

## SCHEDULES

### SCHEDULE 17

#### SAVING, TEMPORARY AND TRANSITIONAL PROVISIONS

##### Exempted hospitals

1.—(1) The repeal by this Order of paragraph 2(1) of Schedule 11 to the Health Services Act (Northern Ireland) 1971 shall not, except to such extent as may be provided for under sub-paragraph (2) of this paragraph, affect the status, as an exempted hospital, of any hospital in respect of which an order was made under section 23(8) of the Health Services Act (Northern Ireland) 1948 .

(2) Notwithstanding the repeal by this Order of paragraph 2(2) of Schedule 11 to that Act of 1971, arrangements may be made with the governing body of the hospital to which an order under section 23(8) of that Act of 1948 related for the hospital to be treated as a hospital for the purposes of all or any of the provisions of this Order.

##### Recovery of certain loans

2. The repeal by this Order of paragraph 2 of Schedule 11 to the Health Services Act (Northern Ireland) 1971 shall not affect the liability of any person to repay any amount due, or which may become due, under a loan made under section 6 of the Health Services Act (Northern Ireland) 1958 , or affect the terms and conditions of a loan so made.

##### Saving for allowances, pensions, gratuities and compensation

3. The repeal of any enactment by this Order or by any enactment repealed by this Order shall not affect any allowances, pension or gratuity granted under, or any right to compensation accrued or accruing by virtue of, any such enactment before the repeal of that enactment became effective.

##### Special provisions as to certain property

4. The Belfast City Council may exercise the power conferred on the Lord Mayor, Aldermen and Citizens of the City of Belfast by section 24(1) of and Schedule 3 to, the Health Services Act (Northern Ireland) 1948 and may do so notwithstanding the repeal of section 75 of the Health Services Act (Northern Ireland) 1971.

##### Temporary provision as to compensation

5.—(1) Where—

- (a) in accordance with any enactment mentioned in sub-paragraph (4), compensation has been awarded to any officer in respect of his removal from or relinquishment of office;
- (b) that officer subsequently becomes entitled (whether by virtue of any enactment or otherwise) to a superannuation allowance in respect of any office which he has accepted after the date of such removal or relinquishment; and
- (c) in the calculation of the amount of such allowance, account has been taken of any period of service in respect of which such compensation is payable;

then, except as provided in sub-paragraph (3), such compensation—

- (i) shall cease to be payable if it does not exceed such part of the superannuation allowance as is attributable solely to that period of service;
- (ii) shall, if it exceeds such part so attributable, be reduced by an amount equal to that part.
- (2) If a person receiving compensation under any enactment mentioned in sub-paragraph (4)—
  - (a) obtains any office under any local or public body; or
  - (b) receives, by virtue of this Order or of anything done in pursuance of this Order, any increase in the remuneration of the office held by him at the date at which the compensation was assessed;

then, except as provided in sub-paragraph (3), he shall not, so long as he holds that office or receives that increased remuneration, be entitled to receive, by way of compensation in respect of the office for which compensation is awarded, any greater sum than would make up the amount (if any) by which the remuneration which he is receiving falls short of the remuneration of the office in respect of which compensation was awarded.

(3) The Ministry may, on the application of the person concerned or of the body by which the compensation is payable, direct that the operation of sub-paragraph (1) or, as the case may be, sub-paragraph (2), in relation to that person, shall be modified so far as is, in the opinion of the Ministry, necessary in order equitably to meet the circumstances of the case.

(4) The enactments referred to in sub-paragraphs (1)(a) and (2) are—

- (a) Schedule 3 to the Public Health (Tuberculosis) Act (Northern Ireland) 1946 , both as originally enacted and as applied by section 2 of the Health Services Act (Northern Ireland) 1958 ; and
- (b) Schedule 6 to the Health Services Act (Northern Ireland) 1948 .

(5) If a person receiving compensation under Schedule 4 to the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946

- (a) obtains any office under the Crown or under any local or other public authority; or
- (b) receives, by virtue of this Order or of anything done in pursuance of or in consequence of this Order, any increase of the emoluments of that office held by him;

then he shall not, while receiving the emoluments of that office, receive any greater amount of compensation (if any) than with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds that office.

(6) In this paragraph—

- (a) in sub-paragraph (2)( a), “local or public body” includes any authority or body specified in paragraph 1 of Schedule 1 to the<sup>F1</sup> Financial Provisions (Northern Ireland) Order 1983 as an authority or body to whom government loans may be made];
- (b) in sub-paragraph (5), “local authority” and “emoluments” have the same meanings as in section 29 of and paragraph 17 of Schedule 4 to, the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946 and “local authority” also includes a district council or a joint committee of district councils.

**Annotations:**

**F1** 1983 NI 1

Saving for powers of Ministry of Development<sup>F2</sup> to dispose of former workhouse property

**Annotations:**

**F2** SRO (NI) 1973/504; [1976 NI 16](#)

7.—(1) The repeal of paragraph 1 of Schedule 3 to the Welfare Services Act (Northern Ireland) 1971 shall not affect any power of the Ministry of Development<sup>F3</sup> to dispose of, in accordance with the provisions of section 3 of the Welfare Services Act (Northern Ireland) 1949 , any former workhouse property still held by that Ministry at the commencement of this Order.

(2) In this paragraph, “former workhouse property” means any land (not being property which was subject to the provisions of section 23(2) or (3A) of the Health Services Act (Northern Ireland) 1948 ) which was, immediately before the 20th January 1949, held by the Ministry of Health and Local Government under any of the provisions of the Poor Relief Acts (Northern Ireland) 1838 to 1937.

**Annotations:**

**F3** SRO (NI) 1973/504; [1976 NI 16](#)

Care of patients under Part III of Mental Health Act

8. Where immediately before [<sup>F4</sup> 1st October, 1973] a hospital order or a guardianship order made under Part III of the Mental Health Act is in force by virtue of which a person is committed to the care of the Northern Ireland Hospitals Authority or the guardianship of a management committee the order shall have effect on and after [ 1st October, 1973] as if it committed him to the care of the Ministry or, as the case may be, the guardianship of a Health and Social Services Board.

**Annotations:**

**F4** [1972 NI 21](#)

*Para. 9. rep. by 1995 NI 2*

Saving for sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954

10. Nothing in this Order shall affect the provisions of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 (effect of repeals and of substituting provisions).

### Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Personal Social Services (Northern Ireland) Order 1972. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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

- Order excluded by 2014 c. 23 Sch. 1 para. 1(4)
- Order excluded by 2014 c. 23 Sch. 1 para. 2(6)
- Order excluded by 2014 c. 23 Sch. 1 para. 3(3)
- Order modified by 2014 c. 23 Sch. 1 para. 4(1)(a)
- Order modified by 2014 c. 23 Sch. 1 para. 4(2)(a)
- Order modified by 2014 c. 23 Sch. 1 para. 4(3)(a)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(a)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(c)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(d)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(e)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(f)

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

- Sch. 1 para. 9(8) added by 2008 c. 2 (N.I.) Sch. 1 para. 8(4)
- Sch. 1 para. 1(7A) inserted by 2008 c. 2 (N.I.) Sch. 1 para. 1(5)
- Sch. 1 para. 2(1A) inserted by 2008 c. 2 (N.I.) Sch. 1 para. 2(3)
- Sch. 1 para. 4(2)(c) inserted by 2008 c. 2 (N.I.) Sch. 1 para. 4(2)(b)
- Sch. 1 para. 4(5)(aa) inserted by 2008 c. 2 (N.I.) Sch. 1 para. 4(3)
- Sch. 1 para. 1(8)(b) repealed by 2008 c. 2 (N.I.) Sch. 1 para. 1(6)(a) Sch. 2 Pt. 1
- Sch. 1 para. 1(2) substituted by 2008 c. 2 (N.I.) Sch. 1 para. 1(2)
- Sch. 1 para. 1(8)(c)-(e) substituted by 2008 c. 2 (N.I.) Sch. 1 para. 1(6)(b)
- Sch. 1 para. 7(2) words added by 2008 c. 2 (N.I.) Sch. 1 para. 6(3)(b)
- Sch. 1 para. 1(11) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 1(7)(b)
- Sch. 1 para. 2(1) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 2(2)
- Sch. 1 para. 2(3)(a) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 2(4)(a)
- Sch. 1 para. 2(3)(b) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 2(4)(b)
- Sch. 1 para. 2(6) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 2(6)
- Sch. 1 para. 7(2) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 6(3)(a)
- Sch. 1 para. 9(5)(c) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 8(2)
- Sch. 1 para. 9(7)(a) words inserted by 2008 c. 2 (N.I.) Sch. 1 para. 8(3)
- Sch. 1 para. 1(4)(b) words repealed by 2008 c. 2 (N.I.) Sch. 1 para. 1(3) Sch. 2 Pt. 1
- Sch. 1 para. 1(11) words repealed by 2008 c. 2 (N.I.) Sch. 1 para. 1(7)(a) Sch. 2 Pt. 1
- Sch. 1 para. 1(6) words substituted by 2008 c. 2 (N.I.) Sch. 1 para. 1(4)
- Sch. 1 para. 2(5) words substituted by 2008 c. 2 (N.I.) Sch. 1 para. 2(5)
- Sch. 1 para. 7(1) words substituted by 2008 c. 2 (N.I.) Sch. 1 para. 6(2)
- Sch. 11 para. 1(7B) applied (with modifications) (temp.) by 2016 c. 26 (N.I.) s. 12(2)(c)
- Sch. 11 para. 1(7B) inserted by 2016 c. 26 (N.I.) s. 12(1)(d)
- Sch. 11 para. 15(c)-(h) transfer of functions by S.R. 2011/44 art. 6(a)
- art. 2(2A) inserted by 2009 c. 1 (N.I.) Sch. 6 para. 3(2)
- art. 14B-14C inserted by S.R. 2012/167 reg. 4(2)
- art. 14B heading words added by S.R. 2013/299 reg. 8(1)(a)
- art. 14B(1A) inserted by S.R. 2013/299 reg. 8(1)(b)
- art. 14D 14E inserted by S.R. 2013/299 reg. 8(2)
- art. 15B cross-heading words substituted by 2008 c. 2 (N.I.) s. 5(2)(a)
- art. 15B heading words substituted by 2008 c. 2 (N.I.) s. 5(2)(a)
- art. 15B(1)(b) words substituted by 2008 c. 2 (N.I.) s. 5(2)(b)
- art. 15B(2)(a) words substituted by 2008 c. 2 (N.I.) s. 5(2)(b)
- art. 15B(2)(b)(i) words substituted by 2008 c. 2 (N.I.) s. 5(2)(b)

- art. 15B(3) repealed by 2008 c. 2 (N.I.) s. 5(2)(c) Sch. 2 Pt. 2
- art. 15B(4) words inserted by 2016 c. 26 (N.I.) s. 13(1)
- art. 15B(4) words repealed by 2009 c. 1 (N.I.) Sch. 7
- art. 15B(4) words substituted by 2008 c. 2 (N.I.) s. 5(2)(b)
- art. 15B(6) repealed by 2008 c. 2 (N.I.) s. 5(2)(c) Sch. 2 Pt. 2
- art. 15C(1)(b)(iii) substituted by 2016 c. 26 (N.I.) s. 13(2)
- art. 15C(1)(b)(iii) words substituted by 2008 c. 2 (N.I.) s. 14(3)
- art. 15C(1)(c) substituted by 2008 c. 2 (N.I.) s. 5(3) (This amending provision is itself amended (13.6.2016) before it comes into force by 2016 c. 26 (N.I.), ss. 13(5), 20(2))
- art. 15C(1A) words substituted by 2008 c. 2 (N.I.) s. 5(4)
- art. 15C(2) word substituted by 2016 c. 26 (N.I.) s. 13(3)(a)(i)
- art. 15C(2) words added by 2016 c. 26 (N.I.) s. 13(3)(a)(ii)
- art. 15C(2) words inserted by 2008 c. 2 (N.I.) s. 5(5)(a)(i)
- art. 15C(2) words inserted by 2016 c. 26 (N.I.) s. 13(3)(c)
- art. 15C(2) words omitted by 2008 c. 2 (N.I.) s. 5(5)(a)(ii)(b) Sch. 2 Pt. 2
- art. 15C(2) words repealed by 2008 c. 2 (N.I.) s. 5(5)(a)(ii)(b) Sch. 2 Pt. 2
- art. 15C(2) words repealed by 2016 c. 26 (N.I.) s. 13(3)(d) Sch. 2 Pt. 2
- art. 15C(2) words substituted by 2016 c. 26 (N.I.) s. 13(3)(b)
- art. 15C(2)(b) words omitted by S.I. 2013/235 Sch. 2 para. 2
- art. 18(6) added by 2009 c. 1 (N.I.) Sch. 6 para. 3(9)(d)
- art. 36(2A) inserted by 2014 c. 23 Sch. 1 para. 5(8)
- art. 45(1)(a)(ii) words inserted by S.R. 2013/299 reg. 9
- art. 46(a)(b) words inserted by 2009 c. 1 (N.I.) Sch. 6 para. 3(21)
- art. 52(2)(h) and word inserted by 2009 c. 1 (N.I.) Sch. 6 para. 3(24)
- art. 53(1A) inserted by 2009 c. 1 (N.I.) Sch. 6 para. 3(26)
- art. 56(4C)(4D) substituted by S.I. 2002/3135 Sch. 1 para. 16
- art. 60A inserted by 2008 c. 2 (N.I.) s. 2(1)
- 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. 62A inserted by 2008 c. 2 (N.I.) s. 8(3)
- art. 62A repealed by 2016 c. 26 (N.I.) s. 10(2) Sch. 2 Pt. 1
- art. 63AA inserted by 2008 c. 2 (N.I.) s. 10(3)
- art. 63AA(1) repealed by 2016 c. 26 (N.I.) s. 11(2) Sch. 2 Pt. 1
- art. 63AA(2) words substituted by 2016 c. 26 (N.I.) s. 11(3)
- art. 63AA(2)(za) inserted by 2016 c. 26 (N.I.) s. 11(4)
- art. 63AA(3) words substituted by 2016 c. 26 (N.I.) s. 11(3)
- art. 63AA(3A)(3B) inserted by 2016 c. 26 (N.I.) s. 11(5)
- art. 63AA(4)(5) repealed by 2016 c. 26 (N.I.) s. 11(6) Sch. 2 Pt. 1
- art. 91(6)(a)(aa) substituted for art. 91(6)(a) by 2009 c. 1 (N.I.) Sch. 6 para. 3(41)
- art. 92B(3)(a)(aa)(b) substituted for art. 92B(3)(a)(b) by 2009 c. 1 (N.I.) Sch. 6 para. 3(42)

**Commencement Orders yet to be applied to the Health and Personal Social Services (Northern Ireland) Order 1972**

Commencement Orders bringing legislation that affects this Order into force:

- S.R. 2008/396 art. 2 commences (2008 c. 8 (N.I.))
- S.R. 2009/114 art. 2 commences (2009 c. 1 (N.I.))
- S.R. 2015/35 art. 2 commences (2014 c. 12 (N.I.))
- S.R. 2016/387 art. 2 commences (2015 c. 9 (N.I.))