



# National Health Service (Scotland) Act 1972

## 1972 CHAPTER 58

### PART VIII

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **58 Purchase of land and moveable property**

- (1) The Secretary of State may purchase by agreement any moveable property and, by agreement or compulsorily, any land which he considers is required for the purposes of any service under the Health Service Acts, and may use for those purposes any property, heritable or moveable, acquired by him or on his behalf, under those Acts.
- (2) Where the Secretary of State acquires premises under the foregoing subsection, he may acquire compulsorily, in accordance with Schedule 3 to the Act of 1947, any equipment, furniture or other moveable property used in or in connection with the premises.
- (3) Any Health Board or the Agency may acquire on behalf of the Secretary of State any moveable property which may be required for the purposes aforesaid.
- (4) For the purpose of the purchase of land by agreement by the Secretary of State, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923) are hereby incorporated with this section, and, in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State shall be deemed to be the promoter of the undertaking.

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*Status: This is the original version (as it was originally enacted).*

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## **59 Exemption from stamp duty**

- (1) Stamp duty shall not be payable on any conveyance, agreement or assignment made, or instrument executed solely for the purpose of giving effect to any transfer of property, rights or liabilities by, or by an order made under, sections 13, 25 to 27, or 37 to 39 of this Act.
- (2) Section 12 of the Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) shall not apply to the transfer of property, rights or liabilities by, or by an order made under, sections 13 or 25 to 27 of this Act, and stamp duty shall not be payable on any such order.

## **60 Expenses**

- (1) There shall be paid out of moneys provided by Parliament any sums payable by the Secretary of State in consequence of the provisions of this Act and any increase in the sums payable out of moneys so provided under any other enactment.
- (2) Any sums payable under or by virtue of this Act to the Secretary of State shall be paid into the Consolidated Fund.
- (3) There shall be paid by the Secretary of State such sums as may be necessary to defray the expenditure of the following bodies, being expenditure approved by him in the prescribed manner—
  - (a) the Scottish Health Service Planning Council;
  - (b) every Health Board ;
  - (c) the Agency;
  - (d) the Scottish Medical Practices Committee ;
  - (e) the Scottish Dental Estimates Board ;
  - (f) the Tribunal constituted under section 43 of the Act of 1947.
- (4) The expenditure of a local health council shall, for the purposes of this section, be deemed to be the expenditure of the Health Board within whose area it has been established.
- (5) The expenditure of a University Liaison Committee shall, for the purposes of this section, be deemed to be the expenditure of the Health Board for whose area it is constituted, and, where a University Liaison Committee is constituted for the areas of more than one Health Board, its expenditure shall be apportioned between the Boards concerned in such manner as may be determined by the Secretary of State.
- (6) Payments under subsection (3) above shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine.
- (7) Having regard to the relief obtained or likely to be obtained by local authorities in the year 1973-74 or in the year 1974-75 which is attributable to the coming into operation of any provision of this Act, the Secretary of State may redetermine for those years the amount and portion mentioned in section 2(2)(a) and (b) of the Local Government (Scotland) Act 1966, and by an order, made in the like manner and subject to the like provisions as a rate support grant order, reduce the amount fixed by the relevant rate support grant order as the aggregate amount of the rate support grants and any element of the grants for those years.

- (8) The provisions of sections 2 and 3 of the said Act of 1966, relating to consultation and to a report of the considerations leading to a determination under the said section 2, shall apply to a redetermination under subsection (7) above as they apply to a determination under that section.
- (9) Expressions used in subsections (7) and (8) above have the same meanings as in the said Act of 1966.

## **61 Supplementary and transitional**

- (1) The Secretary of State may at any time, whether before or after the appointed day, by order make such incidental, consequential, transitional or supplementary provision as may appear to him to be necessary or proper for the general or any particular purposes of this Act or in consequence of any of the provisions thereof or for giving full effect thereto, and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.
- (2) Any such order may in particular include provision for anything duly done before the appointed day by any authority or body in the exercise of functions which, on and after that day, become functions of some other authority or body to be deemed, as from that day, to have been duly done by that other authority or body, and for any instrument made before that day, in so far as it was made in the exercise of those functions, to continue in force on and after that day until varied or revoked by that other authority or body.
- (3) In so far as any apportionment, agreement, regulation or order made, or any notice, direction, consent or approval given under any enactment repealed by this Act, or proceedings instituted or other thing done under any such enactment could have been made, given, instituted or done under a corresponding provision of this Act, it shall not be invalidated by the repeals effected by this Act, but shall have effect as if it had been made, given, instituted or done under that corresponding provision and may be amended, varied, revoked or enforced accordingly, and in the case of any legal proceedings may be continued and appealed against as if this Act had not been passed.
- (4) Notwithstanding the repeal by this Act of section 67 of the Act of 1947, regulations made under paragraphs (c) to (e) of subsection (1) of that section shall continue to have effect until revoked by regulations under this Act.
- (5) The Secretary of State may, with any necessary modifications, by order apply any of the provisions of paragraph 1 of Schedule 9 to the Civil Aviation Act 1971 to the case of a person who enters the employment of a Health Board or the Agency after having been employed in employment to which the said paragraph 1 applies, and any such order may provide that for the purposes of any enactment specified in the order, or for any other purposes so specified, there shall be deemed to have been no break in the employment of any such person.

## **62 Regulations, orders and local enactments**

- (1) Any power conferred by this Act on the Secretary of State to make regulations or orders shall be exercisable by statutory instrument.
- (2) All statutory instruments containing regulations made under this Act, and all statutory instruments containing orders referred to in subsection (3) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (3) The orders concerned are orders made under section 13 of this Act determining the area of a Health Board, orders made under subsection (3) of that section and orders made under sections 25, 26(3), 27(5), 31 to 35, 37(2), 38(2) and 39(2) of this Act and under subsections (8) and (9) of this section.
- (4) Any power under this Act to make regulations or orders may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to exceptions, or in relation to any particular case or cases, and
  - (b) subject to such other exceptions or conditions as the Secretary of State thinks fit,
- and shall include power to make such incidental or supplementary provision as appears to the Secretary of State to be expedient.
- (5) Any power to make regulations under this Act shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury.
- (6) Any order under this Act may be varied or revoked by a subsequent order made in the like manner and subject to the same provisions.
- (7) Subject to subsection (8) below, where any local enactment provides for any matter which is also provided for by any provision of this Act or of any order or regulations made thereunder, the provisions of this Act, or, as the case may be, of that order or those regulations, shall have effect in substitution for the local enactment, which shall cease to have effect.
- (8) The Secretary of State may by order except from the operation of subsection (7) above such local enactments as may be specified in the order and direct that the corresponding provisions of this Act or of any order or regulations made thereunder, as may be so specified, shall not have effect in the areas in which the specified local enactments have effect.
- (9) If it appears to the Secretary of State that any local enactment, not being an enactment which has ceased to have effect by virtue of subsection (7) above, is inconsistent with any provision of this Act or of any order or regulations made thereunder, or is no longer required, or requires to be amended, having regard to any provision of this Act or of any order or regulations made thereunder, he may by order repeal or amend the local enactment as he may consider appropriate.

## **63 Interpretation**

- (1) Expressions used in this Act and the Act of 1947 have, unless the context otherwise requires, the same meanings as in that Act, and other expressions used in this Act shall, unless the context otherwise requires, have the following meanings:—
- " the Act of 1947 " means the National Health Service (Scotland) Act 1947;
  - " the Act of 1968 " means the Health Services and Public Health Act 1968 ;
  - " the Agency " means the Common Services Agency for the Scottish Health Service constituted under section 19 of this Act;
  - " the appointed day " has the meaning assigned to it by section 65 of this Act;
  - " designated medical officer " means a medical officer designated under section 21 of this Act;
  - " Health Board " means a board constituted under section 13 of this Act;

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" the Health Service Acts " means the National Health Service (Scotland) Acts 1947 to 1972;

" local health council " means a council established by virtue of section 14 of this Act;

" prescribed " means prescribed by regulations ;

" regulations " means regulations made by the Secretary of State under this Act;

" Scottish Health Service Planning Council " means the Council constituted under section 17 of this Act;

" University Liaison Committee " means a committee constituted by virtue of section 15 of this Act.

- (2) Unless the context otherwise requires, any references in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment, including this Act.

#### **64 Minor and consequential amendments and repeals**

- (1) The enactments mentioned in Schedule 6 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Act.

- (2) The enactments set out in Schedule 7 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

#### **65 Commencement, short title and extent**

- (1) This Act (except this section) shall come into operation on the appointed day, being such day as the Secretary of State may by order appoint, and different days may be appointed under this subsection for different provisions of this Act or for different purposes, or for the purposes of the same provision in relation to different cases.

- (2) This Act may be cited as the National Health Service (Scotland) Act 1972, and the National Health Service (Scotland) Acts 1947 to 1968 and this Act may be cited together as the National Health Service (Scotland) Acts 1947 to 1972.

- (3) This Act, except in so far as it relates to the amendment of the House of Commons Disqualification Act 1957, extends to Scotland only.