

STATUTORY INSTRUMENTS

1972 No. 1265

Health and Personal Social Services (Northern Ireland) Order 1972

PART X

ENDOWMENTS AND OTHER TRUST PROPERTY, ETC.

Transfer of endowments, etc., held by management committees

^{F1}79.

F1 Art. 79 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 38](#); S.R. 2022/102, art. 2(b)

Transfer of property held on trust by Northern Ireland Hospitals Authority

^{F2}80.

F2 Art. 80 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 39](#); S.R. 2022/102, art. 2(b)

Transfer of certain property held by health and welfare authorities

^{F3}Para.(1) rep. by SLR 1980

(2) The property and income transferred under paragraph (1) shall be held by the Health and Social Services Board and administered by that Board in accordance with the terms of the agreement made between the authority concerned and the organisation or, as the case may be, the trustees.

(3) An agreement made under section 42(4)^{F4} of, or under section 28^{F5} of, the said Acts of 1971 may be varied in the like manner and subject to the like consents and conditions as are provided for in, or by virtue of, that section.

(4) Where the Attorney-General is satisfied that an organisation is no longer in existence or, as the case may be, the trustees are dead, he may consent to the variation of the terms of an agreement under paragraph (3).]

F3 Art. 81 omitted (1.4.2022 for specified purposes) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 40\(1\)](#) (with [Sch. 1 para. 40\(2\)](#)); S.R. 2022/102, art. 2(b)

F4 1971 (c.1)

F5 1971 (c.2)

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Transfer of other property held on trust by health and welfare authorities

^{F6}82.

F6 Art. 82 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 41S.R. 2022/102](#), art. 2(b)

Power of trustees to make payments to Health and Social Services Boards

83.—^{F7}(1) Where the terms of a trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any hospital or service administered by ^{F8}... an [^{F9}HSC trust], the trust instrument shall be construed as authorising or (as the case may be) requiring the trustees to apply the trust property, to the like extent, and at the like times, for the purpose of making payments, whether of capital or income, to the appropriate authority.

(1A) In paragraph (1) “the appropriate authority” means—

- ^{F10}(a)
- (b) where the hospital or service is administered by an [^{F9}HSC trust] and trustees have been appointed for that trust under Article 16 of the 1991 Order, those trustees;
- (c) where the hospital or service is administered by an [^{F9}HSC trust] and sub-paragraph (b) does not apply, the [^{F9}HSC trust].]

^{F11}(2)

F7 1991 NI 1
F8 Words in art. 83(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 42\(2\)](#); S.R. 2022/102, art. 2(b)
F9 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), [Sch. 6 para. 1\(1\)\(d\)](#); S.R. 2009/114, art. 2
F10 Art. 83(1A)(a) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 42\(3\)](#); S.R. 2022/102, art. 2(b)
F11 Art. 83(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 42\(4\)](#); S.R. 2022/102, art. 2(b)

Power of Ministry in cases of difficulty

84. ^{F12}

F12 Art. 84 repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), [Sch. 6 para. 3\(36\)](#), [Sch. 7](#); S.R. 2009/114, art. 2

[^{F13}Power for certain health bodies to accept property on trust, etc]

85.—(1) ^{F14}... [^{F15} A special agency] may accept, hold and administer any property on trust for purposes relating to any service which it is [^{F15} that body's] function to make arrangements for, administer or provide.

[^{F16}(2) For the purposes of giving effect to the provisions of any will, deed or other like instrument—

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- (a) any reference therein to a management committee, a health authority or a welfare authority shall be construed as a reference to the appropriate [F17HSC trust] ;
- F18(b)
- (c) any reference therein to a hospital or other establishment or facility managed by an [F19HSC trust] shall be construed as a reference to that trust.]
- (3) Nothing in Article 87 shall affect the operation of any such provisions as are referred to in paragraph (2).

- F13** Art. 85 heading substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 43\(4\)](#); S.R. 2022/102, art. 2(b)
- F14** Words in art. 85(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 43\(2\)](#); S.R. 2022/102, art. 2(b)
- F15** 1990 NI 3
- F16** 1991 NI 1
- F17** Words in art. 85(2)(a) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 43\(3\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F18** Art. 85(2)(b) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 43\(3\)\(b\)](#); S.R. 2022/102, art. 2(b)
- F19** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), s. 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#); S.R. 2009/114, art. 2

Certain property of voluntary organisations

86.—(1) Where any property is—

- (a) vested in any voluntary organisation formed for the purpose of providing any services similar or related to services which F20 ... [F21[F22HSC trusts]] are authorised or required to provide; or
- (b) held by any persons on trust for such an organisation or for any specific purposes connected with such an organisation;

then, notwithstanding any enactment or rule of law or anything contained in the constitution or rules of the organisation or in any order of court, deed, will or other instrument relating to the organisation, that property may, with the approval of the Attorney-General, be transferred to F23 ... [F21 an [F22HSC trust] or the trustees for an [F22HSC trust] (in this Article referred to as “the transferee”)] on such terms as may be agreed between[F21 the transferee] and the organisation or, as the case may be, the trustees with a view to the property being held or used by[F21 the transferee] for purposes similar to the purposes for which it was previously held or used.

(2) The power to make an agreement under paragraph (1) shall be construed as including power, exercisable in the like manner and subject to the like consents and conditions, to vary the terms of that agreement.

(3) Where the Attorney-General is satisfied that an organisation is no longer in existence or, as the case may be, the trustees are dead, he may consent to the variation of the terms of an agreement under paragraph (2).

- F20** Words in art. 86(1)(a) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 44\(2\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F21** 1991 NI 1
- F22** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), s. 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#); S.R. 2009/114, art. 2

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F23 Words in [art. 86\(1\)\(a\)](#) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 44\(2\)\(b\)](#); S.R. 2022/102, art. 2(b)

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Changes and effects yet to be applied to :

- Instrument amended by [1995 c. 51 s.4Sch. para.30](#)

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

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

- art. 56(4C)(4D) substituted by [S.I. 2002/3135 Sch. 1 para. 16](#) (This amendment has not been applied as it has been superceded by the substitution of art. 56 by 2004/311 NI 2 art. 3)
- art. 61-61E and art. 61F and cross-heading substituted for art. 61 by [2008 c. 2 \(N.I.\) s. 2\(2\)](#) (This amending provision is itself amended (13.6.2016) before it comes into force by 2016 c. 26 (N.I.), ss. 9, 20(2))
- art. 98(3) added by [2008 c. 2 \(N.I.\) s. 4\(1\)](#)
- art. 107(1A) inserted by [2008 c. 2 \(N.I.\) s. 4\(4\)\(b\)](#)