



# 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, and may use for those purposes any property, heritable or moveable, acquired by him or on his behalf under this Act.
- (2) Where the Secretary of State acquires premises under subsection (1) he may acquire compulsorily, in accordance with Schedule 13, 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—
  - (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 Lands Clauses Consolidation (Scotland) Act 1845), and
  - (b) section 6 and sections 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923),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.

#### **80 Transferred property free of trusts**

- (1) All property vested in the Secretary of State by virtue of section 6 of the 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.

#### **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.

#### *Trust property*

#### **82 Use and administration of certain endowments and other property held by Health Boards**

- (1) All endowments vested in a Health Board by virtue of section 37 of the National Health Service (Scotland) Act 1972 are so vested free of any trust existing immediately before 1st April 1974 (hereafter in this section referred to in relation to any such endowment as " the original trust"); but all such endowments shall be held by the Health Board on trust for such purposes relating to services provided under this Act in or in relation to hospitals, or to the functions of the Board with respect to research, as the Board may think fit.
- (2) All property vested in a Health Board by virtue of section 39 of the said Act of 1972 is so vested free of any trust existing immediately before the said 1st April (hereafter in this section referred to in relation to any such property as " the original trust"); but all such property shall be held by the Health Board on trust for such purposes relating to services provided by them under this Act, or to the functions of the Board with respect to research, as the Board may think fit.
- (3) In exercising the power conferred on them by this section in relation to any endowment or property a Health Board shall secure, so far as is reasonably practicable, that the

objects of the original trust (including, in the case of an endowment, the objects of the endowment) and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power.

- (4) Any reference in this section to an endowment or to any property includes a reference to the accumulated income thereof.

### **83 Power of Health Boards and local health councils to hold property on trust**

- (1) A Health Board shall have power to accept, hold and administer any property on trust for purposes relating to any service which it is their function to make arrangements for, administer or provide, or to their functions with respect to research.
- (2) A local health council shall have power to accept, hold and administer any property on trust for purposes relating to any function conferred upon them by or under any enactment.

### **84 Power of trustees to make payments to Health Boards**

- (1) Where property (other than property transferred to the Secretary of State under Part V of the National Health Service (Scotland) Act 1972 or to a Health Board under Part VI of that Act) was immediately before 1st April 1974, and is at any time after the commencement of this Act, held on trust under a trust instrument the terms of which authorise or require the trustees (whether immediately or in the future) to apply any part of the capital or income of the property for the purposes of any hospital or service which is administered by a Health Board, the trust instrument shall be construed as authorising, or, as the case may be, requiring, the trustees to pay that capital or income to the Health Board concerned.
- (2) Where property so held on trust is, under the trust instrument, to be applied for the purposes of hospitals which are administered by more than one Health Board, the trustees shall distribute the property between the Boards concerned, in such manner, having regard to the purposes of the trust, as the trustees may determine.
- (3) Any sums paid to a Health Board under this section shall, so far as practicable, be applied by them for the purposes specified in the trust instrument.

#### *Finance and accounts*

### **85 Expenses of certain bodies and travelling expenses and receipts**

- (1) 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 Planning Council;
  - (b) every Health Board ;
  - (c) the Agency;
  - (d) the Medical Practices Committee ;
  - (e) the Dental Estimates Board;
  - (f) the Tribunal.

- (2) 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.
- (3) 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.
- (4) Payments under subsection (1) 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.
- (5) Regulations may provide for the payment by the Secretary of State in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred by persons for the purpose of availing themselves of any service under this Act.
- (6) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund, but this section is without prejudice to section 52(4).

## **86 Accounts of Health Boards and the Agency**

- (1) Every Health Board and the Agency shall keep, in such form as the Secretary of State may, with the approval of the Treasury, direct, accounts of all moneys received or paid out by them, and those accounts shall be audited by auditors appointed by the Secretary of State; and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereof.
- (2) Regulations may make provision generally with respect to the audit of accounts under subsection (1) and, in particular, for conferring on the auditor of any of those accounts such rights of access to, and production of, books, accounts, vouchers or other documents as may be specified in the regulations, and such right in such conditions as may be so specified to require from any member or officer, or former member or officer, of a Health Board or the Agency such information relating to the affairs of the Board or the Agency as the Secretary of State may think necessary for the proper performance of the duty of the auditor.
- (3) Every Health Board and the Agency shall prepare and transmit to the Secretary of State in respect of each financial year accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (4) The Secretary of State shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of the Health Boards and the Agency, and shall transmit them on or before 30th November in each year to the Comptroller and Auditor General, who shall examine and certify them and lay a copy of them, together with his report thereon, before each House of Parliament.

## **87 Regulation of financial arrangements of Health Boards, the Agency and the Dental Estimates Board**

- (1) Regulations may provide, in the case of all or any of the following bodies, that is to say, Health Boards, the Agency, and the Dental Estimates Board, for restricting the making

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of payments by or on behalf of the body otherwise than on such authorisation and subject to such conditions as may be specified in the regulations; but such provision may be made subject to such exceptions as may be so specified.

- (2) Regulations made under this section may contain such other provisions as to the making and carrying out by all or any of those bodies of such arrangements with respect to financial matters as the Secretary of State thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.
- (3) Without prejudice to the operation of the provisions of any such regulations, the Secretary of State may give to any of the said bodies such directions (which may be specific in character) as to any matter with respect to which regulations may be made under this section as it appears to him is requisite for the purpose of securing that the affairs of the body are conducted, so far as reasonably practicable, in such manner as is mentioned in subsection (2); and a body to whom any such directions are given shall comply therewith.

#### *Remuneration, allowances and superannuation*

### **88 Payment of allowances and remuneration to members of certain bodies connected with the health services**

- (1) The Secretary of State may pay to members of—
  - (a) the Medical Practices Committee,
  - (b) the Dental Estimates Board,
  - (c) the Tribunal,
  - (d) any body on which functions are conferred by regulations under section 22, and
  - (e) any body specified in an order made by the Secretary of State as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under this Act,such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.
- (2) The Secretary of State may pay to members of—
  - (a) the Medical Practices Committee,
  - (b) the Dental Estimates Board,
  - (c) the Tribunal,
  - (d) any other body constituted under or by virtue of Part II, being a body specified in an order made for the purposes of this section by the Secretary of State with the approval of the Minister for the Civil Service, and
  - (e) any body on which functions are conferred by regulations under section 22,such remuneration as the Secretary of State may, with such approval, from time to time determine.
- (3) Allowances shall not be paid under subsection (1) except in connection with the performance of such powers or duties, in such circumstances, as may, with the approval of the Minister for the Civil Service, be determined by the Secretary of State.

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- (4) Any payments made under this section 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, with the approval of the Minister for the Civil Service, determine.

## **89 Superannuation of officers of certain hospitals**

- (1) The Secretary of State may enter into an agreement with the governing body of any hospital to which this section applies for admitting, on such terms and conditions as may be provided in the agreement, officers of the hospital of such classes as may be so provided to participate in the superannuation benefits provided under regulations made under section 10 of the Superannuation Act 1972, in like manner as officers of Health Boards ; and the said regulations shall apply accordingly in relation to the officers so admitted, subject to such modifications as may be provided in the agreement.
- (2) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in those superannuation benefits.
- (3) This section applies to any hospital (not vested in the Secretary of State) which is used, in pursuance of arrangements made by the governing body of the hospital with a Health Board, for the provision of services under this Act.