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STATUTORY INSTRUMENTS

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**1993 No. 372 (S.40)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The Scottish Hospital Trust Scheme 1993**

*Made* - - - - *17th February 1993*

*Coming into force* - - *18th February 1993*

The Secretary of State, in exercise of the powers conferred on him by section 11 of and paragraph 7 of Schedule 6 to the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, having given Health Boards, National Health Service Trusts and the body charged with the management of the state hospital(2) an opportunity to make representations under paragraph 7(2) of Schedule 6 to the said Act of 1978, and having had regard in terms of paragraph 7(4) of the said Schedule to the arrangements for the distribution of income made under the Scottish Hospital Trust Scheme 1972(3), hereby makes the following scheme, a draft of which has been laid before and approved by a resolution of each House of Parliament:—

**Citation, commencement and interpretation**

1.—(1) This Scheme may be cited as the Scottish Hospital Trust Scheme 1993 and shall come into force on the day after the day on which it is made.

(2) In this Scheme—

“the 1971 Act” means the Hospital Endowments (Scotland) Act 1971(4);

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

“allocated relevant endowments” means the relevant endowments for which a Health Board may hold a certificate issued to it by the Trust in terms of regulation 6 of the Scottish Hospital Trust Regulations 1972(5);

“NHS Trust” means a National Health Service Trust constituted under section 12A of the 1978 Act(6);

“percentage share” means the proportion in percentage terms which a Health Board’s allocated relevant endowments added to any property accepted by the Trust in relation to that Health

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(1) 1978 c. 29; section 11 was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(2) and paragraph 7 of Schedule 6 was amended by the 1990 Act, Schedule 9, paragraph 19(24) (e), (f) and (g).

(2) There is only one state hospital in Scotland which is located at Carstairs, Lanarkshire.

(3) S.I. 1972/391.

(4) 1971 c. 8.

(5) S.I. 1972/390, amended by S.I. 1974/859.

(6) Section 12A was inserted by the 1990 Act, section 31.

Board in pursuance of paragraph 4(f) of Schedule 6 of the 1978 Act<sup>(7)</sup> bears to the total of relevant endowments held by the Trust and any property accepted by the Trust in pursuance of the said paragraph 4(f);

“relevant endowments” means endowments referred to in section 11(3) of the 1978 Act;

“the Trust” means the Scottish Hospital Trust constituted under section 11 of the 1978 Act.

### **Distribution of endowment funds income**

2. The Trust shall, after paying the necessary expenses of management and the taxes affecting the endowments transferred to them in terms of section 2(1) of the 1971 Act and property accepted by them in pursuance of paragraph 4(f) of Schedule 6 to the 1978 Act<sup>(8)</sup> distribute at dates in each year to be determined by the Secretary of State the resulting balance of income among Health Boards and NHS Trusts on the following basis:—

- (a) the Trust shall calculate the sum attributable to each Health Board area based on that Health Board’s percentage share and thereafter—
  - (i) in a Health Board area where there is no NHS Trust or NHS Trusts in existence, pay that sum to the Health Board, or
  - (ii) in a Health Board area where there is one or more NHS Trusts in existence, divide that sum between the Health Board and the NHS Trust or among the Health Board and NHS Trusts as the case may be;
- (b) where sub-paragraph (a)(ii) above applies the division shall be such as is agreed between the Health Board and the NHS Trust or NHS Trusts on the basis of the percentage of capital funds held by the Trust as between the hospitals, establishments or facilities pertaining to the NHS Trust or NHS Trusts and the hospitals, establishments or facilities which are under the administration of the Health Board;
- (c) in identifying the percentage of capital funds specified in sub-paragraph (b) a Health Board and NHS Trust shall have regard to the Schedules held by the Secretary of the Trust listing the value of endowments in terms of investments held for different groups of hospitals, and to any other relevant documents held by the Health Board or NHS Trust relating to endowments transferred to the Trust;
- (d) failing agreement between a Health Board and an NHS Trust or NHS Trusts on the division of income the Secretary of State shall, applying the criteria specified in sub-paragraphs (b) and (c), determine the division.

### **Application of income**

3.—(1) The income received under this scheme by a Health Board shall be used for the purposes specified in sub-paragraph (3)(a) of paragraph 7 of Schedule 6 to the 1978 Act, and the income received under this scheme by an NHS Trust shall be used for the purposes specified in sub-paragraph 3(c) of that paragraph<sup>(9)</sup>.

(2) A Health Board or an NHS Trust in applying income for the uses specified in sub-paragraph (1) above shall have regard to the terms and conditions attaching to endowments transferred to the Trust from Boards of Management or Regional Hospital Boards under section 2(1) of the 1971 Act.

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(7) Paragraph 4(f) of Schedule 6 was amended by the 1990 Act, Schedule 9, paragraph 19(24)(c).

(8) Paragraph 4(f) of Schedule 6 was amended by the 1990 Act, Schedule 9, paragraph 19(24)(c).

(9) Sub-paragraph 3(c) of paragraph 7 of Schedule 6 to the 1978 Act was inserted by the 1990 Act, Schedule 9, paragraph 19(24)(g).

## **Revocation**

- 4.** The Scottish Hospital Trust Scheme 1974(**10**) is hereby revoked.

St Andrew's House,  
Edinburgh  
17th February 1993

*Fraser of Carmyllie*  
Minister of State, Scottish Office

**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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## EXPLANATORY NOTE

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

This Scheme makes provision for arrangements under which the income from endowments transferred to the Scottish Hospital Trust shall be distributed to Health Boards and National Health Service Trusts.