

1989 No. 446 (S.57)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Functions of Health Boards) (Scotland) Order 1989

<i>Made</i>	- - - -	<i>10th March 1989</i>
<i>Laid before Parliament</i>		<i>15th March 1989</i>
<i>Coming into force</i>		<i>5th April 1989</i>

The Secretary of State, in exercise of the powers conferred on him by sections 2(1) and 105(6) and (7) of the National Health Service (Scotland) Act 1978(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Health Service (Functions of Health Boards) (Scotland) Order 1989 and shall come into force on 5th April 1989.

(2) In this Order—

“the Act” means the National Health Service (Scotland) Act 1978; and

“the principal Order” means the National Health Service (Functions of Health Boards) (Scotland) Order 1983(b).

Amendments to Article 3 of the principal Order

2.—(1) Article 3(1) of the principal Order shall be amended as follows:—

(a) sub-paragraph (e) shall be deleted;

(b) in sub-paragraph (f) there shall be deleted the words from “but not including” to the end;

(c) for sub-paragraph (g) there shall be substituted the following:—

“(g) section 57(1) and (2) (Accommodation and services for private patients) but not including the functions of the Secretary of State under section 57(1) to authorise accommodation and services to be made available.”(c)

(d) sub-paragraph (h) shall be deleted;

(e) after sub-paragraph (k) there shall be inserted the following:—

“(kk) section 98 (Charges in respect of non-residents) but only as regards the function of the Secretary of State to determine and, as the case may be, to calculate charges.”(d)

(2) Article 3(2) and (3) of the principal Order shall be deleted.

(a) 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; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1) and Schedule 7, and the 1983 Act, Schedule 9.

(b) S.I. 1983/1027.

(c) Section 57(1) and (2) was substituted by the Health and Medicines Act 1988 (c.49), section 7(11).

(d) Section 98 was amended by the Health and Medicines Act 1988, section 7(13) and (14).

Amendments to Article 4 of the principal Order

- 3.—(1) In article 4(1) of the principal Order sub-paragraphs (a) and (c) shall be deleted.
- (2) In article 4(2) of the principal Order—
- (a) the words “but subject to paragraph (1)(c) of this article,” shall be deleted; and
 - (b) for the words “section 79” there shall be substituted the words “section 79(1)”.

Savings

4. Nothing in this Order shall affect the power of the Secretary of State to exercise any function conferred upon him by the provisions of the Act.

St. Andrew's House, Edinburgh
10th March 1989

Michael B. Forsyth
Parliamentary Under Secretary of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order which comes into force on 1st April 1989 amends the National Health Service (Functions of Health Boards) (Scotland) Order 1983 ("the principal Order") consequential to the coming into force of section 7 of the Health and Medicines Act 1988 (c.49) ("the 1988 Act") and of other provisions of that Act which amend the National Health Service (Scotland) Act 1978 ("the 1978 Act").

The provisions of article 3(1)(e) and 3(2) of the principal Order are revoked to reflect the repeal of section 50 of the 1978 Act; the provisions of article 3(1)(f), (g) and (h) are amended, and sub-paragraph (kk) is inserted, to enable Health Boards to exercise the functions of the setting of charges for, respectively, amenity accommodation, accommodation and services for private resident and non-resident patients and overseas visitors; paragraph (3) of article 3 is revoked because section 54 of the 1978 Act, following repeal of sections 50 and 53 of the 1978 Act by the 1988 Act, refers only to the supply of blood, which is a function expressly excluded from being exercised by Health Boards in terms of article 3(1)(d) of the principal Order; the provisions of article 4(1)(a) and 4(1)(c) are revoked to remove the limitation on the exercise by Health Boards of functions under section 36 and 79 of the 1978 Act (powers to provide accommodation and premises and to buy and sell land).