



## 2009 CHAPTER 1

### *Transfer of assets, liabilities and functions*

#### **Schemes for transfer of assets and liabilities**

**23.**—(1) The power conferred by subsection (2) is exercisable in connection with the dissolution of the bodies mentioned in section 1(1).

(2) The Department shall make one or more schemes for the transfer of designated assets and liabilities of a dissolved body to—

- (a) a health and social care body; or
- (b) the Department.

(3) The power conferred by subsection (4) is exercisable in connection with—

- (a) any change in the administrative structures for health and social care effected by or under this Act; or
- (b) the efficient management of any assets or liabilities used for the purposes of health and social care.

(4) The Department may at any time make one or more schemes for the transfer—

- (a) of designated assets or liabilities of the Department to a health and social care body;
- (b) of designated assets or liabilities of a health and social care body to—
  - (i) the Department; or
  - (ii) any other health and social care body.

(5) On the transfer date the designated assets or liabilities are transferred and vest in accordance with the scheme.

(6) Schedule 5 has effect and in that Schedule—

- (a) Part 1 contains provisions about schemes; and
  - (b) Part 2 contains provisions about the final accounts and reports of certain dissolved bodies.
- (7) In this section and Schedule 5—
- “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
  - “dissolved body” means a body dissolved by section 1(1);
  - “scheme” means a scheme under this section;
  - “the transfer date”, in relation to a scheme, means the date specified by the scheme as the date on which it is to have effect.

### **Transfer of functions of Health and Social Services Boards**

**24.—**(1) The functions exercisable immediately before the date on which section 1(1)(a) comes into operation by Health and Social Services Boards under any statutory provision or by virtue of a direction of the Department shall insofar as they consist of, or relate to—

- (a) health improvement functions (within the meaning of section 13), or
- (b) health protection functions (within the meaning of that section),

be exercisable as from that date by the Regional Agency.

(2) The other functions exercisable immediately before that date by Health and Social Services Boards under any statutory provision or by virtue of a direction of the Department shall as from that date be exercisable by the Regional Board in accordance with section 8.

(3) Subsections (1) and (2)—

- (a) apply only to provisions or directions which have continuing effect; and
- (b) are subject to any order under subsection (4).

(4) The Department may by order provide that subsections (1) and (2) are not to apply to any specified function.

(5) An order under subsection (4) may—

- (a) provide for a specified function to be exercised by the Department or by a health and social care body; or
- (b) provide that a specified function is to cease to be exercised.

(6) Where an order under subsection (4) provides for a specified function to be exercised by a health and social care body, the order may provide for that body to exercise that function on the Department’s behalf.

(7) In this section “specified function” means any function of a Health and Social Services Board specified in an order made under subsection (4).

**Transfer of functions of the Mental Health Commission**

**25.—**(1) The functions exercisable immediately before the date on which section 1(1)(b) comes into operation by the Mental Health Commission under any statutory provision shall be exercisable as from that date by RQIA.

(2) Subsection (1) only applies to provisions which have continuing effect.

**Transfer of functions of Central Services Agency**

**26.—**(1) The functions exercisable immediately before the date on which section 1(1)(c) comes into operation by the Central Services Agency under any statutory provision or by virtue of any direction of the Department shall be exercisable as from that date by RBSO.

(2) Subsection (1)—

- (a) applies only to provisions or directions which have continuing effect; and
- (b) is subject to any order under subsection (3).

(3) The Department may by order provide that subsection (1) is not to apply to any specified function.

(4) An order under subsection (3) may—

- (a) provide for a specified function to be exercised by the Department or by a health and social care body; or
- (b) provide that a specified function is to cease to be exercised.

(5) Where an order under subsection (3) provides for a specified function to be exercised by a health and social care body, the order may provide for that body to exercise that function on the Department's behalf.

(6) In this section “specified function” means any function of the Central Services Agency specified in an order made under subsection (3).

**Amendment of statutory and other references to dissolved bodies, etc.**

**27.—**(1) This section applies for the purposes of a transfer of functions effected by section 24, 25 or 26; and in this section, in its application for the purposes of such a transfer—

“the transferor” means the body from which functions are transferred;

“the transferee” means the body to which functions are transferred;

“the transfer date” means the date on which functions are transferred.

(2) In relation to any time after the transfer date, any reference in any statutory provision or document to a Health and Social Services Board (whether general or particular) shall—

- (a) in relation to any function transferred by section 24(1), be construed as a reference to the Regional Agency;

(b) in relation to any function transferred by section 24(2), be construed as a reference to the Regional Board;

and any reference which delimits functions of a Board by reference to its area shall, in relation to that time, be disregarded.

(3) In relation to any time after the transfer date, any reference in any statutory provision or document to the Mental Health Commission shall, in relation to any function transferred by section 25(1), be construed as a reference to RQIA.

(4) In relation to any time after the transfer date, any reference in any statutory provision or document to the Central Services Agency shall, in relation to any function transferred by section 26(1), be construed as a reference to RBSO.

(5) Subsections (2) to (4) apply unless contrary provision is made by or under this Act or the context otherwise requires.

(6) A transfer of functions to which this section applies does not affect the validity of anything done by, or in relation to, the transferor before the transfer date.

(7) Anything which before the transfer date was done by or in relation to the transferor in relation to any transferred function shall, if in effect immediately before that date, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the transferee.

(8) Anything (including any legal proceedings) in the process of being done by or in relation to the transferor immediately before the transfer date may, so far as it relates to any transferred function, be continued by or in relation to the transferee.

### **Dissolution of special agencies**

**28.—**(1) The [Health and Personal Social Services \(Special Agencies\) \(Northern Ireland\) Order 1990 \(NI 3\)](#) is amended as follows.

(2) In the Schedule, after paragraph 8 (execution of contracts and instruments not under seal) insert the following paragraph—

*“Dissolution of special agencies*

**8A.—**(1) The Department may by order dissolve a special agency.

(2) An order under this paragraph may be made—

(a) on the application of the special agency concerned; or

(b) if the Department considers it appropriate in the interests of health and social care.

(3) Except where it appears to the Department necessary to make an order under this paragraph as a matter of urgency, no such order shall be made until after the completion of such consultation as may be prescribed.

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

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(4) An order under this paragraph may provide for the transfer to—

- (a) the Department, or
- (b) such other HSC body as the order may specify,

of such of the assets and liabilities of the special agency which is dissolved as the Department considers appropriate.

(5) The Department must exercise its powers under sub-paragraph (4) so as to ensure that all the liabilities of the special agency are transferred.

(6) An order under this paragraph may make provision in connection with the transfer of staff employed by or for the purposes of the special agency which is dissolved including provision for the making of a scheme by the special agency or such other body as may be specified in the order.

(7) An order under this paragraph—

- (a) may include such incidental, supplemental or transitional provision as the Department considers appropriate; and
- (b) shall be subject to negative resolution.

(8) Without prejudice to the generality of sub-paragraphs (4) to (7), if a special agency is dissolved under this paragraph, the Department, or such other HSC body as the Department may direct, shall undertake the responsibility for the continued payment of any such pension, allowances or gratuities as, by virtue of regulations made under paragraph 6, would otherwise have been the responsibility of the special agency which has been dissolved.

(9) A special agency may not be dissolved or wound up except in accordance with this paragraph.”.