

# SCHEDULES

## SCHEDULE 3

Article 10.

### [<sup>F1</sup>HEALTH AND SOCIAL CARE TRUSTS]

**F1** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(c\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

## PART I

### ORDERS UNDER ARTICLE 10(1)

**1.** Any reference in this Part to an order is a reference to an order under Article 10(1) establishing an [<sup>F2</sup>HSC trust] or any subsequent order under that provision amending or revoking a previous order.

**F2** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

**2.** The provisions made by an order shall be in conformity with any general provision made by regulations under Article 10(6).

**3.—(1)** Without prejudice to any amendment made by a subsequent order, the first order to be made in relation to any [<sup>F3</sup>HSC trust] shall specify—

- (a) the name of the trust;
- (b) the functions of the trust;
- (c) the number of executive directors and non-executive directors;
- (d) <sup>F4</sup>.....
- (e) the operational date of the trust, that is to say, the date on which the trust is to begin to undertake the whole of the functions conferred on it; and
- (f) if a scheme is to be made under Article 11, the relevant body which is to make the scheme.

(2) <sup>F5</sup>.....

(3) <sup>F6</sup>.....

**F3** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

**F4** Sch. 3 para. 3(1)(d) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 33, 34\(3\), Sch. 6 para. 13\(13\)\(a\), Sch. 7](#); S.R. 2009/114, [art. 2](#)

**F5** Sch. 3 para. 3(2) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 33, 34\(3\), Sch. 6 para. 13\(13\)\(a\), Sch. 7](#); S.R. 2009/114, [art. 2](#)

**F6** Sch. 3 para. 3(3) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 33, 34\(3\), Sch. 6 para. 13\(13\)\(a\), Sch. 7](#); S.R. 2009/114, [art. 2](#)

**[<sup>F7</sup>3A.**—(1) This paragraph applies where an HSC trust is to exercise—

- (a) social care and children functions, or
- (b) functions on behalf of the Department by virtue of a delegation direction under Article 10B(1).

(2) An order in relation to the trust must specify the operational area of the trust, that is to say, the area in relation to which those functions are to be exercisable.]

**F7** Sch. 3 para. 3A substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\)](#), [Sch. 1 para. 148\(2\)](#); S.R. 2022/102, art. 2(b)

**4.**—(1) An order may require a relevant body to make staff, premises and other facilities available to an [<sup>F8</sup>HSC trust] pending the transfer or appointment of staff to or by the trust and the transfer of premises or other facilities to the trust.

(2) An order making provision under this paragraph may make provision with respect to the time when the relevant body's functions under the provision are to come to an end.

**F8** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\)](#), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2

**5.**—(1) An order may provide for the establishment of an [<sup>F9</sup>HSC trust] with effect from a date earlier than the operational date of the trust and, during the period between that earlier date and the operational date, the trust shall have such limited functions for the purpose of enabling it to begin to operate satisfactorily with effect from the operational date as may be specified in the order.

(2) If an order makes the provision referred to in sub-paragraph (1), then, at any time during the period referred to in that sub-paragraph, the [<sup>F9</sup>HSC trust] shall be regarded as properly constituted (and may carry out its limited functions accordingly) notwithstanding that, at that time, all or any of the executive directors have not yet been appointed.

(3) If an order makes the provision referred to in sub-paragraph (1), the order may require a relevant body to discharge such liabilities of the [<sup>F9</sup>HSC trust] as—

- (a) may be incurred during the period referred to in that sub-paragraph; and
- (b) are of a description specified in the order.

**F9** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\)](#), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2

## PART II

### DUTIES, POWERS AND STATUS

#### **[<sup>F10</sup>Specific duties**

**6.**—(1) An [<sup>F11</sup>HSC trust] shall carry out effectively, efficiently and economically the functions for the time being conferred on it by an order under Article 10(1) and by the provisions of this Schedule.

[<sup>F12</sup>(2) The Department may give directions of a general or specific nature to an HSC trust as to the carrying out by that trust of any of its functions.]

(3) The Department may give guidance to an HSC trust as to the carrying out by that trust of any of its functions.

(4) Any directions under sub-paragraph (2) with respect to—

- (a) the power conferred on an HSC trust by paragraph 1 of Schedule 4, or
- (b) the maximum amount which an HSC trust may invest in any investments or class of investments,

may be given only with the consent of the Department of Finance.

(5) The Department must consult the HSC trust concerned before giving any directions under sub-paragraph (2).

(6) Where the Department is of the opinion that because of the urgency of the matter it is necessary to give directions under sub-paragraph (2) without consulting the HSC trust concerned—

- (a) sub-paragraph (5) does not apply; but
- (b) the Department must as soon as reasonably practicable give notice to the HSC trust concerned of the grounds on which the Department formed that opinion.

(7) The Department must not give any direction or guidance under this paragraph that would be inconsistent with the framework document.

(8) An HSC trust must—

- (a) comply with any directions given to it under sub-paragraph (2), and
- (b) have regard to any guidance given to it under sub-paragraph (3).]

**F10** 2001 c. 3 (NI)

**F11** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F12** Sch. 3 para. 6(2)-(8) substituted for Sch. 3 para. 6(2) (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 148(3)**; S.R. 2022/102, art. 2(b)

[<sup>F13</sup>**6A.**—(1) An HSC trust must record such information with respect to the exercise of its functions as the Department may direct.

(2) The information must be recorded in such form, and retained for such period, as the Department may direct.]

**F13** Sch. 3 para. 6A substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 148(4)**; S.R. 2022/102, art. 2(b)

[<sup>F14</sup>**6B.**—(1) An HSC trust must submit to the Department a scheme for the exercise by the trust of its social care and children functions.

(2) The Department may approve a scheme submitted to it by an HSC trust under sub-paragraph (1), either without modifications or with such modifications as may be agreed with the trust.

(3) An HSC trust must give effect to any scheme approved by the Department under sub-paragraph (2).

(4) An HSC trust—

- (a) may at any time, and

*Changes to legislation:* There are currently no known outstanding effects for the The Health and Personal Social Services (Northern Ireland) Order 1991, SCHEDULE 3. (See end of Document for details)

(b) must if so requested by the Department, submit a new scheme under this paragraph to the Department; and sub-paragraphs (2) and (3) apply to any such new scheme as they apply to a scheme submitted under sub-paragraph (1).]

**F14** Sch. 3 para. 6B inserted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\)](#), [Sch. 1 para. 148\(5\)](#); S.R. 2022/102, art. 2(b)

**[<sup>F15</sup>6C.—**(1) The Department may by direction require an HSC trust to submit to the Department a scheme for the exercise by the trust on behalf of the Department of functions which are, or are proposed to become, exercisable by the trust by virtue of a delegation direction under Article 10B.

(2) The Department may approve a scheme submitted to it by an HSC trust under sub-paragraph (1), either without modifications or with such modifications as may be agreed with the trust.

(3) An HSC trust must give effect to any scheme approved by the Department under sub-paragraph (2).

(4) An HSC trust—

(a) may at any time, and

(b) must, if so requested by the Department

submit a new scheme under this paragraph to the Department; and sub-paragraphs (2) and (3) apply to any such new scheme as they apply to a scheme submitted under sub-paragraph (1).]

**F15** Sch. 3 para. 6C inserted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\)](#), [Sch. 1 para. 148\(6\)](#); S.R. 2022/102, art. 2(b)

**7.—**(1) For each financial year an [<sup>F16</sup>HSC trust] shall prepare and send to the Department an annual report in such form as may be determined by the Department.

(2) At such time or times as may be prescribed, an [<sup>F16</sup>HSC trust] shall hold a public meeting at which its audited accounts and annual report shall be presented.

(3) In such circumstances and at such time or times as may be prescribed, an [<sup>F16</sup>HSC trust] shall hold a public meeting at which such documents as may be prescribed shall be presented.

**F16** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\)](#), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

**8.** An [<sup>F17</sup>HSC trust] shall furnish to the Department such reports, returns and other information, including information as to its forward planning, as, and in such form as, the Department may require.

**F17** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\)](#), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

**9.—**(1) An [<sup>F18</sup>HSC trust] shall be liable to pay—

(a) to the chairman and any non-executive director of the trust remuneration of an amount determined by the Department, not exceeding such amount as may be approved by the Department of Finance and Personnel;

- (b) to the chairman and any non-executive director of the trust such travelling and other allowances as may be determined by the Department with the approval of the Department of Finance and Personnel;
- (c) to any member of a committee or sub-committee of the trust who is not also a director such travelling and other allowances as may be so determined.

(2) If an [F18HSC trust] so determines in the case of a person who is or has been a chairman of the trust, the trust shall be liable to pay such pension, allowances or gratuities to or in respect of him as may be determined by the Department with the approval of the Department of Finance and Personnel.

(3) Different determinations may be made under sub-paragraph (1) or sub-paragraph (2) in relation to different cases or descriptions of cases.

**F18** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

### Specific powers

**10.** In addition to carrying out its other functions, an [F19HSC trust] may enter into [F20HSC contracts].

**F19** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F20** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(e)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**11.** An [F21HSC trust] may undertake and commission research and make available staff and provide facilities for research by other persons.

**F21** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**12.** An [F22HSC trust] may—

- (a) provide training for persons employed or likely to be employed by the trust or otherwise in the provision of services under the principal Order; and
- (b) make facilities and staff available in connection with training by a university or any other body providing training in connection with the health and [F23social care].

**F22** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F23** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

**13.** An [F24HSC trust] may enter into arrangements for the carrying out, on such terms as seem to the trust to be appropriate, of any of its functions [F25(other than social care and children functions and functions exercisable on behalf of the Department by virtue of a delegation direction under Article 10B(1))] jointly with any relevant body, with another [F24HSC trust] or with any other body or individual.

**Changes to legislation:** There are currently no known outstanding effects for the The Health and Personal Social Services (Northern Ireland) Order 1991, SCHEDULE 3. (See end of Document for details)

- F24** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F25** Words in [Sch. 3 para. 13](#) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 148(7)**; S.R. 2022/102, art. 2(b)

14. According to the nature of its functions, an [<sup>F26</sup>HSC trust] may make accommodation or services or both available for persons who give undertakings (or for whom undertakings are given) to pay, in respect of the accommodation or services (or both), such charges as the trust may determine.

- F26** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

15. For the purpose of making additional income available in order better to perform its functions, an [<sup>F27</sup>HSC trust] shall have the powers specified in Article 3(2) of the Health and Medicines (Northern Ireland) Order 1988<sup>F28</sup> (extension of powers of the Department for financing [<sup>F29</sup>health care]).

- F27** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F28** 1988 NI 24
- F29** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

### General powers

16.—[<sup>F30</sup>(1)] Subject to Schedule 4, an [<sup>F31</sup>HSC trust] shall have power to do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions, including in particular power—

- (a) to acquire and dispose of land and other property;
- (b) to enter into such contracts as seem to the trust to be appropriate;
- (c) to accept gifts of money, land or other property, including money, land or other property to be held on trust for the general or any specific purposes of the [<sup>F31</sup>HSC trust] (including the purposes of any specific hospital or other establishment or facility<sup>F30</sup> at or from which services are provided] by the trust);

*Sub.#para. (d) rep. by 2001 c. 3 (NI)*

[<sup>F30</sup>(2) An [<sup>F31</sup>HSC trust] may employ such staff at it thinks fit.

(3) Subject to any directions given by the Department under paragraph 6, an [<sup>F31</sup>HSC trust] may—

- (a) pay its staff such remuneration and allowances; and
- (b) employ them on such other terms and conditions,

as it thinks fit.]

- F30** 2001 c. 3 (NI)
- F31** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

17.—(1) Without prejudice to the generality of paragraph 16, to or in respect of such of its employees as it may determine, an [<sup>F32</sup>HSC trust] may make such arrangements for providing

pensions, allowances or gratuities as it may determine; and such arrangements may include the establishment and administration, by the trust or otherwise, of one or more pension schemes.

(2) The reference in sub-paragraph (1) to pensions, allowances or gratuities to or in respect of employees of an [F32HSC trust] includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the trust's employees who suffer loss of office or employment or loss or diminution of emoluments.

**F32** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

### Status

**18.** An [F33HSC trust] shall not be regarded as the servant or agent of the Crown or, except as provided by this Order or the Health and Personal Social Services (Northern Ireland Consequential Amendments) Order 1991<sup>F34</sup>, as enjoying any status, immunity or privilege of the Crown; and an [F35HSC trust's] property shall not be regarded as property of, or property held on behalf of, the Crown.

**F33** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

**F34** SI 1991/195

**F35** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

## PART III

### SUPPLEMENTARY PROVISIONS

#### Re-imburement for health and personal social services work carried out otherwise than under HSS contract

**19.** <sup>F36</sup> .....

**F36** [Sch. 3 para. 19](#) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 33, 34\(3\), Sch. 6 para. 13\(13\)\(b\), Sch. 7](#); S.R. 2009/114, [art. 2](#)

**20.** In any case where an [F37HSC trust] provides goods or services for the benefit of an individual and—

- (a) the provision of those goods or services is not pursuant to an [F38HSC contract], and
- (b) the individual is resident outside the United Kingdom and is of a description (being a description associating the individual with another country) specified for the purposes of this paragraph by a direction made by the Department,

the trust shall be remunerated by the Department in respect of the provision of the goods or services in question at such rate or rates as the Department considers appropriate.

**F37** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

**F38** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(e\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

### Compulsory acquisition

21.—(1) An [<sup>F39</sup>HSC trust] may, for the purposes of its functions, acquire land compulsorily.

(2) Where an [<sup>F39</sup>HSC trust] desires to acquire land compulsorily it may apply to the Department for an order (in this paragraph referred to as a “vesting order”) vesting the land in the [<sup>F39</sup>HSC trust] and the Department may make a vesting order.

(3) Schedule 6 to the Local Government (Northern Ireland) Act 1972<sup>F40</sup> shall, subject to the modifications specified in sub-paragraph (6), apply for the purposes of the acquisition of land by means of a vesting order made under this paragraph in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order under this paragraph in respect of land—

- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or
- (b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal has been approved by a resolution of the Assembly.

(5) Nothing in this paragraph shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is to the knowledge of the Department any historic monument or archaeological object within the meaning of the Historic Monuments Act (Northern Ireland) 1971<sup>F41</sup>.

(6) The modifications of Schedule 6 to the Local Government (Northern Ireland) Act 1972<sup>F42</sup> referred to in sub-paragraph (3) are the following—

- (a) for any reference to a council or the council or the clerk of the council there shall be substituted a reference to an [<sup>F39</sup>HSC trust] or the [<sup>F39</sup>HSC trust] or the chief officer of the [<sup>F39</sup>HSC trust] respectively;
- (b) for any reference to the Ministry concerned there shall be substituted a reference to the Department;
- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) any references to that Schedule shall be construed as references to that Schedule as modified by this sub-paragraph;
- (e) for any reference to a matter prescribed by regulations made by the Department of the Environment there shall be substituted a reference to a matter prescribed by regulations made by the Department of Health and Social Services;
- (f) in paragraphs 2(c) and 5(2) for the words “as may be prescribed” there shall be substituted the words “as appear to the [<sup>F39</sup>HSC trust] to have an interest in the matter”;
- (g) paragraph 19 shall be omitted.

(7) Where an [<sup>F39</sup>HSC trust] proposes to acquire land compulsorily under this paragraph, a person authorised in writing by the [<sup>F39</sup>HSC trust] may, on production if required of his credentials, at any reasonable time enter that land for the purpose of survey, valuation or examination.



(8) Paragraphs (2) to (8) of Article 49 of the principal Order shall apply in relation to the exercise of the power conferred by sub-paragraph (7) as it applies to the exercise of the power conferred by paragraph (1) of that Article; and in those paragraphs as so applied—

- (a) any reference to an authorised person shall be construed as a reference to a person authorised under sub-paragraph (7); and
- (b) any reference to the Department shall be construed as a reference to the [<sup>F39</sup>HSC trust].

**F39** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

**F40** 1972 c. 9 (NI)

**F41** 1971 c. 17 (NI)

**F42** 1972 c. 9 (NI)

### Instruments, etc.

**22.** The fixing of the seal of an [<sup>F43</sup>HSC trust] shall be authenticated by the signature of the chairman or of some other person authorised either generally or specially by the trust for that purpose and of one other director.

**F43** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

## [<sup>F44</sup>Part 3A

### Directions that Certain Functions be exercised by others

**F44** [Sch. 3 Pt. 3A](#) inserted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1) (b), [Sch. 1 para. 148\(8\)](#); S.R. 2022/102, [art. 2\(b\)](#)

**22A.—(1)** The Department may by direction provide for specified social care and children functions to cease to be exercisable by an HSC trust and to be exercisable instead by—

- (a) the Department;
- (b) another HSC trust;
- (c) another specified person or body.

(2) In this paragraph—

“specified” means specified in a direction under sub-paragraph (1);

“substituted person or body” means a person or body specified in a direction under sub-paragraph (1) as a person or body that is to exercise functions by virtue of the direction.

(3) A direction under sub-paragraph (1) comes into operation on such date as may be specified.

(4) A direction under sub-paragraph (1) may contain such transitional provisions as the Department thinks appropriate, including in particular provisions—

- (a) for specified acts done by or in relation to the HSC trust or a substituted person or body at any time before the direction comes into operation to have effect after that time for specified purposes as if done by or in relation to a substituted person or body or, as the case may be, the HSC trust;

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- (b) for any reference to the HSC trust or a substituted person or body in any statutory provision, statutory document (within the meaning of section 1(e) of the Interpretation Act (Northern Ireland) 1954) or order or direction of a court to have effect for specified purposes as a reference to a substituted person or body or, as the case may be, the HSC trust;

and any such transitional provisions have effect, for those purposes, in relation to such acts, statutory provisions, statutory documents, orders or directions.

(5) A substituted person or body is—

- (a) entitled to enforce any rights acquired in the exercise of any functions by virtue of a direction under sub-paragraph (1), and
- (b) liable in respect of any liabilities incurred (including any liabilities in tort) in the exercise of any such functions;

and all proceedings for the enforcement of such rights or liabilities are to be brought by or against that person or body in its own name.

(6) References in any other statutory provision to functions of an HSC trust or any specified person or body include references to functions exercisable by virtue of a direction under sub-paragraph (1).

(7) The Department may by regulations provide that paragraph 6(2) to (8) (power of Department to give directions and guidance) are to apply, subject to such modifications as may be prescribed, as between the Department and a substituted person or body in relation to such social care and children functions as may be prescribed.

(8) The Department may by regulations make such amendments to any statutory provision as appear to the Department to be necessary or expedient to facilitate, or to be otherwise consequential on, the exercise of functions by virtue of a direction under sub-paragraph (1).]

## PART IV DISSOLUTION

**23.—**(1) The Department may by order dissolve an [<sup>F45</sup>HSC trust].

(2) An order under this paragraph may be made—

- (a) on the application of the [<sup>F45</sup>HSC trust] concerned; or
- (b) if the Department considers it appropriate in the interests of the health and [<sup>F46</sup>social care].

(3) Except where it appears to the Department necessary to make an order under this paragraph as a matter of urgency, no such order shall be made until after the completion of such consultation as may be prescribed.

**F45** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

**F46** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(a\)](#) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, [art. 2](#)

**24.—**(1) If an [<sup>F47</sup>HSC trust] is dissolved under this Part, the Department may by order transfer or provide for the transfer to—

- (a) the Department,
- (b) a relevant body,

(c) another <sup>F47</sup>HSC trust],

of such of the property, rights and liabilities of the <sup>F47</sup>HSC trust] which is dissolved as in the Department's opinion is appropriate; and any such order may include provisions corresponding to those of Article 13.

<sup>F48</sup>(1A) The Department must exercise its powers under sub-paragraph (1) so as to ensure that all the liabilities of the HSC trust are transferred.]

(2) An order under this paragraph may make provision in connection with the transfer of staff employed by or for the purposes of the <sup>F47</sup>HSC trust] which is dissolved; and such an order may include provisions corresponding to those of Articles 11 and 12 including provision for the making of a scheme by such relevant body or other body as may be specified in the order.

(3) No order shall be made under this paragraph until after the completion of such consultation as may be prescribed.

**F47** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F48** Sch. 3 para. 24(1A) inserted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 13(13)(c)**; S.R. 2009/114, **art. 2**

**25.** Without prejudice to the generality of paragraph 24, if an <sup>F49</sup>HSC trust] is dissolved under this Part, the Department or such other <sup>F49</sup>HSC trust] or relevant body as the Department may direct shall undertake the responsibility for the continued payment of any such pension, allowances or gratuities as, by virtue of paragraph 9(2) or paragraph 17, would otherwise have been the responsibility of the trust which has been dissolved.

**F49** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**26.** An <sup>F50</sup>HSC trust] may not be dissolved or wound up except in accordance with this Part.

**F50** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Personal Social Services (Northern Ireland) Order 1991, SCHEDULE 3.