



National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART I

THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

National Health Service trusts

11 Trust funds and trustees for NHS trusts

- (1) The Secretary of State may by order made by statutory instrument provide for the appointment of trustees for an NHS trust; and any trustees so appointed shall have power to accept, hold and administer any property on trust for the general or any specific purposes of the NHS trust (including the purposes of any specific hospital or other establishment or facility which is owned and managed by the trust) or for all or any purposes relating to the health service.
- (2) 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) make any appointment subject to such conditions as may be 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 such persons as he considers appropriate; and
 - (d) make provision with respect to the term of office of any trustee and his removal from office.
- (3) Where, under subsection (1) above, trustees have been appointed for an NHS trust, the Secretary of State may by order made by statutory instrument provide for the transfer of any trust property from the NHS trust to the trustees so appointed.

Status: This is the original version (as it was originally enacted).

- (4) In section 91 of the principal Act (private trusts for hospitals) in subsection (3) (definition of “the appropriate hospital authority”) after paragraph (a) there shall be inserted the following paragraphs—
- “(aa) where the hospital is owned and managed by an NHS trust and trustees have been appointed for the NHS trust, those trustees;
 - (ab) where the hospital is owned and managed by an NHS trust and neither paragraph (a) nor paragraph (aa) above applies, the NHS trust;”.
- (5) In section 92 of the principal Act (further transfers of trust property)—
- (a) in subsection (1) after the word “hospital” there shall be inserted “or other establishment or facility” and for the words “or special trustees”, in each place where they occur, there shall be substituted “NHS trust, special trustees or trustees for an NHS trust”;
 - (b) in subsections (2) to (4), after the word “authorities”, in each place where it occurs, there shall be inserted “or NHS trusts”;
 - (c) in subsection (2) after the word “authority”, there shall be inserted “or NHS trust”; and
 - (d) at the end of the section there shall be added the following subsection—
 - “(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.”
- (6) In section 96 of the principal Act (trusts: supplementary provisions)—
- (a) any reference to sections 90 to 95 of the principal Act includes a reference to subsections (1) to (3) above; and
 - (b) after subsection (1) there shall be inserted the following subsection—
 - “(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 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.”
- (7) In section 98(1) of the principal Act (accounts and audit) after paragraph (d) there shall be inserted—
- “(dd) any trustees for an NHS trust appointed in pursuance of section 11 of the National Health Service and Community Care Act 1990; and”.