



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART V

PROPERTY AND FINANCE

Land and other property

79 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 this Act [^{F1}or under the 2021 Act][^{F2}and may take any such property or land on lease,], and may use for those purposes any property, heritable or moveable, acquired by him or on his behalf under this Act.
- [^{F3}(1A) Without prejudice to any other power of disposal, the Secretary of State may dispose of any land which he considers is no longer required for the purposes of any service under this Act [^{F4}or under the 2021 Act][^{F5}...]
- (2) Where the Secretary of State acquires premises under subsection (1) [^{F6}other than on lease] he may acquire compulsorily, in accordance with Schedule 13, any equipment, furniture or other moveable property used in or in connection with the premises.
- [^{F7}(2A) For the avoidance of doubt, the power to use heritable property conferred by subsection (1), and the power to dispose of land conferred by subsection (1A), include power to let the property or, as the case may be, land.]
- (3) Any Health Board [^{F8}, the Agency or (in connection with the exercise of its health service functions only) HIS] 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—

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- (a) 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 ^{M1}Lands Clauses Consolidation (Scotland) Act 1845), and
- (b) section 6 and sections 70 to 78 of the ^{M2}Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the ^{M3}Mines (Working Facilities and Support) Act 1923),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.

Textual Amendments

- F1** Words in s. 79(1) inserted (1.4.2022) by Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 (asp 3), s. 20(2), **sch. para. 1(11)(a)** (with s. 3); S.S.I. 2022/24, reg. 2
- F2** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(15)(a)**
- F3** S. 79(1A) inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 14(2), **Sch. 7 para. 3**
- F4** Words in s. 79(1A) inserted (1.4.2022) by Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 (asp 3), s. 20(2), **sch. para. 1(11)(b)** (with s. 3); S.S.I. 2022/24, reg. 2
- F5** Words in s. 79(1A) repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))
- F6** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(15)(b)**
- F7** S. 79(2A) inserted (30.9.2004) by National Health Service Reform (Scotland) Act 2004 (asp 7), ss. 11, 12(1), **Sch. 1 para. 1(6)**; S.S.I. 2004/361, **art. 2(b)(iv)**
- F8** Words in s. 79(3) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 11**; S.S.I. 2010/321, **art. 3, Sch.**; S.S.I. 2011/122, **art. 2, Sch.**

Modifications etc. (not altering text)

- C1** S. 79(1) extended by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), **ss. 17(2)**, 91(6)
- C2** By S.I. 1990/2369, **art. 4(2)(c)** certain functions of the Secretary of State under s. 79(1) are made exercisable (1.4.1991) by the Health Education Board for Scotland
- C3** S. 79(1): functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(i)** (with **art. 4(4)**)
S. 79(1): functions transferred (31.3.2002) by S.S.I. 2002/103, **art. 4(2)(c)** (with **art. 4(4)**)
- C4** S. 79(1A) applied (1.4.1991) by S.I. 1990/2639, **art. 5(1)(2)**, **Sch. Pt. I** (which amendment fell on 1.4.2003 by virtue of the omission of the amending provision by S.S.I. 2003/154, **art. 6(b)**)
- C5** By S.I. 1990/2369, **art. 4(2)(d)** certain functions of the Secretary of State under s. 79(1A) (see entry above) are made exercisable by the Health Education Board for Scotland
- C6** S. 79(1A)(3) applied (with modifications) (1.4.1993) by S.I. 1993/577, **art. 5(1)(2)**, **Sch. Pt. I** (with **art. 6**)
S. 79(1A)(3) applied (1.4.1995) by S.I. 1995/574, **art. 5(1)(2)**, **Sch. Pt. I** (with **art. 6**)
S. 79(1A)(3) applied (1.4.1999) by S.I. 1999/686, **art. 5(1)(2)**, **Sch. Pt. I**
S. 79(1A)(3) applied (1.4.1999) by S.I. 1999/726, **art. 5(1)(2)**, **Sch. Pt. I**
S. 79(1A)(3) applied (1.4.2000) by S.S.I. 2000/47, **art. 5(1)(2)**, **Sch. Pt. I**
S. 79(1A)(3) applied (6.4.2001) by S.S.I. 2001/137, **art. 5(1)**, **Sch. Pt. I**
S. 79(1A)(3) applied (31.3.2002) by S.S.I. 2002/103, **art. 6**, **Sch. Pt. I** (with **art. 4(4)**)
S. 79(1A)(3) applied (27.6.2002) by S.S.I. 2002/305, **art. 5(1)**, **Sch. Pt. I** (with **art. 4(4)**)
- C7** S. 79(3) applied (1.4.1991) by S.I. 1990/2639, **art. 5(1)(2)**, **Sch. Pt. I**

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C8 S. 79(3) applied (7.12.2019) by [The Public Health Scotland Order 2019 \(S.S.I. 2019/336\)](#), art. 1(2), **sch. 1 Pt. 1** (with art. 4(4)(5))

Marginal Citations

M1 1845 c. 19.

M2 1845 c. 33.

M3 1923 c. 20.

80 Transferred property free of trusts.

- (1) All property vested in the Secretary of State by virtue of section 6 of the ^{M4}National Health Service (Scotland) Act 1947 is so vested free of any trust existing immediately before 5th July 1948; and the Secretary of State may use any such property for the purpose of any of the functions exercisable by him under this Act, but shall so far as practicable secure that the objects for which any such property was used immediately before the said 5th July are not prejudiced by the exercise of the power hereby conferred.
- (2) Where the character and associations of any voluntary hospital transferred to the Secretary of State by virtue of the said Act of 1947 are such as to link it with a particular religious denomination, regard shall be had in the general administration of the hospital to the preservation of the character and associations of the hospital.

Marginal Citations

M4 1947 c. 27.

81 Power of voluntary organisations to transfer property to Secretary of State.

Notwithstanding anything contained in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own home or of midwives, or in any trust deed or other instrument relating to any such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to the Secretary of State on such terms as may be agreed between the Secretary of State and the organisation or trustees, with a view to the property being used or held by the Secretary of State for purposes similar to the purposes for which it was previously used or held.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(5) added by [2002 asp 5 Sch. 2 para. 2\(2\)](#)
- s. 19A(2)(b) words repealed by [2003 asp 4 sch. 4 para. 5\(4\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(a) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(b) substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(c) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(e) word substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 70A inserted by [1997 c. 46 s. 26\(2\)](#)
- s. 70A(2) word substituted by [2005 asp 13 s. 14\(3\)](#)
- s. 85AB(7) inserted by [2005 asp 13 sch. 2 para. 2\(18\)\(b\)](#)
- Sch. 11 para. 2(1A) inserted by [2005 asp 13 s. 14\(6\)\(a\)](#)