
STATUTORY INSTRUMENTS

1995 No. 574

The State Hospitals Board for Scotland Order 1995

Citation and commencement

- 1.—(1) This Order may be cited as the State Hospitals Board for Scotland Order 1995.
- (2) This Order shall come into force on 1st April 1995.

Interpretation

- 2.—(1) For the purposes of this Order unless the context otherwise requires—
 - “the Act” means the National Health Service (Scotland) Act 1978;
 - “the Board” means the Special Health Board, to be known by the name of the State Hospitals Board for Scotland, which is constituted by this Order;
 - “enactment” includes order and regulation.

(2) In this Order unless the context otherwise requires, a reference to an article or Schedule is to an article of, or the Schedule to, this Order and a reference to a paragraph is to a paragraph of the article in which the reference is made.

Constitution, name and area of the Board

3. There is hereby constituted a Special Health Board for the whole of Scotland to be known by the name of the State Hospitals Board for Scotland.

Functions of the Board

- 4.—(1) The Board shall exercise the following functions of the Secretary of State namely:—
 - (a) functions in relation to state hospitals conferred on him by the Act including, without prejudice to the foregoing generality, those specified in subsections (1)(2) and (3) of section 102(1) (state hospitals) of the Act, and
 - (b) functions specified in paragraph (2) subject, however, to any limitations there specified.
- (2) The functions specified in this paragraph are as follows:—
 - (a) the power of the Secretary of State to assist voluntary organisations under section 16 of the Act(2);
 - (b) the power of the Secretary of State under section 16B of the Act(3) to give financial assistance to voluntary organisations limited to assistance to such organisations whose activities consist in or include the provision of services similar to services provided by the Board or for the provision of which the Board is under a duty to make arrangements by virtue of the Act and the assistance so given is given on such terms and conditions as the Secretary of State with the approval of the Treasury might determine;

(1) Section 102 was substituted by the 1994 Act, section 1.

(2) Section 16 was amended by the 1980 Act, Schedule 7 and by the Vehicle Excise and Registration Act 1994 (c. 22), Schedule 3, paragraph 13.

(3) Section 16B was inserted by the 1983 Act, section 3.

- (c) the duty of the Secretary of State under section 36(1) of the Act to provide throughout Scotland, to such extent as the Board considers necessary to meet all necessary requirements for hospital accommodation and associated services at state hospitals;
 - (d) the duty of the Secretary of State under section 37 of the Act to make arrangements to such extent as the Board considers necessary for the purposes of the prevention of illness consisting of mental disorder, the care of persons suffering from such illness and the after-care of such persons;
 - (e) the power of the Secretary of State under section 42 of the Act to disseminate information relating to the promotion and maintenance of health and the prevention of illness insofar as relating to mental disorder;
 - (f) the duty of the Secretary of State under section 47 of the Act to make available such facilities as appear to the Board to be reasonably necessary for undergraduate and post-graduate clinical teaching and research and for the education and training of persons providing or intending to provide services at state hospitals and to conduct or assist by grants or otherwise under that section research into any matters relating to the causation, prevention, diagnosis or treatment of illness consisting of mental disorder, or into other matters relating to services at state hospitals;
 - (g) the power of the Secretary of State under section 48 of the Act to provide on such terms and conditions as may be agreed residential accommodation for officers employed for the purposes of any functions of the Board under this Order, including residential and practice accommodation for medical and dental practitioners;
 - (h) the powers of the Secretary of State under section 79(1) of the Act⁽⁴⁾ to take on lease or to purchase moveable property and land which is required for the purposes of the Board and to use for those purposes and manage any heritable or moveable property so acquired;
 - (i) the powers of the Secretary of State under subsection (1A) of section 79 of the Act⁽⁵⁾ to dispose of land no longer required for the purposes of the Board disregarding so much of that subsection as relates to the function of the Secretary of State to authorise certain officers to execute instruments on his behalf;
 - (j) the power of the Secretary of State under paragraph 4 of Schedule 1 to the Act⁽⁶⁾, as applied in relation to the Board by article 5, to pay remuneration to the Chairman of the Board and to such other members thereof as may be prescribed so, however, that this subparagraph shall not be construed as extending to the power to determine the remuneration or to prescribe the members to whom it may be paid; and
 - (k) the power of the Secretary of State under paragraph 13 of Schedule 1 to the Act, as applied in relation to the Board by article 5, to pay to members of the Board, and any committees and sub-committees thereof, travelling and other allowances so however, that this subparagraph shall not be construed as extending to the power to determine the amount of such allowances;
 - (l) the duty of the Secretary of State under paragraph 23 of Schedule 7A to the Act⁽⁷⁾ to remunerate an NHS trust in respect of the provision of goods and services in accordance with that paragraph, but not including the power of the Secretary of State to determine the rate or rates appropriate for such remuneration.
- (3) In exercising any functions of the Secretary of State to acquire, use, manage or dispose of land the Board shall ensure—

(4) Section 79(1) was amended by the 1990 Act, Schedule 9 paragraph 19(15).

(5) Section 79(1A) was inserted by the 1983 Act, Schedule 7, paragraph 3.

(6) Paragraph 4 of Schedule 1 was amended by the 1990 Act, Schedule 5, paragraph 3.

(7) Schedule 7A was inserted by the 1990 Act, Schedule 6.

- (a) that any instrument in connection with the exercise of those functions is in the name of the Secretary of State for Scotland and not that of the Board; and
- (b) that, where any such instrument requires to be executed on his behalf by the Secretary of State for Scotland and it is not executed in accordance with section 1(8) of the Reorganisation of Offices (Scotland) Act 1939(8), it is executed on his behalf in accordance with section 79(1A) of the Act.

Application of enactments

5.—(1) Each of the enactments specified in column 1 of each Part of the Schedule (the subject matter of which is described generally in column 2) shall apply in relation to the Board as it applies in relation to Health Boards subject, however, to the modifications and limitations (if any) specified opposite thereto in column 3 and to paragraph (2).

(2) The enactments which are applied in relation to the Board by virtue of paragraph (1) are so applied only for the purposes of the exercise by the Board of the functions conferred on it by this Order.

Saving for powers of the Secretary of State, Health Boards and the Agency

6. Nothing in this Order shall prevent the Secretary of State, a Health Board or the Common Services Agency for the Scottish Health Service from exercising any function conferred or imposed upon any one of them by or under any enactment or rule of law or affect or restrict the exercise of any such function by them or any one of them.

St Andrew's House,
Edinburgh
3rd March 1995

Fraser of Carmyllie
Minister of State, Scottish Office