts relating to computers or office equipment;

(ii) payments under leasing and hire purchase agreements for the purchase of goods and materials, including equipment.

(3) Paragraph (1) shall not apply to rights or liabilities relating to any contract of employment.

(4) Nothing in this article shall affect the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981(**5**).

(**5**) S.I.1981/1794.