



# National Health Service (Scotland) Act 1972

## 1972 CHAPTER 58

### PART VI

#### HOSPITAL ENDOWMENTS AND OTHER TRUST PROPERTY

- 37 Transfer of endowments and income held under section 7(1) or 58 of the Act of 1947**
- (1) All endowments of a Board of Management or Regional Hospital Board and the accumulated income thereof, held by them by virtue of section 7(1) or 58 of the Act of 1947, being endowments or income held immediately before the appointed day, shall on that day be transferred to and vest in the Health Board which succeeds to the Board concerned, and shall vest in the Health Board free of any trust existing immediately before the appointed day.
  - (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 division of endowments and income between the Health Boards shall be determined in accordance with an order made by the Secretary of State.
  - (3) The endowments and income transferred under subsection (1) or (2) above shall be held by the Health Board on trust for such purposes relating to services provided under the Health Service Acts in or in relation to hospitals or to the functions of the Board with respect to research, as the Board may think fit, but the Board shall secure, so far as is reasonably practicable, that the objects of the endowment, and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power hereby conferred.

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### **38 Transfer of rights held under the Hospital Endowments (Scotland) Act 1971**

- (1) All rights in relevant endowments within the meaning of the Hospital Endowments (Scotland) Act 1971, including the accumulated income thereof, held by Boards of Management and Regional Hospital Boards immediately before the appointed day, shall on that day be transferred to and vest in the Health Board which administers the services formerly provided by the Board concerned.
- (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 division of rights in relevant endowments and income between the Health Boards shall be determined in accordance with an order made by the Secretary of State.
- (3) In making a scheme under section 7 of the said Act of 1971 after the appointed day, the Secretary of State shall have regard to the arrangements for the distribution of income made under any such scheme in operation immediately before that day.
- (4) Any such scheme made after the appointed day may provide that any accumulated income held by a Health Board by virtue of section 2(2)(a) of the said Act of 1971 may only be used for such purposes as may be specified in the scheme.
- (5) In section 7 (3)(a) of the said Act of 1971, for the words from " hospital" to " 1947 " (where first occurring) there shall be substituted the words " services provided under the National Health Service (Scotland) Acts 1947 to 1972 in or in relation to hospitals ".

### **39 Transfer of property held on trust by local health authorities**

- (1) All property, including the accumulated income thereof, held on trust immediately before the appointed day by a local health authority for the purposes of their health functions within the meaning of section 27(1) of this Act, shall on that day be transferred to and vest in the Health Board which administers the services formerly provided by the authority concerned, and shall vest in the Health Board free of any trust existing immediately before the appointed day.
- (2) Where the area of a local health authority is divided between two or more Health Boards, the division of the property and income mentioned in subsection (1) above between the Health Boards shall be determined in accordance with an order made by the Secretary of State.
- (3) The property and income transferred under subsection (1) or (2) above shall be held by the Health Board on trust for such purposes relating to services provided by them under the Health Service Acts or to the functions of the Board with respect to research, as the Board may think fit, but the Board shall secure, so far as is reasonably practicable, that the objects of the trust, and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power hereby conferred.

### **40 Power of trustees to make payments to Health Boards**

- (1) Where property, other than property transferred to the Secretary of State under Part V of this Act or to a Health Board under this Part of this Act, is held on trust immediately before the appointed day, and the terms of the trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or

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income of the trust property for the purposes of any hospital or service which is to be administered by a Health Board, the trust instrument shall be construed as authorising or, as the case may be, requiring the trustees to pay that capital or income to the Health Board concerned.

- (2) Where property so held in trust is, under the trust instrument, to be applied for the purposes of hospitals which are transferred to more than one Health Board, the trustees shall distribute the property between the Boards concerned, in such manner, having regard to the purposes of the trust, as the trustees may determine.
- (3) Any sums paid to a Health Board under this section shall, so far as practicable, be applied by them for the purposes specified in the trust deed.

#### **41 Power of Health Boards and local health councils to hold property on trust**

- (1) A Health Board shall have power to accept, hold and administer any property upon trust for purposes relating to any service which it is their function to make arrangements for, administer or provide, or to their functions with respect to research.
- (2) A local health council shall have power to accept, hold and administer any property upon trust for purposes relating to any function conferred upon them by or under any enactment.