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SCOTTISH STATUTORY INSTRUMENTS

2004 No. 285

NATIONAL HEALTH SERVICE

The National Health Service (Transfer of Property between Health Boards) (Scotland) (No 2) Regulations 2004

<i>Made</i>	- - - -	<i>10th June 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>11th June 2004</i>
<i>Coming into force</i>	- -	<i>2nd July 2004</i>

The Scottish Ministers, in exercise of the powers conferred on them by section 5(4) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Transfer of Property between Health Boards) (Scotland) (No 2) Regulations 2004 and shall come into force on 2nd July 2004.

(2) In these Regulations—

“the Act” means the Public Appointments and Public Bodies etc. (Scotland) Act 2003;

“former Trust property” means any Trust property (including any value in lieu of the property) which has been transferred to a Health Board by virtue of section 5(1) or (2) of the Act; and

“Trust property” has the same meaning as in section 5 of the Act.

Conditions of transfer, and vesting of, former Trust property

2. The conditions subject to which a Health Board (“the transferor”) may, under section 5(4) of the Act, transfer former Trust property to another Health Board (“the transferee”), and such property may be vested in the transferee, are—

(a) that the consideration for the transfer shall be such as may be agreed between the transferor and the transferee;

(1) 2003 asp 4.

- (b) that the property transferred, and any income from the property, can only be used for purposes consistent with the purposes for which the former Trust property is held and those purposes shall be notified by the transferor to the transferee before the transfer takes place;
- (c) that the property shall be transferred back to the transferor on such date as may be agreed between the transferor and the transferee but this is without prejudice to the provisions of section 5(5) of the Act (which makes provision for the property to be transferred back in certain circumstances); and
- (d) that the property shall only be transferred with the consent of the Scottish Ministers and for this purpose, the transferor shall, not less than 28 days before the proposed date of transfer of the property, inform the Scottish Ministers in writing of—
 - (i) the name of the transferee;
 - (ii) the property to be transferred;
 - (iii) an estimate of the capital value of the property to be transferred as at the date of the notification;
 - (iv) the reason for the proposed transfer;
 - (v) the proposed consideration for the transfer as agreed between the transferor and the transferee;
 - (vi) the purposes for which the property to be transferred or any income from it can only be used; and
 - (vii) the date on which, subject to section 5(5) of the Act, it is agreed between the transferor and the transferee that the property would be transferred back.

Revocation

3. The National Health Service (Transfer of Property between Health Boards) (Scotland) Regulations 2004(2) are revoked.

St Andrew's House, Edinburgh
10th June 2004

TOM McCABE
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

Section 5(4) of the [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#) provides that any Trust property formerly held by the Scottish Hospital Trust (including any value in lieu of the property) which has been transferred to a Health Board by virtue of sections 5(1) and (2) of the 2003 Act, may be transferred by the Health Board (“the transferor”) to, and vested in, another Health Board (“the transferee”), subject to such conditions as may be provided for in regulations made by the Scottish Ministers.

These Regulations make provision for those conditions. In particular they provide—

- (a) that the consideration for the transfer shall be such as may be agreed between the transferor and the transferee;
- (b) that the property transferred, and any income from the property, can only be used for purposes consistent with the purposes for which the former Trust property is held;
- (c) that the property shall be transferred back to the transferor on such date as may be agreed between the transferor and transferee but this is subject to section 5(5) of the Act (which makes provision for the property to be transferred back in certain circumstances); and
- (d) that the property shall only be transferred with the consent of the Scottish Ministers and, for this purpose, the transferor has to inform the Scottish Ministers of certain matters not less than 28 days before the date of the proposed transfer.

These Regulations also revoke the National Health Service (Transfer of Property between Health Boards) (Scotland) Regulations 2004.