

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service (Scotland) Act 1978, Cross Heading: Constitution is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

HEALTH BOARDS

PART I

Constitution

1 A Health Board shall be a body corporate and shall have a common seal.

Modifications etc. (not altering text)

- C1** Sch. 1 paras. 1, 2, 4–7, 9–15, Sch. 5 paras. 7B, 7C applied by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
- C2** Sch. 1 para. 1 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
Sch. 1 para. 1 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
Sch. 1 para. 1 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
Sch. 1 para. 1 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**
Sch. 1 para. 1 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
Sch. 1 para. 1 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
Sch. 1 para. 1 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
- C3** Sch. 1 paras. 1 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**

- [^{F12} (1) A Health Board is to consist of the following types of members—
- (a) a chairman, and other members, appointed by the Scottish Ministers (“appointed members”),
 - (b) councillors appointed by the Scottish Ministers following nomination by local authorities in the area of the Health Board (“councillor members”), and
 - (c) individuals elected as members of the Health Board at an election held under Schedule 1A (“elected members”).
- (2) Regulations must, in relation to each Health Board, specify—
- (a) the total number of members of the Board, and
 - (b) the number of each type of member.
- (3) But—
- (a) the total number of councillor members and elected members of a Board must amount to more than half the total number of members, and
 - (b) a Board must contain at least one councillor member for each local authority whose area is wholly or partly within the area of the Board.
- (4) The conditions imposed by sub-paragraph (3) do not apply during any period when an elected member or, as the case may be, councillor member vacates office and the vacancy has not been filled.]

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Textual Amendments

- F1** Sch. 1 para. 2 substituted (24.6.2009 for specified purposes) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), **ss. 1(2)**, 4, 7, 11(1); S.S.I. 2009/242, **art. 2**

[^{F2}2A In the case of a prescribed Health Board at least one of the [^{F3}appointed members] must hold a post in a university with a medical or dental school.]

Subordinate Legislation Made

- P1** Sch. 1 para. 2A: s. 105(7) (with ss. 2(10), 108(1) and Sch. 1 paras. 2A, 4 and 11) power exercised by S.I. 1991/571.
Sch. 1 para. 2A: s. 105(7) (with ss. 2(10), 108(1) and Sch. 1 paras. 2A, 4 and 11) power exercised by S.I.1991/809.
Sch 1 para 2A: for previous exercises of this power see Index to Government Orders

Textual Amendments

- F2** Sch. 1 para. 2A inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27(3), **Sch. 5 para. 2**
- F3** Words in Sch. 1 para. 2A substituted (24.6.2009 for certain purposes and otherwise prosp.) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), **ss. 1(3)**, 4, 7, 11(1); S.S.I. 2009/242, **art. 2**

3 [^{F4}An appointed member may be appointed only] after consultation with the following bodies—

- (a) ^{F5}
- (b) any university appearing to the Secretary of State to have an interest in the provision of health services in that area;
- (c) such organisations as the Secretary of State may recognise as representative in that area of the medical, dental, nursing, pharmaceutical and ophthalmic professions and such other professions as the Secretary of State considers appropriate, or of those professions generally; and
- (d) such other organisations as appear to the Secretary of State to be concerned.

Textual Amendments

- F4** Words in Sch. 1 para. 3 substituted (24.6.2009 for certain purposes and otherwise prosp.) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), **ss. 1(4)(a)**, 4, 7, 11(1); S.S.I. 2009/242, **art. 2**
- F5** Sch. 1 para. 3(a) omitted (24.6.2009 for certain purposes and otherwise prosp.) by virtue of [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), **ss. 1(4)(b)**, 4, 7, 11(1); S.S.I. 2009/242, **art. 2**

[^{F6}3A A person appointed as chairman of a Health Board may not be an employee of that Health Board.]

Textual Amendments

- F6** Sch. 1 para. 3A inserted (24.6.2009 for certain purposes and otherwise prosp.) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), **ss. 1(5)**, 4, 7, 11(1); S.S.I. 2009/242, **art. 2**

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- 4 The Secretary of State may pay to
- [^{F7}(a) the chairman of a Health Board,
 - (b) such other members of a Health Board as may be prescribed, and
 - (c) such members of committees and sub-committees of a Health Board as may be prescribed,]
- such remuneration as he may, with the approval of the Minister for the Civil Service, from time to time determine.

Subordinate Legislation Made

- P2** Sch. 1 para. 4: s. 105(7) (with ss. 2(10), 108(1) and Sch. 1 paras. 2A, 4 and 11) power exercised by S.I. 1991/571.
Sch. 1 para. 4: s. 105(7) (with ss. 2(10), 108(1) and Sch. 1 paras. 2A, 4 and 11) power exercised by S.I. 1991/809.
Sch. 1 para. 4: for previous exercises of this power see Index to Government Orders

Textual Amendments

- F7** Words in Sch. 1 para. 4 substituted (8.1.2010) by Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), ss. 8, 11(4), Sch. para. 1; S.S.I. 2009/433, art. 2

Modifications etc. (not altering text)

- C4** By S.I. 1990/2639, art. 4(2)(e) certain functions of the Secretary of State under para. 4 are made exercisable (1.4.1991) by the Health Education Board for Scotland
- C5** Sch. 1 paras. 1, 2, 4–7, 9–15, Sch. 5 paras. 7B, 7C applied by S.I. 1990/2639, art. 5(1)(2), Sch. Pt. I
- C6** Sch. 1 para. 4 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), Sch. Pt. I (with art. 6)
Sch. 1 para. 4 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), Sch. Pt. I (with art. 6)
Sch. 1 para. 4 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), Sch. Pt. I
Sch. 1 para. 4 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), Sch. Pt. I
Sch. 1 para. 4 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), Sch. Pt. I
Sch. 1 para. 4 applied (31.3.2002) by S.S.I. 2002/103, art. 6, Sch. Pt. I (with art. 4(4))
Sch. 1 para. 4 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), Sch. Pt. I (with art. 4(4))
- C7** Sch. 1 para. 4, applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), Sch. Pt. I
- C8** Sch. 1 para. 4: functions transferred (31.3.2002) by S.S.I. 2002/103, art. 4(2)(d) (with art. 4(4))
Sch. 1 para. 4: functions transferred (27.6.2002) by S.S.I. 2002/305, art. 4(2)(j) (with art. 4(4))

- 5 A Health Board may employ such officers and servants on such terms as to remuneration and conditions of service as the Board may, ^{F8} determine [^{F9}in accordance with regulations and any directions given under this paragraph by the Secretary of State].

Textual Amendments

- F8** Words repealed by Health Services Act 1980 (c. 53), Sch. 7
F9 Words inserted by Health Services Act 1980 (c. 53), Sch. 6 para. 7(2)(b)

Modifications etc. (not altering text)

- C9** Sch. 1 paras. 1, 2, 4–7, 9–15, Sch. 5 paras. 7B, 7C applied by S.I. 1990/2639, art. 5(1)(2), Sch. Pt. I
- C10** Sch. 1 para. 5 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), Sch. Pt. I (with art. 6)
Sch. 1 para. 5 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), Sch. Pt. I (with art. 6)
Sch. 1 para. 5 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), Sch. Pt. I
Sch. 1 para. 5 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), Sch. Pt. I

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- Sch. 1 para. 5 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
 Sch. 1 para. 5 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
 Sch. 1 para. 5 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
C11 Sch. 1 para. 5 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**

[^{F10}5A Regulations or directions under paragraph 5 may provide for approvals, authorisations or determinations to have effect from a date (which may be before or after the date of giving or making them but may not be before if to the detriment of such officers and servants) specified in them [^{F11} and a direction under that paragraph may relate to a particular officer or servant or class of officer or servant specified in the direction].]

Textual Amendments

- F10** Sch. 1 para. 5A added by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 14(2), **Sch. 7 para. 4**
F11 Words added by National Health Service and Community Care Act 1990 (c.19, SIF 113:2), s. 27(3), **Sch. 5 para. 4**

Modifications etc. (not altering text)

- C12** Sch. 1 para. 5A applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**
 Sch. 1 para. 5A applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
 Sch. 1 para. 5A applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
 Sch. 1 para. 5A applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
C13 Sch. 1 para. 5A applied (1.4.2003) by S.I. 1990/2639, art. 5(1), Sch. Pt. 1 (as amended by The Health Education Board for Scotland Amendment Order 2003 (S.S.I. 2003/154), **art. 6(d)**)

6 Regulations may make provision with respect to the method of appointment of officers or servants of a Health Board and as to the qualifications, remuneration and conditions of service of those persons.

Modifications etc. (not altering text)

- C14** Sch. 1 paras. 1, 2, 4–7, 9–15, Sch. 5 paras. 7B, 7C applied by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
C15 Sch. 1 para. 6 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
 Sch. 1 para. 6 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with
 Sch. 1 para. 6 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
 Sch. 1 para. 6 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**
 Sch. 1 para. 6 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
 Sch. 1 para. 6 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
 Sch. 1 para. 6 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
C16 Sch. 1 para. 6 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**

[^{F12}6A(1) Sub-paragraph (3) applies where the registration of a dental practitioner in the dentists register is suspended—

- (a) by an interim suspension order under section 32 of the Dentists Act 1984 (interim orders); or
- (b) by a direction or order of the Health Committee, the Professional Performance Committee or the Professional Conduct Committee of the General Dental Council under any of sections 27B, 27C or 30 of that Act following a relevant determination that that practitioner's fitness to practise is impaired.

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- (2) For the purposes of sub-paragraph (1), a “relevant determination” that a practitioner's fitness to practise is impaired is a determination which is based solely on—
- (a) the ground mentioned in paragraph (b) of subsection (2) of section 27 of the Dentists Act 1984 (deficient professional performance);
 - (b) the ground mentioned in paragraph (c) of that subsection (adverse physical or mental health); or
 - (c) both those grounds.
- (3) Where this sub-paragraph applies, notwithstanding paragraph 7 of this Schedule, the suspension shall not terminate any contract of employment made between the dental practitioner and a Health Board, but a person whose registration is so suspended shall not perform any duties under a contract made between him and a Health Board which involves the practice of dentistry within the meaning of the Dentists Act 1984.]

Textual Amendments

- F12** Sch. 1 para. 6A substituted (coming into force in accordance with art. 1 of the amending S.I.) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), art. 49, [Sch. 6 para. 2\(4\)](#) (with transitional provisions in Sch. 7 and [S.I. 2006/1671](#))

- 7 No officer or servant of a Health Board to whom regulations [^{F13}or any directions given under paragraph 5] apply shall be employed otherwise than in accordance with the regulations [^{F14}or, as the case may be, the directions].

Textual Amendments

- F13** Words inserted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 6 para. 7\(3\)\(a\)](#)
F14 Words inserted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 6 para. 7\(3\)\(b\)](#)

Modifications etc. (not altering text)

- C17** Sch. 1 paras. 1, 2, 4–7, 9–15, Sch. 5 paras. 7B, 7C applied by [S.I. 1990/2639](#), art. 5(1)(2), [Sch. Pt. I](#)
C18 Sch. 1 para. 7 applied (1.4.1993) by [S.I. 1993/577](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
Sch. 1 para. 7 applied (1.4.1995) by [S.I. 1995/574](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
Sch. 1 para. 7 applied (1.4.1999) by [S.I. 1999/686](#), art. 5(1)(2), [Sch. Pt. I](#)
Sch. 1 para. 7 applied (1.4.2000) by [S.S.I. 2000/47](#), art. 5(1)(2), [Sch. Pt. I](#)
Sch. 1 para. 7 applied (6.4.2001) by [S.S.I. 2001/137](#), art. 5(1), [Sch. Pt. I](#)
Sch. 1 para. 7 applied (31.3.2002) by [S.S.I. 2002/103](#), art. 6, [Sch. Pt. I](#) (with art. 4(4))
Sch. 1 para. 7 applied (27.6.2002) by [S.S.I. 2002/305](#), art. 5(1), [Sch. Pt. I](#) (with art. 4(4))
C19 Sch. 1 para. 7 applied (1.4.1999) by [S.I. 1999/726](#), art. 5(1)(2), [Sch. Pt. I](#)

- [^{F15}7A Regulations may provide for the transfer of officers and servants from a Health Board to—
- (a) another Health Board;
 - (b) the Agency; or
 - (c) a state hospital,
- and for arrangements under which the services of an officer or servant of a Health Board are placed at the disposal of a body mentioned in sub-paragraphs (a) to (c).]

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Textual Amendments

- F15** Sch. 1 paras. 7A–7C inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27(3), [Sch. 5 para. 5](#)

Modifications etc. (not altering text)

- C20** Sch. 1 paras. 7A, 7B, 11A applied (1.4.1991) by [S.I. 1990/2639](#), art. 5(1)(2), [Sch. Pt. I](#)
- C21** Sch. 1 para. 7A applied (1.4.1993) by [S.I. 1993/577](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
Sch. 1 para. 7A applied (1.4.1995) by [S.I. 1995/574](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
Sch. 1 para. 7A applied (1.4.1999) by [S.I. 1999/686](#), art. 5(1)(2), [Sch. Pt. I](#)
Sch. 1 para. 7A applied (1.4.2000) by [S.S.I. 2000/47](#), art. 5(1)(2), [Sch. Pt. I](#)
Sch. 1 para. 7A applied (6.4.2001) by [S.S.I. 2001/137](#), art. 5(1), [Sch. Pt. I](#)
Sch. 1 para. 7A applied (31.3.2002) by [S.S.I. 2002/103](#), art. 6, [Sch. Pt. I](#) (with art. 4(4))
Sch. 1 para. 7A applied (27.6.2002) by [S.S.I. 2002/305](#), art. 5(1), [Sch. Pt. I](#) (with art. 4(4))
- C22** Sch. 1 para. 7A applied (1.4.1999) by [S.I. 1999/726](#), art. 5(1)(2), [Sch. Pt. I](#)

- 7B** Directions may be given by the Secretary of State—
- (a) to a Health Board to place services of any of its officers or servants at the disposal of a body mentioned in sub-paragraphs (a) to (c) of paragraph 7A; and
 - (b) to any such body to employ as an officer or servant any person who is or was employed by a Health Board and is specified in the direction,
- and a Board or body to which such directions are given shall comply with the directions.

Modifications etc. (not altering text)

- C23** Sch. 1 paras. 7A, 7B, 11A applied (1.4.1991) by [S.I. 1990/2639](#), art. 5(1)(2), [Sch. Pt. I](#)
- C24** Sch. 1 para. 7B applied (1.4.1993) by [S.I. 1993/577](#), art. 5(1)(2), [Sch. 1 Pt. I](#) (with art. 6)
Sch. 1 para. 7B applied (1.4.1995) by [S.I. 1995/574](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
Sch. 1 para. 7B applied (1.4.1999) by [S.I. 1999/686](#), art. 5(1)(2), [Sch. Pt. I](#)
Sch. 1 para. 7B applied (1.4.2000) by [S.S.I. 2000/47](#), art. 5(1)(2), [Sch. Pt. I](#)
Sch. 1 para. 7B applied (6.4.2001) by [S.S.I. 2001/137](#), art. 5(1), [Sch. Pt. I](#)
Sch. 1 para. 7B applied (31.3.2002) by [S.S.I. 2002/103](#), art. 6, [Sch. Pt. I](#) (with art. 4(4))
Sch. 1 para. 7B applied (27.6.2002) by [S.S.I. 2002/305](#), art. 5(1), [Sch. Pt. I](#) (with art. 4(4))
- C25** Sch. 1 para. 7B applied (1.4.1999) by [S.I. 1999/726](#), art. 5(1)(2), [Sch. Pt. I](#)

- 7C** Before making regulations under paragraph 7A or 8A, the Secretary of State shall consult such bodies and organisations as appear to him to be concerned.

- 8** Regulations under paragraph 6 shall not contain a requirement that all consultants employed for the purpose of hospitals shall be employed whole-time.

- [^{F16}8A** In connection with arrangements relating to community care services (within the meaning of section 5A(4) (local authority plans for community care services) of the Social Work (Scotland) Act 1968), regulations may make provision with respect to—

- (a) the transfer to employment by a local authority of officers or servants employed by a Health Board; and
- (b) the transfer to employment by a National Health Service body of officers and servants transferred to employment by a local authority by virtue of this paragraph,

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and for the purposes of this paragraph “National Health Service body” means a Health Board, the Agency or an NHS trust.]

Textual Amendments

F16 Sch. 1 para. 8A inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27(3), [Sch. 5 para. 6](#)

F17⁹

Textual Amendments

F17 Sch. 1 para. 9 repealed (1.8.1995) by [1995 c. 7, ss. 14\(2\), 15\(2\)](#), [Sch. 5](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#)), [Sch. 2 para 3\(2\)](#))

F18¹⁰

Textual Amendments

F18 Sch. 1 para. 10 repealed (1.8.1995) by [1995 c. 7, ss. 14\(2\), 15\(2\)](#), [Sch. 5](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#)), [Sch. 2 para. 3\(2\)](#)) and subject to an amendment (1.4.1999) by [S.I. 1999/686, art. 5\(1\)\(2\)](#), [Sch. Pt.I](#))

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