

Changes to legislation: National Health Service (Scotland) Act 1978, SCHEDULE 5 is up to date with all changes known to be in force on or before 13 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) View outstanding changes

SCHEDULES

SCHEDULE 5 **S**

Section 10.

THE AGENCY

- 1 The Agency shall be a body corporate and shall have a common seal.
- 2 The affairs of the Agency shall be managed by a management committee constituted in accordance with paragraph 3.
- 3 The management committee shall consist of a chairman appointed by the Secretary of State and [^{F1}such other members as the Secretary of State may, after consultation with the Health Boards, appoint.]

Textual Amendments

- F1** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27(3), [Sch. 5 para. 9](#)

- [^{F2}3A The Secretary of State may pay to the chairman of the management committee [^{F3}and to such other members of the management committee as may be prescribed] such remuneration as he may, with the approval of the Minister for the Civil Service, from time to time determine.]

Textual Amendments

- F2** [Para. 3A](#) inserted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 6 para. 8\(2\)](#)
- F3** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27(3), [Sch. 5 para. 10](#)

- 4 The proceedings of the management committee shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any member thereof.
- 5 The Secretary of State shall pay to members of the management committee and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.
- 6 Allowances shall not be paid under paragraph 5 except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.
- 7 The Agency may employ such officers and servants on such terms as to remuneration and conditions of service as the management committee may, ^{F4}determine [^{F5}in accordance with regulations and any directions given under this paragraph by the Secretary of State].

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Textual Amendments

- F4** Words repealed by [Health Services Act 1980 \(c. 53\)](#), [Sch. 7](#)
F5 Words inserted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 6 para. 8\(3\)\(b\)](#)

[^{F6}7A Regulations or directions under paragraph 7 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.]

Textual Amendments

- F6** [Sch. 5 para. 7A](#) added by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 14(2), [Sch. 7 para. 4\(2\)](#)

[^{F7}7B Regulations may provide for the transfer of officers and servants from the Agency to a Health Board or state hospital, and for arrangements under which the services of an officer or servant of the Agency are placed at the disposal of a Health Board or state hospital.]

Subordinate Legislation Made

- P1** [Sch. 5 para. 7B: s. 105\(7\) \(with s. 108\(1\) and Sch. 5 para. 7B\) power exercised by S.I. 1991/345](#)

Textual Amendments

- F7** [Sch. 5 para. 7B, 7C](#) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27(3), [Sch. 5 para. 11](#)

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](#)
[Sch. 5 para. 7B](#) applied (1.4.1993) by [S.I. 1993/577](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
[Sch. 5 para. 7B](#) applied (1.4.1995) by [S.I. 1995/574](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
[Sch. 5 para. 7B](#) applied (1.4.1999) by [S.I. 1999/686](#), art. 5(1)(2), [Sch. Pt. I](#)
[Sch. 5 para. 7B](#) applied (1.4.2000) by [S.S.I. 2000/47](#), art. 5(1)(2), [Sch. Pt. I](#)
[Sch. 5 para. 7B](#) applied (6.4.2001) by [S.S.I. 2001/137](#), art. 5(1), [Sch. Pt. I](#)
[Sch. 5 para. 7B](#) applied (with modifications) (31.3.2002) by [S.S.I. 2002/103](#), art. 6, [Sch. Pt. I](#) (with art. 4(4))
[Sch. 5 para. 7B](#) applied (27.6.2002) by [S.S.I. 2002/305](#), art. 5(1), [Sch. Pt. I](#) (with art. 4(4))
- C2** [Sch. 5 para. 7B](#) applied (1.4.1999) by [S.I. 1999/726](#), art. 5(1)(2), [Sch. Pt. I](#)
- C3** [Sch. 5 para. 7B](#) applied (7.12.2019) by [The Public Health Scotland Order 2019 \(S.S.I. 2019/336\)](#), art. 1(2), [sch. 1 Pt. 1](#) (with art. 4(4)(5))

7C Directions may be given by the Secretary of State—

- (a) to the Agency to place services of any of its officers or servants at the disposal of a Health Board or state hospital; and
- (b) to a Health Board or state hospital to employ as an officer or servant any person who is or was employed by the Agency and is specified in the direction,

and it shall be the duty of the Agency, a Health Board or a state hospital to comply with any such directions given to it.

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Modifications etc. (not altering text)

- C4** 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**
- C5** Sch. 5 para. 7C applied (1.4.1993) by S.I. 1993/577, art. 5(1), **Sch. Pt. I** (with art. 6)
Sch. 5 para. 7C applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
Sch. 5 para. 7C applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
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Sch. 5 para. 7C applied (with modifications) (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4)
Sch. 5 para. 7C applied (27.6.2002) by S.S.I. 2002/503, art. 5(1), **Sch. Pt. I** (with art. 4(4))
- C6** Sch. 5 para. 7C applied (7.12.2019) by The Public Health Scotland Order 2019 (S.S.I. 2019/336), art. 1(2), **sch. 1 Pt. 1** (with art. 4(4)(5))

- 8 Regulations may make provision with respect to—
- the appointment, tenure and vacation of office of the chairman and members of the management committee;
 - enabling alternative members to attend in place of any member of the committee who may be absent;
 - the appointment by the management committee of sub-committees, whose membership may include persons who are not members of the management committee;
 - the procedure of the management committee; and
 - the method of appointment of officers or servants of the Agency and the qualifications, remuneration and conditions of service of those persons.
- [^{F8}8A In connection with arrangements relating to community care services ^{F9}..., regulations may make provision with respect to—
- the transfer to employment by a local authority of officers or servants employed by the Agency; and
 - 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.
- and for the purposes of this paragraph “ National Health Service body ” means the Agency, a Health Board or an NHS trust.]

Textual Amendments

- F8** Sch. 5 paras. 8A, 8B inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 27(3), **Sch. 5 para. 12**
- F9** Words in Sch. 5 para. 8A repealed (1.4.2015) by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications and Saving) Order 2015 (S.S.I. 2015/157), art. 1(1), **Sch. para. 2(6)**

- 8B Before making regulations under paragraph 7B or 8A, the Secretary of State shall consult such bodies and organisations as appear to him to be concerned.
- 9 No officer or servant of the Agency to whom regulations [^{F10}or any directions given under paragraph 7] apply shall be employed otherwise than in accordance with the regulations [^{F10}or, as the case may be, the directions].

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Textual Amendments

F10 Words inserted by [Health Services Act 1980 \(c. 53\)](#), **Sch. 6 para. 8(4)**

^{F11}10

Textual Amendments

F11 [Sch. 5 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\(3\)](#))

^{F12}11

Textual Amendments

F12 [Sch. 5 para. 11](#) 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. 3\(2\)](#))

12 The Secretary of State may exercise the powers conferred by paragraph 19 of Schedule 1 in the case of a person who enters the employment of the Agency and to whom that paragraph otherwise applies.

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Changes and effects yet to be applied to :

- Sch. 5 para. 8A words substituted by [2004 asp 7 sch. 1 para. 1\(11\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(5) added by [2002 asp 5 Sch. 2 para. 2\(2\)](#)
- s. 19A(2)(b) words repealed by [2003 asp 4 sch. 4 para. 5\(4\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(a) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(b) substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(c) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(e) word substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 70A inserted by [1997 c. 46 s. 26\(2\)](#)
- s. 70A(2) word substituted by [2005 asp 13 s. 14\(3\)](#)
- s. 85AB(7) inserted by [2005 asp 13 sch. 2 para. 2\(18\)\(b\)](#)
- Sch. 11 para. 2(1A) inserted by [2005 asp 13 s. 14\(6\)\(a\)](#)