



National Health Service Reorganisation Act 1973

1973 CHAPTER 32

PART II

ABOLITION OF CERTAIN AUTHORITIES AND TRANSFER OF PROPERTY, STAFF AND ENDOWMENTS ETC.

Hospital endowments etc.

21 Power of Health Authorities to accept gifts

A Health Authority shall have power to accept, hold and administer any property on trust for all or any purposes relating to the health service.

22 Private trusts for hospitals: payments to Health Authorities

- (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 vested in the Secretary of State, 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.
- (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,
 - (b) in any other case, the Area Health Authority exercising functions on behalf of the Secretary of State in respect of the hospital.
- (4) Nothing in this section shall apply—

Status: This is the original version (as it was originally enacted).

- (a) to a trust for a special hospital; or
- (b) to property transferred under section 24 of this Act.

23 Winding-up of Hospital Endowments Fund

- (1) The Hospital Endowments Fund shall be wound up by the Secretary of State, and the winding up shall be completed by 31st March 1974 or as soon after as is practicable.
- (2) The Secretary of State shall by order provide for the distribution of the assets of the Hospital Endowments Fund among the following authorities and bodies, that is—
 - Regional Health Authorities,
 - Area Health Authorities, and
 - Special Trustees,
 or among such of those authorities or trustees as are specified in the order, in such proportions or up to such amounts as may be so specified.

24 Transfer of" trust property from abolished authorities

- (1) Subject to the following subsection, property held immediately before the appointed day on trust by a body specified in column 1 of the Table below (excluding a preserved Board) shall on the appointed day be transferred to and vest in the person specified in the relevant entry in column 2 of that Table.

TABLE

1.	2.
<i>Existing trustees</i>	<i>New trustees</i>
A regional hospital board in England.	Such one or more of the Regional Health Authorities as may be specified by an order made by the Secretary of State.
The Welsh Hospital Board	Such one or more Area Health Authorities or special health authorities in Wales as may be specified by an order made by the Secretary of State.
A Hospital Management Committee (other than a University Hospital Management Committee) holding any property on trust for one or more hospitals.	The Area Health Authority or Authorities responsible for the administration of the hospitals.
A University Hospital Management Committee.	The Special Trustees appointed for the university hospital.
A Board of Governors	The Special Trustees appointed for the teaching hospital

- (2) If after the passing of this Act and before 31st October 1973 a University Hospital Management Committee or Board of Governors requests the Secretary of State in writing to secure that property held immediately before the appointed day by the

Committee or Board is not transferred to and vested in Special Trustees by virtue of the preceding subsection, he may by an order made before the appointed day provide that the property shall be treated for the purposes of that subsection as if it were held immediately before that day by a Hospital Management Committee which is not a University Hospital Management Committee.

(3) Where the Secretary of State has arranged before the appointed day for an Area Health Authority (Teaching) established before that day—

- (a) to become responsible for the administration of a hospital or group of hospitals controlled and managed by a Hospital Management Committee which is not a University Hospital Management Committee; and
- (b) not to become responsible on that day for the administration of any hospital which immediately before that day was controlled and managed by a University Hospital Management Committee or a Board of Governors,

he may by an order made before that day specify the hospital or group in question and provide that for the purposes of subsection (1) of this section and section 29(1) of this Act the Hospital Management Committee shall be deemed to be a University Hospital Management Committee and the hospital or group shall be deemed to be designated as a university hospital.

25 Transfer of trust property held for health services by local health authorities

- (1) Any property held immediately before the appointed day by a local health authority on trust for purposes which are wholly or mainly the same as those of any part of the health service shall on the appointed day be transferred to and vest in such one or more Health Authorities as may be specified by an order made by the Secretary of State.
- (2) Any property held immediately before the appointed day by the Greater London Council on trust for the purpose of its functions under section 27 of the principal Act (ambulance services) shall on the appointed day be transferred to and vest in such Health Authority as may be specified by an order made by the Secretary of State.
- (3) The Secretary of State may by order provide for determining whether immediately before the appointed day any property was held as mentioned in the preceding provisions of this section.
- (4) Nothing in section 210 of the Local Government Act 1972 (charities) shall apply to property to be transferred under this section.

26 Power to make 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 or in the area or functions of any Health Authority, by order provide for the transfer of any trust property from any Health Authority or Special Trustees to any other Health Authority or Special Trustees.
- (2) If it appears to the Secretary of State at any time that all the functions of any Special Trustees should be discharged by one or more Health Authorities then, whether or not there has been any such change as is mentioned in the preceding subsection, he may by order provide for the transfer of all trust property from the Special Trustees to the Health Authority or, in such proportions as he may specify in the order, to those Health Authorities.

- (3) Before acting under this section the Secretary of State shall consult the Health Authorities and Special Trustees concerned.

27 Application of trust property previously held for general hospital purposes

- (1) This section applies—
- (a) to property which is transferred under section 23 of this Act; and
 - (b) to property which is transferred under section 24 of this Act and which immediately before the appointed day was, in accordance with any provision contained in or made under section 7 of the principal Act, applicable for purposes relating to hospital services or relating to some form of research,
- and this section shall continue to apply to the property after any further transfer under the preceding section.
- (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 thereto, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the provisions of this Part of this Act.

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

- (3) Subject to the preceding subsection, 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 the preceding subsection shall be exercised as respects the hospitals for which they are appointed.

28 Application of trust property: further provisions

- (1) Any discretion given by a trust instrument to the trustees of property transferred under section 24, 25 or 26 of this Act shall be exercisable by the person to whom the property is so transferred and, subject to the preceding section and subject to the following provisions of this section, the transfer shall not affect the trusts on which the property is held.
- (2) Where property is transferred under section 24 of this Act and 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) The preceding subsection shall apply on any subsequent transfer of the property under section 26 of this Act.

29 Special Trustees for a university or teaching hospital

- (1) The Secretary of State shall appoint bodies of trustees (in this Act referred to as Special Trustees) for the hospital or hospitals which, immediately before the appointed day, were controlled and managed by any University Hospital Management Committee or Board of Governors (excluding any body on whose request an order was made in pursuance of section 24(2) of this Act and any preserved Board), and those trustees shall hold and administer the property transferred to them under this Act.
- (2) Special Trustees shall 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 bodies and 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 his term of office.

30 Endowments: supplementary provisions

- (1) Where by section 24, 25 or 26 of this Act, or by an order under any of those sections, property is transferred to two or more authorities, 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:

Provided that where the property is transferred pursuant to an order, the order may provide for the way in which the property is to be apportioned.

- (2) Where property is so apportioned, the Secretary of State may by order make any consequential amendments of the trust instrument relating to the property.
- (3) In sections 21 to 29 of this Act, unless the context otherwise requires—
 - " Health Authority " means a Regional or Area Health Authority or a special health authority; and
 - " University Hospital Management Committee " means a Hospital Management Committee of a hospital or group of hospitals designated as a university hospital under section 5(1) of the Health Services and Public Health Act 1968.
- (4) Any provision in the said sections for the transfer of any property includes provision for the transfer of any rights and liabilities arising from that property.
- (5) Nothing in the said sections shall affect any power of Her Majesty, the court (as defined in the Charities Act 1960) or any other person to alter the trusts of any charity.