



National Health Service Act 1977

1977 CHAPTER 49

PART IV

PROPERTY AND FINANCE

Land and other Property

87 Acquisition, use and maintenance of property

- (1) The Secretary of State may acquire—
 - (a) any land, either by agreement or compulsorily,
 - (b) any other property,required by him for the purposes of this Act; and (without prejudice to the generality of paragraph (a) above) land may be so acquired to provide residential accommodation for persons employed for any of those purposes.
- (2) The Secretary of State may use for the purposes of any of the functions conferred on him by this Act any property belonging to him by virtue of this Act, and he has power to maintain all such property.
- (3) A local social services authority may be authorised to purchase land compulsorily for the purposes of this Act by means of an order made by the authority and confirmed by the Secretary of State.
- (4) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory purchase of land by the Secretary of State under this section, and accordingly shall have effect—
 - (a) as if section 1(1) of that Act (which refers to the compulsory purchase of land by local authorities under public general Acts in force immediately before the commencement of that Act and by the Minister of Transport under certain enactments) included a reference to any compulsory purchase of land by the Secretary of State under this section; and
 - (b) as if this section had been in force immediately before the commencement of that Act.

Status: This is the original version (as it was originally enacted).

- (5) Section 120(3) of the Local Government Act 1972 (which relates to the application of Part I of the Compulsory Purchase Act 1965 where a council are authorised to acquire land by agreement) applies to the acquisition of land by the Secretary of State under this section in like manner as it applies to such acquisition by a council under that section.
- (6) Section 128 of the Town and Country Planning Act 1971 (use and development of consecrated land and burial grounds) applies to consecrated land and land comprised in a burial ground within the meaning of that section which—
- (a) the Secretary of State holds for any of the purposes of the health service, and
 - (b) has not been acquired by him as mentioned in subsection (1) of that section, as if that land had been so acquired for those purposes.

88 Transferred property free of trusts

- (1) All property vested in the Secretary of State in consequence of the transfer of that property under section 6 of the National Health Service Act 1946 (transfer of hospitals) so vests free of any trust existing immediately before that transfer.
- (2) The Secretary of State may use any such property for the purpose of any of his functions under this Act, but he shall so far as practicable secure that the objects for which any such property was used immediately before that transfer are not prejudiced by section 6 of that Act of 1946.

89 Power of voluntary organisations to transfer property

Notwithstanding anything contained—

- (a) in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own homes, or of midwives, or
- (b) in any trust deed or other instrument relating to such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to the Secretary of State, on such terms as may be agreed between him and the organisation or trustees, with a view to the property being used or held by him for purposes similar to the purposes for which it was previously used or held.

Trusts

90 Gifts on trust

A health authority has power to accept, hold and administer any property on trust for all or any purposes relating to the health service.

91 Private trusts for hospitals

- (1) Where—

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- (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.
- (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 applies to a trust for a special hospital, or to property transferred under section 24 of the National Health Service Reorganisation Act 1973.

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 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 subsection (1) above, 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 so acting the Secretary of State shall consult the health authorities and special trustees concerned.
- (4) Where by an order under this section, 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, 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.

93 Trust property previously held for general hospital purposes

- (1) This section applies—
- (a) to property transferred under section 23 of the 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 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, or Part II of that Act of 1973.

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.

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 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 the 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.

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 and this section shall (subject to section 92 above) hold and administer the property transferred to them under that Act of 1973.

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.

96 Trusts: supplementary provisions

- (1) Any provision in sections 90 to 95 above for the transfer of any property includes provision for the transfer of any rights and liabilities arising from that property.
- (2) Nothing in those 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.
- (3) Nothing in section 12 of the 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 or to an order made in pursuance of any of those sections; and stamp duty shall not be payable on such an order.

Finance and Accounts

97 Expenses of health authorities

- (1) It is the Secretary of State's duty to pay—
 - (a) to each Area Health Authority in Wales and each Regional Health Authority the sums needed to defray such expenditure of the Authority as the Secretary of State approves in the prescribed manner;
 - (b) to each Family Practitioner Committee sums equal to the expenses which the Secretary of State determines are incurred by the Committee for the purpose of performing the functions conferred on the Committee by virtue of this Act; and
 - (c) to each special health authority sums equal to such of the expenses of the authority as are not defrayed by payments made to the authority in pursuance of subsection (3) below.

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- (2) It is the duty of each Regional Health Authority to pay to each Area Health Authority of which the area is included in the region of the Regional Health Authority the sums needed to defray such expenses of the Area Health Authority as the Regional Health Authority approves in the prescribed manner.
- (3) Where an order establishing a special health authority provides for any expenses of the authority to be defrayed by a Regional or Area Health Authority or by two or more such Authorities in portions determined by or in accordance with the order, it is the duty of each Authority in question to pay to the special health authority sums equal to, or to the appropriate portion of, those expenses.
- (4) Sums falling to be paid under this section shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.

98 Accounts and audit

- (1) Accounts, in such form as the Secretary of State may with the approval of the Treasury direct, shall be kept by—
 - (a) every Regional Health Authority ;
 - (b) every Area Health Authority;
 - (c) every special health authority;
 - (d) all special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973 and section 95(1) above ;
 - (e) the Dental Estimates Board.

Those accounts shall be audited by auditors appointed by the Secretary of State, and the Comptroller and Auditor General may examine all such accounts and any records relating to them, and any report of the auditor on them.

- (2) Every such body shall prepare and transmit to the Secretary of State in respect of each financial year annual accounts in such form as the Secretary of State may with the approval of the Treasury direct.

The accounts prepared and transmitted by an Area Health Authority in pursuance of this subsection shall include annual accounts of the Family Practitioner Committees established by the Authority and of any Community Health Council of which the district includes any part of the Authority's area.

- (3) The Secretary of State may by regulations provide generally with respect to the audit under subsection (1) above of accounts of bodies to which that subsection applies; and in particular for conferring on the auditor of any of those accounts—
 - (a) such rights of access to, and production of, books, accounts, vouchers or other documents as may be specified in the regulations ; and
 - (b) such right, in such conditions as may be so specified, to require from any member or officer, or former member or officer, of any such body, such information relating to the affairs of the body as the Secretary of State may think necessary for the proper performance of the auditor's duty under this section.
- (4) The Secretary of State shall prepare in respect of each financial year—
 - (a) in such form as the Treasury may direct, summarised accounts of those Authorities, special authorities and special trustees:

(b) in such form and containing such information as the Treasury may direct, a statement of the accounts of the Dental Estimates Board ;
and shall transmit them on or before 30th November in each year to the Comptroller and Auditor General, who shall examine and certify them, and lay copies of them together with his report on them before both Houses of Parliament.

99 Regulation of financial arrangements

- (1) The Secretary of State may by regulations provide, in the case of all or any of the following bodies—
- (a) Regional Health Authorities,
 - (b) Area Health Authorities,
 - (c) special health authorities,
 - (d) Family Practitioner Committees,
 - (e) Community Health Councils, and
 - (f) the Dental Estimates Board,
- for restricting the making of payments by or on behalf of the body otherwise than on such authorisation and subject to such conditions as may be specified in the regulations.
- (2) Such provision may be made subject to such exceptions as may be so specified, and those regulations may contain such other provisions as to the making and carrying out by all or any of those bodies of such arrangements with respect to financial matters as the Secretary of State thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.
- (3) The Secretary of State may give directions to any of those bodies as to any matter with respect to which those regulations may be made; and those directions may be specific in character and shall be—
- (a) such as appear to him requisite to secure that the affairs of the body are conducted in such a manner as is mentioned in subsection (2) above,
 - (b) without prejudice to the operation of any such regulations,
- and shall be complied with by the body to whom they are given.

100 Other payments

- (1) There shall be paid out of moneys provided by Parliament such expenses incurred by—
- (a) the Central Council,
 - (b) any standing advisory committee constituted under section 6 above,
 - (c) the Medical Practices Committee,
 - (d) the Tribunal constituted under section 46 above, and
 - (e) the Dental Estimates Board,
- as may be determined by the Secretary of State with the approval of the Treasury.
- (2) Payments made under this section shall be in accordance with regulations made by the Secretary of State and approved by the Treasury, and shall be made at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, or otherwise as the Secretary of State may with the approval of the Treasury determine.

101 Secretary of State's receipts

Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund, but this section is without prejudice to section 60(4) above.

Miscellaneous provisions as to remuneration, allowances and superannuation

102 Allowances and remuneration for members of certain bodies

- (1) The Secretary of State may pay such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, determine—
 - (a) to members of any of the following bodies constituted under this Act—
 - (i) the Central Council, any standing advisory committee constituted under section 6 above to advise the Secretary of State and that Council, any committee appointed by that Council under paragraph 4 of Schedule 4 to this Act and any sub-committee appointed by any such standing advisory committee under that paragraph;
 - (ii) the Medical Practices Committee;
 - (iii) any body on which functions are conferred by regulations under section 32 above;
 - (iv) the Dental Estimates Board ;
 - (v) the Tribunal constituted under section 46 above;
 - (b) to members of any other body being a body specified in an order made by the Secretary of State as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under this Act.
- (2) The Secretary of State may pay to members of any of the following bodies such remuneration as he may, with the approval of the Minister for the Civil Service, determine—
 - (a) the Medical Practices Committee;
 - (b) any body on which functions are conferred by regulations under section 32 above;
 - (c) the Dental Estimates Board ;
 - (d) the Tribunal constituted under section 46 above;
 - (e) any other body constituted under Part II of this Act, being a body specified in an order made for the purposes of this subsection, with the approval of the Minister for the Civil Service, by the Secretary of State.
- (3) Allowances shall not be paid under subsection (1) above except in connection with the exercise or performance of such powers or duties, in such circumstances, as may, with the approval of the Minister for the Civil Service, be determined by the Secretary of State.
- (4) Any payments under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

103 Special arrangement as to payment of remuneration

- (1) If the Secretary of State—
 - (a) considers it appropriate for remuneration in respect of services provided by any person in pursuance of Part II of this Act to be paid by a particular body, and
 - (b) apart from this section the functions of the body do not include the function of paying the remuneration,the Secretary of State may by order confer that function on the body.
- (2) Any sums required to enable any body having that function to pay remuneration in respect of such services shall, if apart from this section there is no provision authorising the payment of the sums by the Secretary of State or out of money provided by Parliament, be paid by him.

104 Superannuation of officers of certain hospitals

- (1) The Secretary of State may enter into an agreement with the governing body of any hospital to which this section applies—
 - (a) for admitting officers of the hospital of such classes as may be provided in the agreement to participate, on such terms and conditions as may be so provided, in the superannuation benefits provided under regulations made under section 10 of the Superannuation Act 1972 in like manner as officers of Area Health Authorities ; and
 - (b) those regulations shall apply accordingly in relation to the officers so admitted subject to such modifications as may be provided in the agreement.
- (2) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in those superannuation benefits.
- (3) This section applies to any hospital (not vested in the Secretary of State) which is used, in pursuance of arrangements made by the governing body of the hospital with the Secretary of State, for the provision of services under this Act.

105 Payments for certain medical examinations

- (1) Where a medical practitioner carries out a medical examination of any person with a view to an application for his admission to hospital for observation or treatment being made under Part IV of the Mental Health Act 1959 the council which is the local authority for the purposes of the Local Authority Social Services Act 1970 for the area where the person examined resides shall, subject to the following provisions of this section, pay to that medical practitioner—
 - (a) reasonable remuneration in respect of that examination and in respect of any recommendation or report made by him with regard to the person examined; and
 - (b) the amount of any expenses reasonably incurred by him in connection with the examination or the making of any such recommendation or report.
- (2) No payment shall be made under this section to a medical practitioner—
 - (a) in respect of an examination carried out as part of his duty to provide general medical services for the person examined; or

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- (b) in respect of an examination carried out or any recommendation or report made as part of his duty as an officer of a health authority.
- (3) This section shall only apply in a case where it is intended, when the medical examination of the person in question is carried out, that if he is admitted to hospital in pursuance of any such application as mentioned in subsection (1) above, the whole cost of his maintenance and treatment will be defrayed out of moneys provided by Parliament under this Act or the Mental Health Act 1959.