

1974 No. 859 (S.75)

NATIONAL HEALTH SERVICE, SCOTLAND

**The Scottish Hospital Trust (Amendment) Regulations 1974**

*Laid before Parliament in draft*

Made - - - - 15th May 1974

Coming into Operation 30th May 1974

In exercise of the powers conferred on me by sections 2(3), 5(2) and 6(2) of the Hospital Endowments (Scotland) Act 1971(a), as amended by Part II of Schedule 6 to the National Health Service (Scotland) Act 1972(b), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1. These regulations may be cited as the Scottish Hospital Trust (Amendment) Regulations 1974 and shall come into operation on 30th May 1974.

2.—(1) In these regulations “the principal regulations” means the Scottish Hospital Trust Regulations 1972(c).

(2) The Interpretation Act 1889(d) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

3. The principal regulations shall be amended as follows:—

(1) For regulation 5 there shall be substituted the following regulation:—

“5. At the request of the Lothian Health Board, the Secretary of State may direct that the Trust shall realise part of the capital of the funds transferred to the Trust under section 2(1) of the Act up to the value of the capital of the funds which at the appointed day were held and administered as a Development Fund in terms of paragraph 11 of the Astley Ainslie, Edenhall and Associated Hospitals Endowments Scheme 1954 approved by the National Health Service (Astley Ainslie, Edenhall and Associated Hospitals Endowments Scheme) Approval Order 1954(e) (less any outstanding sums borrowed which may have been written off by the appointed day with the approval of the Secretary of State), and the amounts so realised shall be transferred to the said Health Board and shall be applied by it when received to meet capital expenditure on the provision of facilities for the convalescence and rehabilitation of patients in the Astley Ainslie Hospital or the Edenhall Hospital:

(a) 1971 c.8.

(b) 1972 c. 58.

(c) S.I. 1972/390 (1972 I, p. 1466).

(d) 1889 c. 63.

(e) S.I. 1954/1295.

Provided that for the purpose of any realisation and transfer carried out under this regulation the capital value of the said funds shall be taken to be as at the date of realisation.”

(2) For paragraphs (3) to (6) inclusive of regulation 6 there shall be substituted the following paragraphs:—

“(3) the Trust shall prepare and issue to Health Boards certificates which shall state each Board’s share in the total funds represented by the capital value of the relevant endowments transferred to the Trust on the appointed day calculated as provided in paragraph (1) of this regulation.

(4) The Trust shall in like manner issue a certificate to the Lothian Health Board in respect of the capital value of the funds transferred to the Trust from the Development Fund referred to in the preceding regulation.

(5) Where an order is made by the Secretary of State under section 13(3) of the National Health Service (Scotland) Act 1972 varying the area of a Health Board—

(a) there shall be assigned to any affected Board to which a hospital has been transferred from another affected Board as a result of the variation that part of the share of the second-mentioned Board in the total funds of the Trust which forms the same proportion of the whole share of that Board as the bed complement of the transferred hospital formed of the total bed complement of the hospitals under the management of that Board before the variation; and

(b) the Trust shall withdraw from the affected Boards the certificates issued to them in terms of paragraph (3) of this regulation and shall issue revised certificates which take into account the adjustments made in the shares of the affected Boards by virtue of this paragraph.

In this paragraph “affected Board” means a Health Board whose area has been affected by a variation of the kind above-mentioned.

(6) Where under regulation 5 of these regulations part of the capital of the Trust is realised and transferred, the Trust shall withdraw the certificates issued in terms of paragraphs (3) or (5) of this regulation and shall issue to each Health Board a fresh certificate in which the stated share of each Board in the total funds of the Trust shall take account of the capital so realised and transferred; and the Trust shall also withdraw from the Lothians Health Board the certificate issued in terms of paragraph (4) of this regulation and shall issue a revised certificate in respect of the capital value of the Development Fund transferred to the Trust.”

(3) In the heading of Part V for the words “Boards of Management and Regional Hospital Boards” there shall be substituted the words “Health Boards”.

(4) For regulation 7 there shall be substituted the following regulation:—

“7.—(1) Any sums borrowed by a Health Board against its share in the capital of the Trust by virtue of section 6(1) of the Act shall be repayable over a period not exceeding thirty years from the date of borrowing, with interest at a rate approved by the Secretary of State which shall be not less than 5% per annum.

(2) The Trust may require notice of borrowing to be given where the sum proposed to be borrowed, including any sum borrowed under section 6(1) of the Act within the previous twelve months, exceeds £5,000, as follows:—

- (a) up to £25,000, six months notice;
- (b) over £25,000, twelve months notice.”

4.—(1) Notwithstanding the provisions of regulation 3(4) of these regulations, any liability of a Board of Management or a Regional Hospital Board to repay sums to the Trust in accordance with the provisions of regulation 7 of the principal regulations as in force before the commencement of these regulations shall be transferred to the Health Board which administers the services formerly provided by the Board concerned, and such sums shall be repaid to the Trust by that Health Board as if they were sums borrowed under regulation 7 of the principal regulations as substituted by regulation 3(4) of these regulations.

(2) Where the area of a Regional Hospital Board is divided between two or more Health Boards, or the hospitals managed by a Board of Management become the responsibility of two or more Health Boards, the apportionment of the liability for repayment under paragraph (1) of this regulation between the Health Boards shall be on the basis determined for the division of rights in relevant endowments by order made by the Secretary of State under section 38(2) of the National Health Service (Scotland) Act 1972.

*William Ross,*  
One of Her Majesty's Principal  
Secretaries of State.

St Andrew's House,  
Edinburgh.  
15th May 1974.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the Scottish Hospital Trust Regulations 1972 (which made provision in respect of conditions of and exceptions from transference of relevant endowments to the Scottish Hospital Trust, the valuation of endowments transferred, and the arrangements for outstanding and future borrowings by hospital boards against their relevant endowments). The amendments substitute appropriate references to Health Boards in place of references to hospital boards and provide for transfer of the rights and obligations which the 1972 Regulations placed on hospital boards.

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