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STATUTORY INSTRUMENTS

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**2006 No. 3338**

**CONSTITUTIONAL LAW  
DEVOLUTION, SCOTLAND  
NATIONAL HEALTH SERVICE**

The Scotland Act 1998 (Agency Arrangements)  
(Specification) (No. 3) Order 2006

*Made* - - - - *14th December 2006*  
*22nd December*  
*Laid before Parliament* *2006*  
*Laid before the Scottish* *22nd December*  
*Parliament* - - - - *2006*  
*Coming into force in accordance with Article 1*

At the Court at Buckingham Palace, the 14th day of December 2006

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 93(3) and 113(2), (3) and (4) of the Scotland Act 1998<sup>(1)</sup>, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Scotland Act 1998 (Agency Arrangements) (Specification) (No. 3) Order 2006 and shall come into force on 29th January 2007, immediately after the coming into force of the Amounts Regulations, the General Regulations and the Reviews and Appeals Regulations.

(2) This Order does not extend to Northern Ireland.

**Interpretation**

2. In this Order—

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(1) 1998 c. 46.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“the Act” means the Health and Social Care (Community Health and Standards) Act 2003<sup>(2)</sup>;

“the Amounts Regulations” means the Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006<sup>(3)</sup>;

“the General Regulations” means the Personal Injuries (NHS Charges) (General) (Scotland) Regulations 2006<sup>(4)</sup>;

“the Reviews and Appeals Regulations” means the Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006<sup>(5)</sup>; and

“the Social Security Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999<sup>(6)</sup>.

### **Specification of functions**

**3.** The functions exercisable by the Scottish Ministers under the enactments mentioned in column 1 of the Schedule to this Order (subject to any exceptions or consequential modifications mentioned in the corresponding entry in column 2 of that Schedule) are hereby specified for the purposes of section 93(1) of the Scotland Act 1998.

*Meriel McCullagh*  
Deputy Clerk of the Privy Council

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(2) 2003 c. 43.  
(3) S.S.I. 2006/588.  
(4) S.S.I. 2006/592.  
(5) S.S.I. 2006/593.  
(6) S.I.1999/991.

## SCHEDULE

Article 3

<i>Column 1</i>	<i>Column 2</i>
1. Section 151(1), (2), (5), (6), (7) and (10), of the Act (functions relating to applications for, and the issue of, certificates of NHS charges for the treatment of personal injuries).	
2. Section 152(1), (2), (3)(b), and (4) of the Act (functions relating to applications for, and the issue of, certificates of NHS charges for the treatment of personal injuries).	The duty on Scottish Ministers in subsections (2) and (4) of section 152 shall be treated as performed by the referral by the Secretary of State of the applications referred to in those subsections.
3. Section 152(5) of the Act (functions relating to the issue of certificates of NHS charges for the treatment of personal injuries).	A certificate issued under section 151 of the Act shall be treated for the purposes of subsection (5) of section 152 as having been issued jointly where it is issued by the Secretary of State and by the Secretary of State on behalf of Scottish Ministers.
4. Section 153(3)(c) and (3)(g)(i) of the Act (functions relating to information contained in certificates).	
5. Section 153(11) of the Act (function relating to information contained in certificate).	Not the function of prescribing the particulars of the manner in which any amount (or amounts) specified in the certificate has (or have) been determined, to which a person to whom a certificate is issued is entitled.
6. Section 155(2), (4), (6) and (9) of the Act (functions relating to the recovery of NHS charges for the treatment of personal injuries).	A demand for payment issued under subsection (2) of section 155 shall be treated for the purpose of subsection (4) of that section as having been issued jointly where it is issued by the Secretary of State and by the Secretary of State on behalf of Scottish Ministers.
7. Section 156(1) of the Act (functions relating to the review of certificates of NHS charges for the treatment of personal injuries).	Not the function of prescribing the manner in which notification of the order, judgment, minute or document is to be given to the Scottish Ministers.
8. Section 156(4) of the Act (functions relating to the review of certificates of NHS charges for the treatment of personal injuries).	Not the function of prescribing the period within which or the cases or circumstances in which the Scottish Ministers may review a certificate issued by them.
9. Section 156(3), (5) and (6) of the Act (functions relating to the review of certificates of NHS charges for the treatment of personal injuries).	
10. Section 157(4) and (5) of the Act, (functions relating to waiver decisions and appeals against waiver decisions).	

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<i>Column 1</i>	<i>Column 2</i>
<p><b>11.</b> Section 158(1) and (4) of the Act (functions relating to appeal tribunals).</p>	
<p><b>12.</b> Section 159(2) of the Act (function of making an appeal to a Social Security Commissioner).</p>	
<p><b>13.</b> Section 160(1) of the Act (function of receiving information).</p>	Not the function of prescribing information with respect to the circumstances of the case.
<p><b>14.</b> Section 161(4) and (5) of the Act (functions relating to use of information).</p>	
<p><b>15.</b> Section 162(1) of the Act (functions relating to the payment of NHS charges to hospitals or ambulance trusts).</p>	
<p><b>16.</b> Regulation 5(2), (3) and (4) (functions relating to the apportionment of liability to pay NHS charges) of the Amounts Regulations.</p>	
<p><b>17.</b> Regulation 6(2) and 6(3) (functions relating to the adjustment of amounts specified in a certificate issued by the Scottish Ministers and the Secretary of State) of the Amounts Regulations.</p>	The duty in paragraph (3) of regulation 6 shall be treated as performed by the issue by the Secretary of State of notice of the proposed adjustment referred to in that paragraph.
<p><b>18.</b> Regulation 7(2) (functions relating to the repayment of relevant NHS charges in cases where the person who paid the relevant NHS charges paid more than they ought to have paid) of the Amounts Regulations.</p>	
<p><b>19.</b> Regulation 8(2) and (3) (functions relating to the receipt of relevant NHS charges in cases where the person who paid the relevant NHS charges paid less than they ought to have paid) of the Amounts Regulations.</p>	
<p><b>20.</b> Regulation 9 (function of providing statements to persons paying NHS charges in cases of overpayments and underpayments) of the Amounts Regulations.</p>	
<p><b>21.</b> Regulation 10 (functions relating to the provision of statements to ambulance trusts or responsible bodies in cases of overpayments and underpayments) of the Amounts Regulations.</p>	
<p><b>22.</b> Regulation 2(1) (function of receiving applications for a certificate) of the General Regulations.</p>	
<p><b>23.</b> Regulation 3(1) (functions relating to the reduction of the amount specified in a certificate in cases of contributory negligence) of the General Regulations.</p>	

<i>Column 1</i>	<i>Column 2</i>
<p><b>24.</b> Regulation 5(1), (2), (4) and (5) (functions relating to the receipt of information with respect to an injured person) of the General Regulations.</p> <p><b>25.</b> Regulation 6 (functions relating to the making of payments to hospitals and ambulance trusts) of the General Regulations.</p> <p><b>26.</b> Regulation 8 (functions relating to the repayment of relevant NHS charges in cases where a court has ordered the repayment of an interim payment of damages) of the General Regulations.</p> <p><b>27.</b> Regulation 2 (functions relating to the review of certificates) of the Reviews and Appeals Regulations.</p> <p><b>28.</b> Regulation 3 (function of sending to a person to whom a certificate has been issued, information relating to appeals against certificates) of the Reviews and Appeals Regulations.</p> <p><b>29.</b> Regulation 4(1), (2), (3) and (4) (functions relating to waiver applications and appeals against waiver decisions) of the Reviews and Appeals Regulations.</p> <p><b>30.</b> Regulation 5(1), (2) and (3) (functions relating to appeals against certificates) of the Reviews and Appeals Regulations.</p> <p><b>31.</b> Regulation 6 (functions relating to appeals against certificates) of the Reviews and Appeals Regulations.</p> <p><b>32.</b> Regulation 7(1), (2), (3), (4), (5), (6), (7) and (8) (functions relating to applications for extension of time for appealing against a certificate) of the Reviews and Appeals Regulations.</p> <p><b>33.</b> Regulation 38(2) and (3) (functions relating to the receipt of a direction to comply with the Regulations or to provide particulars or produce documents) of the Social Security Regulations as applied by regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>34.</b> Regulation 39(1) and (3) (functions relating to choice of hearing) of the Social Security Regulations(7) as applied by</p>	

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(7) Provision heading and paragraphs (1) to (4) were amended by S.I. [2004/3368](#).

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<i>Column 1</i>	<i>Column 2</i>
Regulation 8 of the Reviews and Appeals Regulations.	
<p><b>35.</b> Regulation 40 (functions relating to withdrawal of appeal or referral) of the Social Security Regulations(8) as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>36.</b> Regulation 49(2), (3) and (7) (functions relating to procedure at oral hearings) of the Social Security Regulations(9) as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>37.</b> Regulation 51(1), (2) and (4) (functions relating to postponement and adjournment) of the Social Security Regulations as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>38.</b> Regulation 53(3) and (4) (functions relating to decisions of appeal tribunals) of the Social Security Regulations(10) as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>39.</b> Regulation 54(11) and (12) (functions relating to late applications for a statement of reasons of tribunal decision) of the Social Security Regulations(11) as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>40.</b> Regulation 55(4) (function of applying for a copy of the record of tribunal proceedings) of the Social Security Regulations(12) as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>41.</b> Regulation 56(2) (function of receiving notice of corrections of accidental errors) of the Social Security Regulations(13) as applied by Regulation 8 of the Reviews and Appeals Regulations.</p> <p><b>42.</b> Regulation 57(1), (3), (4) and (5) (functions relating to setting aside decisions on certain grounds) of the Social Security</p>	

(8) Paragraph (1) was amended by S.I. 1999/2570.

(9) Paragraph (7) was amended by S.I. 2002/1379 and S.I. 2005/337.

(10) Paragraph (4) was amended by S.I. 2002/1379 and S.I. 2005/337.

(11) Paragraphs (11) and (12) were amended by S.I. 2002/1379.

(12) Paragraph (4) was amended by S.I. 2005/337.

(13) Paragraph (2) was amended by S.I. 2005/337.

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<i>Column 1</i>	<i>Column 2</i>
Regulations(14) as applied by Regulation 8 of the Reviews and Appeals Regulations.	
43. Regulation 58(1), (2) and (4) (functions relating to application for leave to appeal to a Commissioner from an appeal tribunal) of the Social Security Regulations(15) as applied by Regulation 8 of the Reviews and Appeals Regulations.	

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### EXPLANATORY NOTE

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

This Order specifies functions of the Scottish Ministers for the purposes of section 93(1) of the Scotland Act 1998. Section 93(1) allows a Minister of the Crown to make arrangements for any of that Minister’s specified functions to be exercised on his behalf by the Scottish Ministers and allows the Scottish Ministers to make arrangements for any of their specified functions to be exercised on their behalf by a Minister of the Crown.

Article 3 and column 1 of the Schedule specify for the purposes of section 93(1) of the Scotland Act 1998 functions of the Scottish Ministers which may be exercised by a Minister of the Crown on their behalf. These are functions relating to the recovery of NHS charges from persons who are liable in respect of the injuries of persons where those injured persons have received NHS treatment or been provided with ambulance services. Column 2 details any exceptions or modifications to the entries in column 1.

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(14) Paragraph (3) was amended by S.I. [2002/1379](#).

(15) Paragraph (1) was amended by S.I. [2002/1379](#) and S.I. [2005/337](#); paragraph (2) was amended by S.I. [1999/2570](#) and paragraph (4) was amended by S.I. [2002/1379](#).