



National Health Service Act 1977

1977 CHAPTER 49

PART IV

PROPERTY AND FINANCE

Trusts

90 Gifts on trust.

—A [^{F1}Strategic Health Authority,][^{F2}Health Authority or Special Health Authority] has power to accept, hold and administer any property on trust for all or any purposes relating to the health service.

Textual Amendments

- F1** Words in s. 90 inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 1(3), 42(3), [Sch. 1 Pt. 1 para. 24](#); S.I. 2002/2478, [art. 3\(1\)\(c\)](#)
- F2** Words in s. 90 substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), [Sch. 1 para. 42](#) (with [Sch. 2 para. 6](#))

91 Private trusts for hospitals.

(1) Where—

- (a) 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 health service hospital, then
- (b) 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 hospital authority.

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- (2) Any sum so paid to the appropriate hospital authority shall, so far as practicable, be applied by them for the purpose specified in the trust instrument.
- (3) In this section “the appropriate hospital authority” means—
- (a) where special trustees are appointed for the hospital, those trustees;
 - ^{F3}(b) where the hospital is managed by, and trustees have been appointed for, an NHS trust or Primary Care Trust, the trustees,
 - (c) where the hospital is managed by an NHS trust or Primary Care Trust and neither paragraph (a) nor paragraph (b) applies, the NHS trust or (as the case may be) Primary Care Trust,
 - (d) in any other case, the ^{F4}[Strategic Health Authority,] Health Authority or Special Health Authority exercising functions of the Secretary of State in respect of the hospital]
- (4) Nothing in this section applies ^{F5}[to a trust for a special hospital, or] to property transferred under section 24 of the ^{M1}National Health Service Reorganisation Act 1973.

Textual Amendments

- F3** S. 91(3)(b)-(d) substituted for s. 91(3)(aa) to (b) (for E: 1.10.1999 subject to specified exceptions otherwise 4.1.2000; for W: 1.4.2000 subject to specified exceptions otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 27(a)**; S.I. 1999/2540, art. 2(1), **Sch. 1**; S.I. 1999/2342, art. 2(3), **Sch. 2**; S.I. 2000/1026, art. 2(1), **Sch.**
- F4** Words in s. 91(3)(d) inserted (1.10.2002) by **National Health Service Reform and Health Care Professions Act 2002 (c. 17)**, ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 25**; S.I. 2002/2478, **art. 3(1)(c)**
- F5** Words in s. 91(4) omitted (1.4.2000 for E. otherwise *prosp.*) by virtue of 1999 c. 8, ss. 65, 67, **Sch. 4 para. 27(b)**; S.I. 1999/2793, art. 2(3)(a), **Sch. 3**; and those words repealed (*prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 5**

Marginal Citations

- M1** 1973 c. 32(113:2).

92 Further transfers of trust property.

- (1) The Secretary of State may, having regard to any change or proposed change in the arrangements for the administration of a hospital ^{F6}[or other establishment or facility] or in the area or functions of any ^{F7}[Strategic Health Authority,]^{F8}[Primary Care Trust,]^{F9}[Health Authority or Special Health Authority], by order provide for the transfer of any trust property ^{F10}[from any relevant health service body to any other relevant health service body].

^{F11}(1A) In this section “relevant health service body” means—

- ^{F12}(za) [a Strategic Health Authority;]
- (a) a Health Authority;
 - (b) a Special Health Authority;
 - (c) an NHS trust ^{F13}[or a Primary Care Trust];
- ^{F14}(cc) [a Local Health Board;]

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- (d) special trustees; or
- (e) trustees for an NHS trust [^{F13}or a Primary Care Trust].]
- (2) If it appears to the Secretary of State at any time that all the functions of any special trustees should be discharged by [^{F15}one or more bodies which are relevant health service bodies by virtue of subsection (1A)(a) to (c) above] then, whether or not there has been any such change as is mentioned in subsection (1) above, he may by order provide for the transfer of all trust property from the special trustees to the [^{F16}body or, in such proportions as may be specified in the order, to those bodies].
- (3) Before so acting the Secretary of State shall consult the [^{F17}special trustees and other bodies] concerned.
- (4) Where by an order under this section, property is transferred to two or more [^{F18}bodies], it shall be apportioned by them in such proportions as they may agree or as may in default of agreement be determined by the Secretary of State, and the order may provide for the way in which the property is to be apportioned.
- (5) Where property is so apportioned, the Secretary of State may by order make any consequential amendments of the trust instrument relating to the property.
- [^{F19}(6) If it appears to the Secretary of State at any time that—
- (a) the functions of any special trustees should be discharged by the trustees for an NHS trust, or
- (b) the functions of the trustees for an NHS trust should be discharged by special trustees,
- then, whether or not there has been any such change as is mentioned in subsection (1) above, he may, after consulting the special trustees and the trustees for the NHS trust, by order provide for the transfer of all trust property from or to the special trustees to or from the trustees for the NHS trust.]
- [^{F20}(7) Subsection (6) above applies in relation to a Primary Care Trust as it applies in relation to an NHS trust.]

Textual Amendments

- F6** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. **11(5)(a)**
- F7** Words in s. 92(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 26(a)**; S.I. 2002/2478, **art. 3(1)(c)**
- F8** Words in s. 92(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 2(5), 42(3), **Sch. 2 Pt. 1 para. 33**; S.I. 2002/2478, **art. 3(1)(d)**
- F9** Words in s. 92(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(a)(i)** (with Sch. 2 para. 6)
- F10** Words in s. 92(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(a)(ii)** (with Sch. 2 para. 6)
- F11** S. 92(1A) inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(b)** (with Sch. 2 para. 6)
- F12** S. 92(1A)(za) inserted (1.10.2002 for E.W.) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 26(b)**; S.I. 2002/2478, **art. 3(1)(c)**
- F13** Words in s. 92(1A) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 28(a)**; S.I. 1999/2342, **art. 2(3)**, **Sch. 2**
- F14** S. 92(1A)(cc) inserted (10.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 6(2), 42(3), **Sch. 5 para. 19**; S.I. 2002/2532, **art. 2**, Sch.

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- F15** Words in s. 92(2) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(c)(i)** (with Sch. 2 para. 6)
- F16** Words in s. 92(2) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(c)(ii)** (with Sch. 2 para. 6)
- F17** Words in s. 92(3) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(d)** (with Sch. 2 para. 6)
- F18** Words in s. 92(4) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 44(e)** (with Sch. 2 para. 6)
- F19** S. 92(6) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 11(5)(d)
- F20** S. 92(7) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 28(b)**; S.I. 1999/2342, art. 2(3), **Sch. 2**

Modifications etc. (not altering text)

- C1** S. 92 restricted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 301, **Sch. 6 para. 7(2)**

93 Trust property previously held for general hospital purposes.

- (1) This section applies—
- (a) to property transferred under section 23 of the ^{M2}National Health Service Reorganisation Act 1973 (winding-up of hospital endowments funds), and
 - (b) to property transferred under section 24 of that Act (transfer of trust property from abolished authorities) which immediately before the day appointed for the purposes of that section was, in accordance with any provision contained in or made under section 7 of the ^{M3}National Health Service Act 1946, applicable for purposes relating to hospital services or relating to some form of research, and this section continues to apply to the property after any further transfer under section 92 above.

- (2) The person holding the property after the transfer or last transfer shall secure, so far as is reasonably practicable, that the objects of any original endowment and the observance of any conditions attached to that endowment, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by this Part of this Act, ^{F21} . . .

In this subsection “original endowment” means a hospital endowment which was transferred under section 7 of that Act of 1946 and from which the property in question is derived.

- (3) Subject to subsection (2) above, the property shall be held on trust for such purposes relating to hospital services (including research), or to any other part of the health service associated with any hospital, as the person holding the property thinks fit.
- (4) Where the person holding the property is a body of special trustees, the power conferred by subsection (3) above shall be exercised as respects the hospitals for which they are appointed.

Textual Amendments

- F21** Words in s. 93(2) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)

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Modifications etc. (not altering text)

C2 S. 93(1)(2) extended (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 5(3)** (with **Sch. 2 para. 6**)

Marginal Citations

M2 1973 c. 32(113:2).

M3 1946 c. 81.

94 Application of trust property: further provisions.

(1) Any discretion given by a trust instrument to the trustees of property transferred under—

- (a) section 24 of the ^{M4}National Health Service Reorganisation Act 1973 (transfer of trust property from abolished authorities),
- (b) section 25 of that Act (transfer of trust property held for health services by local health authorities),
- (c) section 92 above,

shall be exercisable by the person to whom the property is so transferred and, subject to section 93 above and the following provisions of this section, the transfer shall not affect the trusts on which property is held.

(2) Where—

- (a) property has been transferred under section 24 of that Act of 1973, and
- (b) any discretion is given by a trust instrument to the trustees to apply the property, or income arising from the property, to such hospital services (including research) as the trustees think fit without any restriction on the kinds of hospital services and without any restriction to one or more specified hospitals,

the discretion shall be enlarged so as to allow the application of the property or (as the case may be) of the income arising from the property, to such extent as the trustees think fit, for any other part of the health service associated with any hospital.

(3) Subsection (2) above shall apply on any subsequent transfer of the property under section 92 above.

Modifications etc. (not altering text)

C3 S. 94(1)(3) extended (E.W.) (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 5(3)** (with **Sch. 2 para. 6**)

Marginal Citations

M4 1973 c. 32(113:2).

95 Special trustees for a university or teaching hospital.

(1) The bodies of trustees (in this Act referred to as special trustees) appointed by the Secretary of State under section 29 of the National Health Service Reorganisation Act 1973 [^{F22}or] this section shall (subject to section 92 above) hold and administer the property transferred to them under that Act of 1973.

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The special trustees so appointed are bodies of trustees appointed for the hospital or hospitals which, immediately before the day appointed for the purposes of section 29 of that Act of 1973, were controlled and managed by a University Hospital Management Committee or a Board of Governors, but excluding—

- (a) a body on whose request an order was made under section 24(2) of that Act of 1973;
 - (b) a preserved Board within the meaning of section 15(6) of that Act of 1973.
- (2) Special trustees have power to accept, hold and administer any property on trust for all or any purposes relating to hospital services (including research), or to any other part of the health service associated with hospitals, being a trust which is wholly or mainly for hospitals for which the special trustees are appointed.
- (3) The number of trustees for any hospital or hospitals shall be such as the Secretary of State may from time to time determine after consultation with such persons as he considers appropriate.
- (4) The term of office of any special trustee shall be fixed by the Secretary of State but a special trustee may be removed by the Secretary of State at any time during the special trustee's term of office.

Textual Amendments

F22 Word substituted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 1](#), para. 68

96 Trusts: supplementary provisions.

- (1) Any provision in sections 90 to 95 above [^{F23}and 96B below] for the transfer of any property includes provision for the transfer of any rights and liabilities arising from that property.

[^{F24}(1A) Where any transfer of property by virtue of those sections is of, or includes,—

- (a) land held on lease from a third party, that is to say, a person other than the Secretary of State or a [^{F25}Strategic Health Authority,][^{F26}Health Authority or Special Health Authority], or
- (b) any other asset leased or hired from a third party or in which a third party has an interest,

the transfer shall be binding on the third party notwithstanding that, apart from this subsection, it would have required his consent or concurrence.]

- (2) Nothing in those sections shall affect any power of Her Majesty, the court (as defined in [^{F27}the ^{M5}Charities Act 1993]) or any other person to alter the trusts of any charity.
- (3) Nothing in section 12 of the ^{M6}Finance Act 1895 (which requires certain Acts and certain instruments relating to the vesting of property by virtue of an Act to be stamped as conveyances on sale) applies to sections 90 to 95 above [and 96B below] or to an order made in pursuance of any of those sections; and stamp duty shall not be payable on such an order.

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Textual Amendments

- F23** Words in s. 96(1)(3) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 29**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F24** S. 96(1A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 11(6)(b)**
- F25** Words in s. 96(1A)(a) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 27**; S.I. 2002/2478, **art. 3(1)(c)**
- F26** Words in s. 96(1A) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1, Pt. 1 para. 45** (with **Sch. 2 para. 6**)
- F27** Words in s. 96(2) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 30**

Modifications etc. (not altering text)

- C4** S. 96 amended by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 11(6)**

Marginal Citations

- M5** 1993 c. 10.
M6 1895 c. 16(114).

[^{F28}96A Power of health authorities, etc. to raise money, etc., by appeals, collections, etc.

- (1) A [^{F29}Strategic Health Authority,][^{F30}Health Authority, Special Health Authority][^{F31}, Local Health Board][^{F32} or NHS trust] shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist the [^{F29}Strategic Health Authority,][^{F30}Health Authority, Special Health Authority][^{F31}, Local Health Board][^{F32} or NHS trust] in providing or improving any services or any facilities or accommodation which is or are or is or are to be provided as part of the health service or to assist them in connection with their functions with respect to research.
- (2) A Board of Governors of a teaching hospital shall, so long as it is a preserved Board by virtue of section 15 of the ^{M7}National Health Service Reorganisation Act 1973, have the like power in relation to services, facilities or accommodation provided or to be provided at or by the hospital or their functions with respect to research.
- (3) Subject to any directions of the Secretary of State excluding specified descriptions of activity, the activities authorised by this section include public appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities and the activities may involve the use of land, premises or other property held by or for the benefit of the [^{F33}Strategic Health Authority,][^{F34}Health Authority, Special Health Authority [^{F31}, Local Health Board] or NHS trust] exercising the power subject however to any restrictions on the purposes for which trust property may be used.
- (4) Subject to the following provisions of this section, the [^{F35}Strategic Health Authority,][^{F34}Health Authority, Special Health Authority [^{F31}, Local Health Board] or NHS trust] at whose instance property is given in pursuance of this section shall, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for or for the purpose for which it was given.
- (5) Where property is given in pursuance of this section to or on trust for any purposes of a hospital for which special trustees have been appointed, the property may be held, administered and applied by the special trustees instead of by the [^{F36}body responsible

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for the hospital if that body and the special trustees agree; and in this subsection the body responsible for a hospital is,—

- (a) in the case of a hospital vested in a NHS trust, that trust; and
- (b) in any other case, the ^{F37}Strategic Health Authority, ^{F38}Primary Care Trust or ^{F39}Health Authority] exercising functions ^{F40} . . . of the Secretary of State in respect of the hospital]

^{F41}(5A) [Where property is given in pursuance of this section on trust for any purposes of an NHS trust for which trustees have been appointed under section 11(1) of the National Health Service and Community Care Act 1990, then, if those trustees and the NHS trust agree, the property may be held, administered and applied by those trustees instead of by the NHS trust.]

^{F42}(5B) [Where property—

- (a) is given in pursuance of this section on trust for any purposes of a Primary Care Trust for which trustees have been appointed under section 96B below, and
- (b) those trustees and the Primary Care Trust agree,

the property may be held, administered and applied by those trustees instead of by the Primary Care Trust.]

(6) Property given in pursuance of this section on trust may be transferred ^{F43} . . . by order of the Secretary of State under section 92 above in the same circumstances as other trust property may be transferred under that section, and sections 94 and 96 above shall apply as they apply to other trust property transferred under the said section 92.

(7) Where property held by a ^{F44}Strategic Health Authority, ^{F45}Health Authority, Special Health Authority ^{F31}, Local Health Board] or NHS trust] under this section is more than sufficient to enable the purpose for which it was given to be fulfilled the excess shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the authority or Board as the ^{F44}Strategic Health Authority, ^{F45}Health Authority, Special Health Authority ^{F31}, Local Health Board] or NHS trust] think fit.

(8) Where property held by a ^{F44}Strategic Health Authority, ^{F45}Health Authority, Special Health Authority ^{F31}, Local Health Board] or NHS trust] under this section is insufficient to enable the purpose for which it was given to be fulfilled then—

- (a) the ^{F44}Strategic Health Authority, ^{F45}Health Authority, Special Health Authority ^{F31}, Local Health Board] or NHS trust] may apply so much of the capital or income at their disposal as is needed to enable the purpose to be fulfilled subject, however, in the case of trust property, to any restrictions on the purpose for which the trust property may be applied and, in the case of money paid or payable by the Secretary of State ^{F46} . . . under section 97 below, to any directions he ^{F46} . . . may give; but
- (b) where the capital or income applicable under paragraph (a) above is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the ^{F44}Strategic Health Authority, ^{F45}Health Authority, Special Health Authority ^{F31}, Local Health Board] or NHS trust] shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the authority or Board as the

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[^{F44}Strategic Health Authority,]^{F45}Health Authority, Special Health Authority
[^{F31}, Local Health Board] or NHS trust] think fit.

(9) Where under subsection (7) or (8) above property becomes applicable for purposes other than that for which it was given the [^{F44}Strategic Health Authority,]^{F45}Health Authority, Special Health Authority [^{F31}, Local Health Board] or NHS trust] shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.

(10) In this section “special trustees” has the same meaning as in section 95 above and references to the purposes for which trust property may be used or applied are to be taken, in the case of trust property which has been transferred under section 92 above, to include references to those purposes as enlarged by section 94 above.]

[^{F47}(11) This section (apart from subsection (5A)) has effect in relation to a Primary Care Trust as it has effect in relation to an NHS trust.]

Textual Amendments

- F28** S. 96A inserted by [Health Services Act 1980 \(c. 53, SIF 113:2\), s. 5\(1\)](#)
- F29** Words in s. 96A(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 1\(3\), 42\(3\), Sch. 1 Pt. 1 para. 28\(a\); S.I. 2002/2478, art. 3\(1\)\(c\)](#)
- F30** Words in s. 96A(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), [Sch. 1 para. 46\(a\)](#) (with [Sch. 2 para. 6](#))
- F31** Words in s. 96A(1)(3)(4)(7)(8)(9) inserted (1.10.2002 for W., otherwise prosp.) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 6\(2\), 42\(3\), Sch. 5 para. 20; S.I. 2002/2532, art. 2, Sch.](#)
- F32** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 5\(8\), Sch. 2 para. 23\(1\)](#)
- F33** Words in s. 96A(3) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 1\(3\), 42\(3\), Sch. 1 Pt. 1 para. 28\(b\); S.I. 2002/2478, art. 3\(1\)\(c\)](#)
- F34** Words in s. 96A(3)(4) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by virtue of 1995 c. 17, ss. 2(1)(3), 8(1), [Sch. 1 para. 46\(b\)](#) (with [Sch. 2 para. 6](#))
- F35** Words in s. 96A(4) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 1\(3\), 42\(3\), Sch. 1 Pt. 1 para. 28\(c\); S.I. 2002/2478, art. 3\(1\)\(c\)](#)
- F36** Words and subsections (a)(b) substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 5\(8\), Sch. 2 para. 23\(3\)](#)
- F37** Words in s. 96A(5)(b) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 1\(3\), 42\(3\), Sch. 1 Pt. 1 para. 28\(d\); S.I. 2002/2478, art. 3\(1\)\(c\)](#)
- F38** Words in s. 96A(5)(b) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 2\(5\), 42\(3\), Sch. 2 Pt. 1 para. 34; S.I. 2002/2478, art. 3\(1\)\(d\)](#)
- F39** Words in s. 96A(5)(b) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), [Sch. 1 para. 46\(c\)](#) (with [Sch. 2 para. 6](#))
- F40** Words in s. 96A(5)(b) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, ss. 65, 67, [Sch. 4 para. 30\(2\); S.I. 1999/2342, art. 2\(1\), Sch. 1; S.I. 1999/3184, art. 2\(2\), Sch. 2](#) and are repealed (1.4.2000) by 1999 c. 8, s. 65, [Sch. 5; S.I. 2000/1041, art. 2\(d\), Sch.](#)
- F41** S. 96A(5A) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 5\(8\), Sch. 2 para. 23\(4\)](#)
- F42** S. 96A(5B) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, [Sch. 4 para. 30\(3\); S.I. 1999/2342, art. 2\(3\), Sch. 2](#)
- F43** Words in s. 96A(6) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), [Sch. 3](#) (with [Sch. 2 para. 6](#))
- F44** Words in s. 96A(7)(8)(9) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 1\(3\), 42\(3\), Sch. 1 Pt. 1 para. 28\(e\); S.I. 2002/2478, art. 3\(1\)\(c\)](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F45 Words in s. 96A(7)-(9) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), Sch. 1 para. 46(e), **Sch. 3** (with Sch. 2 para. 6)

F46 Words in s. 96A(8)(a) repealed (1.4.1996) by 1995 c. 17, ss. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)

F47 S. 96A(11) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 30(4)**; S.I. 1999/2342, art. 2(3), **Sch. 2**

Modifications etc. (not altering text)

C5 S. 96A(10) extended (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 4(1)(2), 8(1), **Sch. 2 para. 5(3)** (with Sch. 2 para. 6)

Marginal Citations

M7 1973 c. 32(113:2).

[^{F48}96B Trust-funds and trustees for Primary Care Trusts.

- (1) The Secretary of State may by order provide for the appointment of trustees for any Primary Care Trust.
- (2) Trustees for a Primary Care Trust may accept, hold and administer any property on trust—
 - (a) for the general or any specific purposes of the Primary Care Trust (including the purposes of any specific hospital or other establishment or facility which is managed by the trust), or
 - (b) for all or any purposes relating to the health service.
- (3) An order under subsection (1) above may—
 - (a) make provision as to the persons by whom trustees are to be appointed and generally as to the method of their appointment,
 - (b) provide for any appointment to be subject to any conditions specified in the order (including conditions requiring the consent of the Secretary of State),
 - (c) make provision as to the number of trustees to be appointed, including provision under which that number may from time to time be determined by the Secretary of State after consultation with any persons he considers appropriate, and
 - (d) make provision about the term of office of any trustee and his removal from office.
- (4) Where trustees have been appointed for a Primary Care Trust under subsection (1) above, the Secretary of State may by order provide for the transfer of any trust property from the Primary Care Trust to the trustees so appointed.]

Textual Amendments

F48 S. 96B inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 7, 67; S.I. 1999/2342, art. 2(3), **Sch. 2**

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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

- Act modified by [2003 c. 43 Sch. 7 para. 3\(7\)](#)
- Act repealed by [2006 c. 43 Sch. 4](#)

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

- s. 3(4) inserted by [2003 c. 43 Sch. 11 para. 8](#)
- s. 3(4)(a) words substituted by [2006 c. 28 Sch. 8 para. 7\(4\)\(a\)](#)
- s. 3(4)(b) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 3(4)(b) words substituted by [2006 c. 28 Sch. 8 para. 7\(4\)\(b\)](#)
- s. 8(9)(10) added by [2006 c. 28 s. 74\(1\)](#)
- s. 11(4A)(4B) inserted by [2006 c. 28 s. 74\(2\)\(a\)](#)
- s. 16B(4) inserted by [2003 c. 43 s. 182\(1\)](#)
- s. 16BC(4) inserted by [2003 c. 43 s. 182\(2\)](#)
- s. 16CA and heading inserted by [2003 c. 43 s. 170](#)
- s. 16CB inserted by [2003 c. 43 s. 171\(1\)](#)
- s. 16CC inserted by [2003 c. 43 s. 174](#)
- s. 16CD16CE inserted by [2006 c. 28 s. 37](#)
- s. 19A(2)(aa) inserted by [2003 c. 43 Sch. 9 para. 9](#)
- s. 20A inserted by [2003 c. 4 s. 1\(1\)](#)
- s. 21(4) inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 9](#)
- s. 22(1A)(e) inserted by [2003 c. 43 Sch. 4 para. 25](#)
- s. 28D(1)(b)-(bc) substituted for s. 28D(1)(b)(c) by [2003 c. 43 s. 177\(2\)](#)
- s. 28D(1)(bc)(i) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 28D(1)(bc)(iii) words substituted by [S.I. 2004/957 Sch. para. 3](#)
- s. 28D(1A) inserted by [2003 c. 43 s. 177\(3\)](#)
- s. 28E(3)(ca) inserted by [2003 c. 43 s. 177\(7\)](#)
- s. 28E(3A)(3B) inserted by [2003 c. 43 s. 177\(8\)](#)
- s. 28E(3C) inserted by [2003 c. 43 s. 177\(9\)](#)
- s. 28E(3D) inserted by [2003 c. 43 s. 177\(10\)](#)
- s. 28E(3E)(3F) inserted by [2003 c. 43 s. 177\(11\)](#)
- s. 28K-28P and heading inserted by [2003 c. 43 s. 172\(1\)](#)
- s. 28M(4) words substituted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 16](#)
- s. 28Q-28W and heading(s) inserted by [2003 c. 43 s. 175\(1\)](#)
- s. 28W(5) applied by [S.I. 2004/478 reg. 100\(3\)](#)
- s. 28W(5) applied by [S.I. 2004/478 Sch. 6 para. 100\(3\)](#)
- s. 28X applied (with modifications) by [S.I. 2006/552 Sch. 1 para. 4](#)
- s. 28X inserted by [2003 c. 43 s. 179\(1\)](#)
- s. 28X heading words substituted by [2006 c. 28 s. 39\(5\)](#)
- s. 28X(1A) inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 17\(a\)](#)
- s. 28X(2A) inserted by [2006 c. 28 s. 39\(2\)](#)
- s. 28X(3)(b) words substituted by [2006 c. 28 s. 39\(3\)](#)
- s. 28X(3)(c) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 17\(b\)](#)
- s. 28X(6A) inserted by [2006 c. 28 s. 39\(4\)](#)
- s. 28Y inserted by [2003 c. 43 s. 180](#)
- s. 28Y(1) applied (with modifications) by [S.I. 2006/552 Sch. 1 para. 5](#)
- s. 28Y(1)(a) substituted by [2006 c. 28 s. 40\(2\)](#)
- s. 28Y(1)(b) words substituted by [2006 c. 28 s. 40\(3\)](#)
- s. 28Y(1)(c) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 18](#)
- s. 28WA-28WF and cross-heading inserted by [2006 c. 28 s. 38](#)
- s. 29-34A repealed by [2003 c. 43 s. 175\(2\)Sch. 14 Pt. 4](#)

- s. 34A inserted by [1997 c. 46 s. 25\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 25(1) repealed (1.4.2004) without ever being in force by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1) (4), Sch. 14 Pt. 4 Note; S.I. 2004/288, art. 6(2)(p) (with art. 8) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345))
- s. 35(3)-(3B) substituted for s. 35(3) by [S.I. 2005/2011 Sch. 6 para. 1\(2\)\(a\)](#) (This amendment comes into force on a day to be specified in the London, Edinburgh and Belfast Gazettes (see, for example, the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008))
- s. 42(2A) inserted by [2001 c. 15 s. 40\(3\)](#)
- s. 42(2B)(2C) inserted by [2006 c. 28 s. 35](#)
- s. 42A42B inserted by [2006 c. 28 s. 34\(1\)](#)
- s. 43(4)(5) added by [1997 c. 19 Sch. para. 6](#) (This amendment not applied to [legislation.gov.uk](#). 1997 c. 19 repealed (30.3.2007) by S.I. 2007/289, art. 1(2)(3), Sch. 1 para. 6; commencing date as notified in The Gazette, published 23.3.2007)
- s. 43A inserted by [1984 c. 48 s. 7\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 7(1) repealed (1.3.2007 immediately before the National Health Service Act 2006 comes into force) without ever being in force by National Health Service (Pre - consolidation Amendments) Order 2006 (S.I. 2006/1407), art. 1(1), Sch. 2 (with art. 4))
- s. 43A43B substituted by [1999 c. 8 s. 10\(1\)\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 repealed (1.3.2007) without ever being in force by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1))
- s. 43A43B substituted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 19](#)
- s. 43A(3) repealed by [1997 c. 46 Sch. 2 para. 77](#)[Sch. 3 Pt. 2](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 2 para. 77 repealed (E.W.) (1.3.2007 immediately before the National Health Service Act 2006 comes into force) without ever being in force by The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), art. 1(1), Sch. 2 (with art. 4))
- s. 43B added by [1984 c. 48 s. 7\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 7(3) repealed to the extent that it inserts section 43B of the National Health Service Act 1977 (1.3.2007 immediately before the National Health Service Act 2006 comes into force) without that amendment ever being in force by National Health Service (Pre - consolidation Amendments) Order 2006 (S.I. 2006/1407), art. 1(1), Sch. 2 (with art. 4))
- s. 44(3A) inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 20\(c\)](#)
- s. 45A45B inserted by [2003 c. 43 Sch. 11 para. 23](#)
- s. 45A(3) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 45A(3)(a) word repealed by [2006 c. 28 Sch. 8 para. 17\(2\)](#)[Sch. 9](#)
- s. 45A(3)(aa) inserted by [2006 c. 28 Sch. 8 para. 17\(2\)](#)
- s. 45A(4) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 45A(4)(a) substituted by [2006 c. 28 Sch. 8 para. 17\(3\)](#)
- s. 45A(11) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 45C inserted by [2006 c. 28 s. 41](#)
- s. 46-46C substituted for s. 46 by [1999 c. 8 s. 40\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 40 repealed by 2001 c. 15, ss. 67, 70(2), Sch. 6 Pt. 1 (with ss. 64(a), 65(4)), the repeal coming into force immediately before the coming into force of the National Health Service Act 2006 (c. 41) (as to which see s. 227 of that 2006 Act) by virtue of The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 8(c))
- s. 54(1)(c) and word(s) inserted by [2003 c. 43 Sch. 11 para. 26\(2\)\(c\)](#)
- s. 54(1)(c) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 72(5)(d) and word(s) inserted by [2003 c. 43 Sch. 11 para. 27\(2\)](#)
- s. 72(5)(d) modified by [S.I. 2004/865 art. 109\(2\)\(a\)](#)
- s. 72(5)(d) words substituted by [2006 c. 28 Sch. 8 para. 21\(b\)\(i\)](#)
- s. 72(5)(d) words substituted by [2006 c. 28 Sch. 8 para. 21\(b\)\(ii\)](#)

- s. 77(4) inserted by [2003 c. 43 Sch. 11 para. 28](#)
- s. 78A inserted by [1997 c. 46 s. 26\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 26(1) repealed (1.3.2007) without ever being in force by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1 Sch. 3 Pt. 1))
- s. 79(5)(b) modified by [2003 c. 43 s. 183\(4\)](#)
- s. 96(4) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 27](#)
- s. 96A(12) inserted by [2003 c. 43 Sch. 4 para. 37](#)
- s. 98(1A)-(1C) inserted by [S.I. 2003/1324 Sch. 2 para. 1\(2\)](#)
- s. 98(1A) substituted by [S.I. 2004/1714 Sch. 2 para. 1\(2\)](#)
- s. 98(1A)(e) inserted by [S.I. 2006/960 Sch. 2 para. 1\(2\)](#)
- s. 98(1C) words inserted by [S.I. 2004/1714 Sch. 2 para. 1\(4\)](#)
- s. 98(1C) words substituted by [S.I. 2006/960 Sch. 2 para. 1\(4\)](#)
- s. 98(1D) inserted by [2004 c. 23 Sch. 2 para. 2](#)
- s. 98(1BA)(1BB) inserted by [S.I. 2004/1714 Sch. 2 para. 1\(3\)](#)
- s. 98(1BC) inserted by [S.I. 2006/960 Sch. 2 para. 1\(3\)](#)
- s. 98(4A) inserted by [S.I. 2003/1324 Sch. 2 para. 1\(4\)](#)
- s. 98(7)-(10) inserted by [S.I. 2005/1074 art. 2\(2\)](#)
- s. 103(4)(5) inserted by [2001 c. 15 Sch. 5 para. 5\(12\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 para. 5(12)(c) repealed (1.3.2007) without ever being in force by 2006 c. 43, s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1))
- s. 124A(3)(aa) inserted by [2002 c. 38 Sch. 3 para. 20](#)
- s. 126(1A) inserted by [2003 c. 43 s. 183\(3\)\(b\)](#)
- s. 126(4A) inserted by [2001 c. 15 Sch. 5 para. 5\(13\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 para. 5(13)(c) repealed (1.3.2007) without ever being in force by 2006 c. 43, s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1))
- s. 126(4A) inserted by [2003 c. 4 s. 1\(2\)](#)
- Sch. 5 para. 12B inserted by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 39\(c\)](#)
- Sch. 5 para. 10(2A)-(2C) substituted for Sch. 5 para. 10(2A) by [S.I. 2005/2011 Sch. 6 para. 1\(4\)](#) (This amendment comes into force on a day to be specified in the London, Edinburgh and Belfast Gazettes (see, for example, the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008))
- Sch. 5A para. 20(1A) inserted by [2006 c. 28 s. 74\(3\)](#)
- Sch. 5B para. 19(1A) inserted by [2006 c. 28 s. 74\(4\)](#)
- Sch. 7A inserted by [2003 c. 4 s. 1\(3\)Sch. 1](#)
- Sch. 7A para. 3(1)(fa) inserted by [2003 c. 43 Sch. 11 para. 40\(2\)\(a\)](#)
- Sch. 7A para. 3(1)(g) words repealed by [2003 c. 43 Sch. 11 para. 40\(2\)\(b\)Sch. 14 Pt. 4](#)
- Sch. 7A para. 3(2) words substituted by [2003 c. 43 Sch. 11 para. 40\(3\)](#)
- Sch. 9A para. 10(a)(aa) substituted for s. Sch. 9A para. 10(a) by [2003 c. 43 Sch. 11 para. 42\(4\)\(b\)](#)
- Sch. 9A para. 6(d)(i)(ii) substituted for words in para. 6(d) by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 40\(b\)](#)
- Sch. 11 para. 5A inserted by [S.I. 2004/3363 art. 7](#)
- Sch. 12 para. 2A(6) added by [S.I. 2006/1407 Sch. 1 Pt. 1 para. 42\(g\)](#)
- Sch. 12 para. 2B amendment to earlier affecting provision 2006 c. 28, s. 41(3) by [S.I. 2006/1407 Sch. 1 Pt. 2 para. 15](#) (The earlier affecting provision cited is incorrect. The correct provision should be s. 42(3).)
- Sch. 12 para. 2B inserted by [2006 c. 28 s. 42\(3\)](#)
- Sch. 12 para. 2A(1)(b)(ba) substituted for Sch. 12 para. 2A(1)(b) by [2006 c. 28 s. 42\(2\)\(a\)](#)
- Sch. 12A para. 7(4) inserted by [2001 c. 15 Sch. 5 para. 5\(17\)\(c\)](#)
- Sch. 12B inserted by [2006 c. 28 s. 56\(2\)Sch. 3](#)
- Sch. 12ZA inserted by [2003 c. 43 s. 183\(2\)](#)

Commencement Orders yet to be applied to the National Health Service Act 1977

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/53 art. 2-4 commences (2001 c. 15)
- S.I. 2003/713 art. 2 commences (2001 c. 15)
- S.I. 2003/833 art. 23 commences (2002 c. 17)
- S.I. 2003/2245 art. 2 commences (2001 c. 15)
- S.I. 2003/2246 art. 2 commences (2002 c. 17)
- S.I. 2003/2660 art. 2-4 commences (2003 c. 4)
- S.I. 2003/3064 art. 2 commences (2003 c. 4)
- S.I. 2003/3083 art. 2 commences (2002 c. 17)
- S.I. 2003/3346 art. 2-5 commences (2003 c. 43)
- S.I. 2004/103 art. 2-4 commences (2001 c. 15)
- S.I. 2004/287 art. 23 commences (1997 c. 46)
- S.I. 2004/288 art. 2-6 commences (2003 c. 43)
- S.I. 2004/289 art. 2 commences (1998 c. 8)
- S.I. 2004/480 art. 2-5 commences (2003 c. 43)
- S.I. 2004/759 art. 2-13 commences (2003 c. 43)
- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2004/1009 art. 2 commences (2003 c. 43)
- S.I. 2004/1019 art. 2 commences (2003 c. 43)
- S.I. 2004/1859 art. 2-6 commences (1999 c. 8)
- S.I. 2004/2626 art. 2 commences (2003 c. 43)
- S.I. 2005/457 art. 2 commences (2003 c. 43)
- S.I. 2005/558 art. 2Sch. 1 commences (2004 c. 23)
- S.I. 2005/1432 art. 2 commences (2005 c. 12)
- S.I. 2005/2213 art. 23 commences (2002 c. 38)
- S.I. 2005/2800 art. 3-5 commences (2005 c. 10)
- S.I. 2005/2897 art. 2 commences (2002 c. 38)
- S.I. 2005/2925 art. 24-11 commences (2003 c. 43)
- S.I. 2005/2926 art. 23 commences (1997 c. 46)
- S.I. 2006/345 art. 2-7 commences (2003 c. 43)
- S.I. 2006/481 art. 23 commences (2001 c. 15)
- S.I. 2006/1014 art. 2Sch. 12 commences (2005 c. 4)
- S.I. 2006/1407 Sch. 1 Pt. 2 para. 3681213 commences (1997 c. 46)
- S.I. 2006/2603 art. 2-5 commences (2006 c. 28)
- S.I. 2006/3125 art. 2-4 commences (2006 c. 28)
- S.I. 2007/204 art. 2-4 commences (2006 c. 28)
- S.I. 2008/1972 art. 2 commences (2006 c. 28)