



National Health Service Reorganisation Act 1973

1973 CHAPTER 32

PART I

ADMINISTRATION

Functions of Secretary of State

1 Reorganisation of national health service

It shall be the duty of the Secretary of State to arrange for the reorganisation in accordance with this Act of the national health service established in pursuance of section 1 of the National Health Service Act 1946.

2 General powers and duties of Secretary of State to provide services

- (1) Without prejudice to his powers apart from this subsection, the Secretary of State shall have power—
 - (a) to provide such services as he considers appropriate for the purpose of discharging any duty imposed on him by the Health Service Acts; and
 - (b) to do any other thing whatsoever which is calculated to facilitate, or is conducive or incidental to, the discharge of such a duty.
- (2) It shall be the duty of the Secretary of State to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements.—
 - (a) hospital accommodation;
 - (b) other accommodation for the purpose of any service provided under the Health Service Acts;
 - (c) medical, dental, nursing and ambulance services;
 - (d) such other facilities for the care of expectant and nursing mothers and young children as he considers are appropriate as part of the health service;

- (e) such facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as he considers are appropriate as part of the health service in place of arrangements of a kind which immediately before the passing of this Act it was the function of local health authorities to make in pursuance of section 12 of the Health Services and Public Health Act 1968 ;
 - (f) such other services as are required for the diagnosis and treatment of illness ; and regulations may provide for the making and recovery of charges in respect of facilities designated by the regulations as facilities provided in pursuance of paragraph (d) or (e) of this subsection.
- (3) The functions exercisable by local health authorities and the Greater London Council by virtue of sections 21 and 24 to 27 of the principal Act and sections 10 and 11 of the said Act of 1968 (which relate to the provision of certain health services by those bodies) shall cease to be exercisable by those bodies ; but nothing in this section affects the provisions of Part IV of the principal Act (which relates to arrangements with practitioners for the provision of medical, dental, ophthalmic and pharmaceutical services).

3 Medical and dental service for pupils

- (1) It shall be the duty of the Secretary of State to make provision for the medical and dental inspection at appropriate intervals of pupils in attendance at schools maintained by local education authorities and for the medical and dental treatment of such pupils.
- (2) Without prejudice to the powers of the Secretary of State apart from this subsection, he may—
- (a) by arrangement with any local education authority, make provision for any medical or dental inspection or treatment of—
 - (i) senior pupils in attendance at any educational establishment, other than a school, which is maintained by the authority and at which full-time further education is provided, or
 - (ii) any child or young person who, in pursuance of special arrangements made for him by the authority by virtue of section 56 of the Education Act 1944, is receiving primary or secondary education otherwise than at a school;
 - (b) by arrangement with the proprietor of any educational establishment which is not maintained by a local education authority, make any such provision in respect of junior or senior pupils in attendance at the establishment.
- (3) A local education authority shall not make an arrangement in pursuance of the preceding subsection in respect of such an establishment as is mentioned in paragraph (a)(i) of that subsection except by agreement with the governors of the establishment; and an arrangement made in pursuance of paragraph (b) of the preceding subsection may include provision for the making of payments by the proprietor in question.
- (4) It shall be the duty of the local education authorities by which schools (other than voluntary schools) are maintained and of the managers or governors of voluntary schools to make available to the Secretary of State such accommodation as is appropriate for the purpose of assisting him to make such provision as is mentioned in subsection (1) of this section for pupils in attendance at the schools.

- (5) In this section expressions to which meanings are assigned by section 114(1) of the Education Act 1944 have those meanings.

4 Family planning service

It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary to meet all reasonable requirements in England and Wales, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances and appliances; and it is hereby declared that the power conferred by section 1(1) of the National Health Service Act 1952 to provide for the making and recovery of charges includes power to provide for the making and recovery of charges for the supply of any such substances or appliances.

Local administration

5 Regional and Area Health Authorities, Family Practitioner Committees and special health authorities

- (1) It shall be the duty of the Secretary of State to establish by order in accordance with Part I of Schedule 1 to this Act—
- (a) authorities, to be called Regional Health Authorities, for such regions in England as he may by order determine; and
 - (b) authorities, to be called either Area Health Authorities or Area Health Authorities (Teaching) in accordance with the following subsection, for such areas in Wales and the said regions as he may by order determine;
- and orders determining regions or areas in pursuance of this subsection shall be separate from orders establishing authorities for the regions or areas.
- (2) An order establishing an Authority in pursuance of paragraph (b) of the preceding subsection may provide for it to be called an Area Health Authority (Teaching) if and only if the Secretary of State is satisfied that the Authority is to provide for a university or universities substantial facilities for undergraduate or post-graduate clinical teaching; and where the Secretary of State is satisfied that an Area Health Authority is to provide or is providing such facilities he may provide by order for the Authority to be called an Area Health Authority (Teaching) and where he is satisfied that an Area Health Authority (Teaching) no longer provides such facilities he may provide by order for the Authority to be called an Area Health Authority.
- (3) It shall be the duty of the Secretary of State, before providing that an Authority shall be called or cease to be called an Area Health Authority (Teaching), to consult the university or universities concerned with the facilities in question.
- (4) Any reference in the following provisions of this Act to an Area Health Authority includes a reference to an Area Health Authority (Teaching) unless the context otherwise requires.
- (5) It shall be the duty of each Area Health Authority to establish for its area, in accordance with Part II of Schedule 1 to this Act, a body which shall be called a Family Practitioner Committee.

- (6) If the Secretary of State considers that a special body should be established for the purpose of performing any functions which he may direct the body to perform on his behalf, or on behalf of an Area Health Authority or a Family Practitioner Committee, he may by order establish a body for that purpose and, subject to the provisions of Part III of Schedule 1 to this Act, make such further provision relating to the body as he thinks fit; and a body established in pursuance of this subsection shall, without prejudice to the power conferred by subsection (3) of the following section to allocate a particular name to the body, be called a special health authority.

6 Provisions supplementary to s. 5

- (1) It shall be the duty of the Secretary of State to exercise the powers conferred on him by subsection (1) of the preceding section and the following subsection so as to secure—
- (a) that the regions determined in pursuance of those subsections together comprise the whole of England, that the areas so determined together comprise the whole of Wales and those regions and that no region includes part only of any area ; and
 - (b) that the provision of health services in each region can conveniently be associated with a university which has a school of medicine or with two or more such universities.
- (2) The Secretary of State may by order vary the region of a Regional Health Authority or the area of an Area Health Authority whether or not the variation entails the determination of a new or the abolition of an existing region or area, and an order made by virtue of this subsection may (without prejudice to the generality of section 56(4) of this Act) contain such provisions for the transfer of officers, property, rights and liabilities as the Secretary of State thinks fit; but it shall be the duty of the Secretary of State before he makes an order in pursuance of this subsection to consult with respect to the order such bodies as he may recognise as representing officers who in his opinion are likely to be transferred or affected by transfers in pursuance of the order and such other bodies as he considers are concerned with the order.
- (3) Without prejudice to the generality of the said section 56(4) or of the power to make an order conferred by subsection (6) of the preceding section, an order made in pursuance of that subsection may in particular contain provisions as to the membership of the body established by the order, the transfer to the body of officers, property, rights and liabilities and the name by which the body is to be known; but it shall be the duty of the Secretary of State before he makes such an order to consult with respect to the order such bodies as he may recognise as representing officers who in his opinion are likely to be transferred or affected by transfers in pursuance of the order.
- (4) The provisions of Part III of Schedule 1 to this Act shall, so far as applicable, have effect in relation to an Authority or other body established in pursuance of the preceding section.

7 Functions of authorities

- (1) The Secretary of State may direct a Regional Health Authority, an Area Health Authority of which the area is in Wales or a special health authority to exercise on his behalf such of his functions relating to the health service as are specified in the directions (including any of his functions under enactments relating to mental health and nursing homes but excluding the duty imposed on him by section 1(1)

of the principal Act to secure the effective provision of the services mentioned in subsection (3) of this section); and subject to the following subsection it shall be the duty of the body in question to comply with the directions.

- (2) A Regional Health Authority may direct any Area Health Authority of which the area is included in its region to exercise such of the functions exercisable by the Regional Health Authority by virtue of the preceding subsection as are specified in the directions and it shall be the duty of the Area Health Authority to comply with the directions ; but if the Secretary of State directs a Regional Health Authority to secure that any of those functions specified in his directions are or are not exercisable by an Area Health Authority it shall be the duty of the Regional Health Authority to comply with his directions.
- (3) It shall be the duty of each Family Practitioner Committee in accordance with regulations—
- (a) to administer, on behalf of the Area Health Authority by which the Committee was established, the arrangements made in pursuance of the Health Service Acts for the provision of general medical services, general dental services, general ophthalmic services and pharmaceutical services for the area of the Authority; and
 - (b) to perform such other functions relating to those services as may be prescribed ;

and if it appears to the Secretary of State that, in consequence of regulations made by virtue of the preceding provisions of this subsection, references to an Area Health Authority in particular provisions of the Health Service Acts should be construed as references to a Family Practitioner Committee, he may by regulations provide accordingly.

- (4) Regulations may provide for functions exercisable by virtue of the preceding provisions of this section by a body other than an Area Health Authority, or exercisable by virtue of any provisions of the Health Service Acts by an Area Health Authority, to be exercisable on behalf of the body in question—
- (a) by an equivalent body or by another body of which the members consist only of the body and equivalent bodies;
 - (b) by a committee, sub-committee or officer of the body or an equivalent body or such another body as aforesaid ;
 - (c) in the case of functions exercisable by an Area Health Authority, by a special health authority, an officer of such an authority or a Family Practitioner Committee ;
 - (d) in the case of functions exercisable by a Family Practitioner Committee, by a special health authority, an officer of such an authority or an officer of an Area Health Authority;

and for the purposes of this subsection a Regional or Area Health Authority or a Family Practitioner Committee is equivalent to another body of the same name and a special health authority is equivalent to another such authority; but nothing in this subsection shall be construed as precluding any body from acting by an agent where it is entitled so to act apart from this subsection.

- (5) The Secretary of State may give directions with respect to the exercise of any functions exercisable by any body by virtue of the preceding provisions of this section or by an Area Health Authority by virtue of Part IV of the principal Act; and subject to any directions given by the Secretary of State by virtue of this subsection—

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

- (a) a Regional Health Authority may give directions with respect to the exercise, by an Area Health Authority of which the area is included in its region, of any functions exercisable by the Area Health Authority by virtue of subsection (2) of this section ;
- (b) an Area Health Authority may give directions with respect to the exercise by the Family Practitioner Committee established by it of any functions which are exercisable by the Committee by virtue of subsection (3) of this section and are prescribed for the purposes of this paragraph;

and it shall be the duty of the body in question to comply with the directions.

- (6) Any directions given by the Secretary of State in pursuance of this section shall be given either by regulations or by an instrument in writing except that any such directions in respect of functions conferred on the Secretary of State by section 9(1) or (2) of this Act and any such directions in pursuance of subsection (1) of this section in respect of functions relating to special hospitals shall only be given by regulations, and any directions given by an Authority in pursuance of this section shall be given by an instrument in writing.
- (7) Directions given and regulations made in pursuance of this section in respect of a function—
 - (a) shall not, except in prescribed cases, preclude a body or person by whom the function is exercisable apart from the directions or regulations from exercising the function; and
 - (b) may in the case of directions given by an instrument in writing be varied or revoked by subsequent directions given in pursuance of this section (without prejudice to the operation of section 32(3) of the Interpretation Act 1889 in the case of directions given by regulations) ;

so however that an Area Health Authority shall not be entitled to exercise any function which by virtue of subsection (3) of this section is exercisable by the Family Practitioner Committee established by the Authority.

8 Local advisory committees

- (1) Where the Secretary of State is satisfied that a committee formed for the region of a Regional Health Authority is representative of persons of any of the following categories, namely—
 - (a) the medical practitioners of the region ; or
 - (b) the dental practitioners of the region ; or
 - (c) the nurses and midwives of the region ; or
 - (d) the registered pharmacists of the region ; or
 - (e) the ophthalmic and dispensing opticians of the region,
 then, subject to the following subsection, it shall be the duty of the Secretary of State to recognise the committee; and a committee recognised in pursuance of this subsection shall be called the Regional Medical, Dental, Nursing and Midwifery, Pharmaceutical or Optical Committee, as the case may be, for the region in question.
- (2) Where the Secretary of State is satisfied that a committee formed for the region of a Regional Health Authority is representative of—
 - (a) any category of persons (other than a category mentioned in the preceding subsection) who provide services forming part of the health service ; or

- (b) two or more of any of the categories of persons mentioned in the preceding subsection and the preceding paragraph,
- and that it is in the interests of the health service to recognise the committee, it shall be the duty of the Secretary of State to recognise it in pursuance of this subsection and determine that it shall be known by a name specified in the determination; and where a committee recognised in pursuance of this subsection appears to the Secretary of State to represent categories of persons which include a category mentioned in the preceding subsection, he shall not be required by virtue of that subsection to recognise a committee representing persons of that category.
- (3) The Secretary of State may, by notice in writing served on any member of a committee recognised in pursuance of this section, withdraw his recognition of the committee if he considers it expedient to do so—
- (a) where the committee is recognised in pursuance of subsection (1) or (2)(a) of this section, with a view to recognising in pursuance of subsection (2)(b) of this section another committee representing categories of persons which include the category represented by the recognised committee;
- (b) where the committee is recognised in pursuance of the said subsection (2) (b), with a view to recognising in pursuance of any of the provisions of subsection (1) or (2) of this section other committees which together are representative of the categories in question.
- (4) It shall be the duty of a committee recognised by reference to the region of a Regional Health Authority in pursuance of subsection (1) or (2) of this section—
- (a) to advise the Authority on the provision by the Authority of services of the kind provided by the categories of persons of whom the committee is representative; and
- (b) to perform such other functions as may be prescribed;
- and it shall be the duty of the Authority to consult the committee with respect to such matters and on such occasions as may be prescribed.
- (5) A Regional Health Authority may defray such expenses incurred by such a committee in performing the duty imposed on the committee by the preceding subsection as the Authority considers reasonable (which may include travelling and other allowances and compensation for loss of remunerative time for members of the committee at such rates as the Secretary of State may determine with the approval of the Minister for the Civil Service).
- (6) The preceding provisions of this section shall have effect in relation to Wales as if—
- (a) for references to a region of an Authority there were substituted references to Wales ;
- (b) for the words " Regional Medical " in subsection (1) there were substituted the words " Welsh Medical ";
- (c) for the words " the Authority " in both places in subsection (4)(a) and for those words and the words " A Regional Health Authority " in subsection (5) there were substituted the words " the Secretary of State " ; and
- (d) in subsection (4) the words following paragraph (b) were omitted.
- (7) Subsections (1) to (5) of this section shall have effect in relation to an Area Health Authority of which the area is in England or Wales with the substitution for the word " Regional " of the word " Area " and for the word " region " of the word " area " .

9 Community Health Councils etc.

- (1) It shall be the duty of the Secretary of State to establish in accordance with this section a Council for the area of each Area Health Authority or separate Councils for such separate parts of the areas of those Authorities as he thinks fit; and such a council shall be called a Community Health Council (and is hereafter in this section referred to as a " Council").
- (2) The Secretary of State may if he thinks fit discharge the duty aforesaid by establishing a Council for a district which includes the areas or parts of the areas of two or more Area Health Authorities; but the Secretary of State shall be treated as not having discharged that duty unless he secures that there is no part of the area of an Area Health Authority which is not included in some Council's district.
- (3) It shall be the duty of a Council—
 - (a) to represent the interests in the health service of the public in its district; and
 - (b) to perform such other functions as may be conferred on it by virtue of the following subsection.
- (4) Provision may be made by regulations as to—
 - (a) the membership of Councils (including the election by members of a Council of a chairman of the Council);
 - (b) the proceedings of Councils ;
 - (c) the staff, premises and expenses of Councils ;
 - (d) the consultation of Councils by Area Health Authorities with respect to such matters and on such occasions as may be prescribed;
 - (e) the furnishing of information to Councils by Area Health Authorities and the rights of members of Councils to enter and inspect premises controlled by Area Health Authorities;
 - (f) the consideration by Councils of matters relating to the operation of the health service within their districts and the giving of advice by Councils to Area Health Authorities on such matters ;
 - (g) the preparation and publication of reports by Councils on such matters and the furnishing and publication by Area Health Authorities of comments on the reports; and
 - (h) the functions to be exercised by Councils in addition to the functions exercisable by them by virtue of paragraph (a) of the preceding subsection and the preceding provisions of this subsection ;and the Secretary of State may pay to members of Councils such travelling and other allowances (including compensation for loss of remunerative time) as he may determine with the consent of the Minister for the Civil Service.
- (5) It shall be the duty of the Secretary of State to exercise his power to make regulations in pursuance of paragraph (a) of the preceding subsection so as to secure as respects each Council that—
 - (a) at least one member of the Council is appointed by each local authority of which the area or part of it is included in the Council's district and at least half of the members of the Council consist of persons appointed by those local authorities;
 - (b) at least one third of the members of the Council are appointed in a prescribed manner by bodies (other than public or local authorities) of which the activities are carried on otherwise than for profit;

- (c) the other members of the Council are appointed by such bodies, in such manner and after such consultations as may be prescribed ; and
- (d) no member of the Council is also a member of a Regional Health Authority or Area Health Authority;

but nothing in this subsection shall affect the validity of anything done by or in relation to a Council during any period during which, by reason of a vacancy in the membership of the Council or a defect in the appointment of a member of it, a requirement included in regulations in pursuance of this subsection is not satisfied.

- (6) The Secretary of State may by regulations—
 - (a) provide for the establishment of a body—
 - (i) to advise Councils with respect to the performance of their functions and to assist Councils in the performance of their functions, and
 - (ii) to perform such other functions as may be prescribed; and
 - (b) make provision as to the membership, proceedings, staff, premises and expenses of the said body;

and the Secretary of State may pay to members of the said body such travelling and other allowances (including compensation for loss of remunerative time) as he may determine with the consent of the Minister for the Civil Service.

- (7) In this section—

" local authority " means the council of a London borough or of a county or district as defined in relation to England in section 270(1) of the Local Government Act 1972 or of a county or district mentioned in section 20(3) of that Act (which relates to Wales) or the Common Council of the City of London; and

" district " in relation to a Council, means the locality for which it is established, whether that locality consists of the area or part of the area of an Area Health Authority or such an area or part together with the areas or parts of the areas of other Area Health Authorities; and the district of a Council must be such that no part of it is separated from the rest of it by territory not included in the district.

Co-operation and assistance

10 Co-operation between Health Authorities and local authorities

- (1) In exercising their respective functions Health Authorities and local authorities shall co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.
- (2) There shall be committees, to be called joint consultative committees, who shall advise Area Health Authorities and the authorities in column 2 of the Table below on the performance of their duties under the preceding subsection and on the planning and operation of services of common concern to those authorities.

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

TABLE

1	2
<i>Area Health Authority</i>	<i>Associated authorities</i>
An Area Health Authority in a metropolitan county in England.	The local authority for each district wholly or partly in the area of the Authority.
An Area Health Authority in a non-metropolitan county in England, or an Area Health Authority in Wales.	The local authority for each county, and also for each district, wholly or partly in the area of the Authority.
	An Area Health Authority in Greater London.
	The local authority for each London borough wholly or partly in the area of the Authority.
	Also the Inner London Education Authority, if wholly or partly in the area of the Authority.
Also the Common Council of the City of London, if in the area of the Authority.	

- (3) Except as provided by an order under the following provisions of this section, each joint consultative committee shall represent one or more Area Health Authorities together with one or more of the authorities in column 2 of the Table above, and an Area Health Authority shall be represented together with each of the authorities associated with that Authority in column 2 of the said Table in one or other of the committees (but not necessarily the same committee).
- (4) The Secretary of State shall have power by order to provide for any matter relating to joint consultative committees, and such an order may in particular—
- (a) provide for the way in which the provisions of subsections (2) and (3) of this section are to be carried out, or provide for varying the arrangements set out in those subsections;
 - (b) provide, where it appears to the Secretary of State appropriate, for an Area Health Authority to be represented on a joint consultative committee together with a local or other authority whose area is not within the area of the Area Health Authority ;
 - (c) afford a choice to any authorities as to the number of joint consultative committees on which they are to be represented, and provide for the case where the authorities cannot agree on the choice ;
 - (d) authorise or require a joint consultative committee to appoint any sub-committee or to join with another joint consultative committee or other joint consultative committees in appointing a joint sub-committee ;

- (e) authorise or require the appointment to a joint consultative committee, or to any sub-committee, of persons who are not members of the authorities represented by the joint consultative committee ;
 - (f) require the authorities represented on a joint consultative committee to defray the expenses of the committee, and of any sub-committee, in such shares as may be determined by or under the order, and provide for the way in which any dispute between those authorities concerning the expenses is to be resolved ; and
 - (g) require those authorities to make reports to the Secretary of State on the work of the joint consultative committee and of any sub-committee.
- (5) Before making an order under this section the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable.
- (6) In this and the three next following sections " Health Authority" means a Regional or Area Health Authority or a special health authority.

11 Supply of goods and services by Secretary of State

- (1) The Secretary of State may—
- (a) supply to local authorities, and to such public bodies or classes of public bodies as may be determined by the Secretary of State, any goods or materials of a kind used in the health service ;
 - (b) make available to local authorities, and to such bodies or classes of bodies as aforesaid, any facilities (including the use of any premises and the use of any vehicle, plant or apparatus) provided by him for any service under the Health Service Acts and the services of persons employed by the Secretary of State or by a Health Authority;
 - (c) carry out maintenance work in connection with any land or building for the maintenance of which a local authority is responsible.
- (2) The Secretary of State may supply or make available to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services such goods, materials or other facilities as may be prescribed.
- (3) The Secretary of State shall make available to local authorities—
- (a) any services or other facilities (excluding the services of any person but including goods or materials, the use of any premises and the use of any vehicle, plant or apparatus) provided under the Health Service Acts ;
 - (b) the services provided as part of the health service by any person employed by the Secretary of State or a Health Authority; and
 - (c) the services of any medical practitioner, dental practitioner or nurse employed by the Secretary of State or a Health Authority otherwise than to provide services which are part of the health service,
- so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.
- (4) It shall be the duty of the Secretary of State, before he makes the services of any officer of a Health Authority available in pursuance of subsection (1)(b) or subsection (3)(b) or (c) of this section, to consult the officer or a body recognised by the Secretary of State as representing the officer about the matter or to satisfy himself that the Health Authority has consulted the officer about the matter; but the Secretary of State shall

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be entitled to disregard the preceding provisions of this subsection in a case where he considers it necessary to make the services of an officer available as aforesaid for the purpose of dealing temporarily with an emergency and has previously consulted such a body about the making available of services in an emergency.

- (5) For the purposes of subsection (1)(b) or subsection (3)(b) or (c) of this section the Secretary of State may give such directions to Health Authorities to make services of their officers available as he considers appropriate; and it shall be the duty of a Health Authority to comply with any such directions.
- (6) The powers conferred by this section may be exercised on such terms as may be agreed, including terms as to the making of payments to the Secretary of State, and such charges may be made by the Secretary of State in respect of services or facilities provided under subsection (3) of this section as may be agreed between the Secretary of State and the local authority or, in default of agreement, as may be determined by arbitration.
- (7) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of this section and is used in accordance with the terms on which it is so made available, the Vehicles (Excise) Act 1971 and Part VI of the Road Traffic Act 1972 shall have effect with such modifications as are specified in the order.
- (8) Any power to supply goods or materials conferred by this section includes a power to purchase and store them and a power to make arrangements with third parties for the supply of the goods or materials by those third parties.
- (9) In subsection (1) of this section—
 - " maintenance work " includes minor renewals, minor improvements and minor extensions ; and
 - " public bodies " includes public bodies in Northern Ireland.

12 Supply of goods and services by local authorities

- (1) In the Local Authorities (Goods and Services) Act 1970 (supply of goods or services to public bodies) the expression " public body " shall include any Health Authority and, so far as relates to his functions under the Health Service Acts, shall include the Secretary of State.

The preceding provisions of this subsection shall have effect as if made by an order under section 1(5) of the said Act of 1970 and accordingly may be varied or revoked by such an order.

- (2) Every local authority shall make available to Health Authorities acting in the area of the local authority the services of persons employed by the local authority for the purposes of the authority's functions under the Local Authorities Social Services Act 1970 so far as is reasonably necessary and practicable to enable Health Authorities to discharge their functions under the Health Service Acts.
- (3) Such charges may be made by a local authority for acting under the preceding subsection as may be agreed between the local authority and the Secretary of State or, in default of agreement, as may be determined by arbitration.

13 Voluntary organisations and other bodies

- (1) The Secretary of State may, where he considers it appropriate, arrange with any person or body (including a voluntary organisation) for that person or body to provide, or assist in providing, any service under the Health Service Acts.
- (2) The Secretary of State may make available—
 - (a) to any person or body (including a voluntary organisation) carrying out any arrangements under the preceding subsection; or
 - (b) to any voluntary organisation eligible for assistance under section 64 or section 65 of the Health Services and Public Health Act 1968 (assistance made available by the Secretary of State or local authorities),
any facilities (including goods or materials, or the use of any premises and the use of any vehicle, plant or apparatus) provided by him for any service under the Health Service Acts and, where anything is so made available, the services of persons employed by the Secretary of State or by a Health Authority in connection with it.
- (3) The powers conferred by this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to the Secretary of State, and any goods or materials may be made available either temporarily or permanently; and subsection (7) of section 11 of this Act shall have effect in relation to a vehicle made available in pursuance of this section as if for the reference to that section there were substituted a reference to this section.
- (4) Any power to supply goods or materials conferred by this section includes a power to purchase and store them and includes a power to make arrangements with third parties for the supply of goods or materials by those third parties.
- (5) In this section " voluntary organisation " means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

PART II

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

Abolition of certain authorities

14 Abolition of authorities

- (1) All Regional Hospital Boards, Hospital Management Committees and Executive Councils, the Joint Pricing Committee for England, the Welsh Joint Pricing Committee and, except as provided by the following section, all Boards of Governors shall cease to exist on the appointed day; and on that day any authority which is a local health authority by virtue of section 19 of the principal Act shall cease to be a local health authority and all joint boards constituted in pursuance of that section shall cease to exist.
- (2) The Secretary of State may by order make such provision as he considers appropriate in anticipation or in consequence of the abolition by the preceding subsection of any body or in connection with the winding up of the body's affairs; and if a body abolished by that subsection has, as respects a period before the appointed day, not performed a

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duty imposed on the body by subsection (2) or (3) of section 55 of the principal Act (which relate to accounts), then—

- (a) it shall be the duty of the Secretary of State to secure that the duty so imposed is performed by a Regional or Area Health Authority or special health authority determined by him ; and
- (b) that section shall have effect in relation to the body and period in question as if for references to each financial year in subsections (3) and (4) there were substituted references to that period and as if the word " annual " in subsection (3) were omitted.

15 Preservation of certain Boards of Governors

(1) The Secretary of State may by order provide that the preceding section shall, while the order is in force, not apply to any body specified in the order which is the Board of Governors of a teaching hospital mentioned in Schedule 2 to this Act.

(2) An order made by virtue of the preceding subsection—

- (a) must be made before the appointed day except in a case falling within paragraph (c) of this subsection;
- (b) shall provide for the order to cease to have effect, unless it is previously revoked, on the expiration of a period specified in the order (which shall not be longer than five years beginning with the date on which the order is made);
- (c) may be made after the appointed day in respect of a preserved Board for the purpose of securing that the Board continues to be a preserved Board for a further period; and
- (d) may at any time be revoked by order by the Secretary of State;

and it shall be the duty of the Secretary of State, before he makes an order in pursuance of the preceding subsection or paragraph (d) of this subsection, to consult the University of London and the Board of Governors in question about the order.

(3) The Secretary of State may by order provide that, in relation to a preserved Board and any person, thing, right, liability or other matter whatsoever connected with the Board.—

- (a) any provision of this Act which repeals or amends any enactment and is specified in the order shall not apply;
- (b) any enactment which, apart from any provision made by virtue of the preceding paragraph, is repealed or amended by this Act shall have effect with such modifications as are specified in the order; and
- (c) such provisions of this Act and any instrument in force by virtue of this Act as are specified in the order shall have effect with such modifications as are so specified ;

but nothing in this Act, and in particular nothing in any provision of this Act amending section 55 of the principal Act (which relates to accounts), shall affect the application of that section to a preserved Board.

(4) The Secretary of State may by order—

- (a) provide that a preserved Board shall cease to exercise functions with respect to the administration of any hospital specified in the order ;
- (b) confer on a preserved Board such functions as are specified in the order with respect to the administration of a hospital so specified (whether or not apart

from the order the Board has functions with respect to the administration of that hospital); and

- (c) provide that this Act and any instrument in force by virtue of this Act shall, in relation to any person, thing, right, liability or other matter whatsoever connected with the hospital in question, have effect with such modifications as are specified in the order.
- (5) Where a Board of Governors ceases to be a preserved Board this Act and any instrument in force by virtue of this Act shall, in relation to the Board and any person, thing, right, liability and other matter whatsoever connected with the Board, have effect with the substitution of a reference to the date of the cesser for the first reference in subsection (1) of the preceding section and the reference in subsection (2) of that section to the appointed day and with such further modifications as the Secretary of State may by order specify.
- (6) In this Act " preserved Board" means a Board of Governors to which by virtue of this section the preceding section does not for the time being apply; and any question whether a person, thing, right, liability or other matter whatsoever is for the purposes of this section connected with a Board of Governors or a hospital shall be determined by the Secretary of State.

Transfer of property etc.

16 Transfers from local authorities

- (1) Subject to subsection (4) of this section, on the appointed day there shall by virtue of this subsection be transferred to and vest in the Secretary of State—
- (a) all property which immediately before that day—
 - (i) was held by a local authority solely for the purposes of one or more of its health functions, or
 - (ii) was held by a local authority otherwise than as mentioned in the preceding sub-paragraph and was used by the authority wholly or mainly for the purposes there mentioned ; and
 - (b) all rights and liabilities which were acquired or incurred by a local authority wholly or mainly in the performance of its health functions and to which the authority was entitled or subject immediately before the appointed day.
- (2) The Secretary of State may by order—
- (a) make provision for securing that where any property has, at any time during the period beginning with 16th November 1972 and ending immediately before the appointed day—
 - (i) been held by a local authority as mentioned in paragraph (a)(i) of the preceding subsection, or
 - (ii) been held and used by a local authority as mentioned in paragraph (a) (ii) of that subsection,
 but in consequence of anything done otherwise than in the ordinary course of business is not so held or, as the case may be, held and used by the authority immediately before the appointed day, the property is treated for the purposes of the preceding subsection as so held or held and used by the authority immediately before the appointed day ;

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- (b) make provision as to the manner of determining, and as to the matters which are to be taken into account or disregarded for the purpose of determining, whether immediately before the appointed day any property was held or held and used as mentioned in the preceding subsection or any local authority was entitled or subject to rights or liabilities acquired or incurred as there mentioned;
 - (c) make provision for securing that where any premises transferred to the Secretary of State by virtue of this section contain accommodation which was used immediately before the appointed day for the purposes of functions of a local authority other than health functions, the accommodation may continue to be used by the authority for those purposes on such terms and for such period as may be agreed between the Secretary of State and the authority or, in default of agreement, as may be determined in a manner specified in the order;
 - (d) make provision for securing that where any premises not transferred to the Secretary of State by virtue of this section contain accommodation which was used immediately before the appointed day for the purposes of health functions of a local authority, the accommodation may be used by the Secretary of State for similar purposes on such terms and for such period as aforesaid;
 - (e) provide that such as may be specified in the order of the rights and liabilities transferred to the Secretary of State by virtue of this section shall be enforceable by and against a Regional or Area Health Authority or special health authority so specified instead of by and against the Secretary of State ;
 - (f) make provision as to the persons on whom shall lie the burden of proving, for the purposes of provision made by virtue of paragraph (a) of this subsection, that a particular thing was done in the ordinary course of business.
- (3) The preceding provisions of this section shall have effect in relation to a local education authority as if for any reference to a local authority and health functions there were substituted respectively a reference to a local education authority and functions under the following enactments (which relate to medical and dental inspection and treatment) namely, section 48(1) and (3) of the Education Act 1944, section 78 of that Act so far as that section relates to such inspection and treatment and section 4 of the Education (Miscellaneous Provisions) Act 1953.
- (4) The Secretary of State may at any time before the appointed day provide by order that property, rights or liabilities specified in the order shall not be transferred to him by virtue of this section; and nothing in subsections (1) to (3) of this section applies to property, rights or liabilities to which section 25 of this Act applies.
- (5) Where any property transferred from a local authority or a local education authority to the Secretary of State by virtue of this section consists of uncompleted buildings which were being constructed by the authority, the authority may complete the buildings on such terms as it may agree with the Secretary of State.
- (6) In this section—
- " health functions " means—
 - (a) functions under Part III and section 65 of the principal Act and sections 10 to 12 of the Health Services and Public Health Act 1968 so far as those functions do not stand referred to social services committees by virtue of section 2 of the Local Authority Social Services Act 1970;

- (b) functions under the National Health Service (Family Planning) Act 1967 and the National Health Service (Family Planning) Amendment Act 1972;
 - (c) functions under section 196 of the Public Health Act 1936 so far as those functions relate to the diagnosis and treatment of diseases ; and
 - (d) functions under the enactments mentioned in section 41(1) of this Act; and
- " local authority " means—
- (a) except in relation to functions mentioned in paragraph (d) above and functions of the Greater London Council, any authority which immediately before the passing of this Act was a local health authority;
 - (b) in relation to functions mentioned in paragraph (d) above, a local authority within the meaning of section 41 of this Act;
 - (c) in relation to functions of the Greater London Council, that Council,
- and in relation to functions mentioned in paragraph (c) of the preceding definition includes any authority, in addition to an authority or body mentioned in paragraph (a) of this definition, on which functions are conferred by the said section 196.

17 Transfers from Executive Councils and pricing committees

- (1) All property, rights and liabilities which immediately before the appointed day were property, rights and liabilities of an Executive Council or either of the pricing committees mentioned in section 14(1) of this Act shall by virtue of this subsection be transferred to and vest in the Secretary of State on that day; and the Secretary of State may by order provide for such of those rights and liabilities as are specified in the order to be enforceable by and against an Area Health Authority or special health authority or Family Practitioner Committee so specified instead of by and against the Secretary of State.
- (2) The Secretary of State may by order make such provision as he considers is appropriate in anticipation or in consequence of any transfer which is to be or has been made by virtue of the preceding subsection.

Transfer of staff

18 Transfers to employment by new authorities and social service authorities

- (1) The Secretary of State may by order make provision—
 - (a) for the transfer on the appointed day to the employment of new health authorities designated by or under the order of persons so designated who immediately before that day were—
 - (i) employed by old health authorities so designated, or
 - (ii) employed by local health authorities or by the Greater London Council and so employed wholly or mainly for the purposes of functions mentioned in paragraphs (a) and (b) of the definition of health functions in section 16(6) of this Act, or
 - (iii) employed by local education authorities wholly or mainly for the purposes of functions under the enactments mentioned in section 16(3) of this Act, or

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- (iv) employed as relevant staff or speech therapists by local education authorities wholly or mainly for the purposes of providing special educational treatment in pursuance of section 34 of the Education Act 1944 and ascertaining whether children require such treatment, or
 - (v) employed by local authorities within the meaning of section 41 of this Act wholly or mainly for the purposes of functions under the enactments mentioned in subsection (1) of that section;
 - (b) for requiring any such authority, body or Council as is mentioned in subparagraphs (i) to (v) of the preceding paragraph and is designated by or under the order to make, after consulting new health authorities so designated if the order requires them to be consulted, schemes for the transfer on the appointed day to the employment of new health authorities designated by or under the schemes of persons designated by or under the schemes who were employed as mentioned in the preceding paragraph ;
 - (c) for any scheme made in pursuance of the preceding paragraph to be varied or revoked, at any time before the appointed day, by a subsequent scheme so made;
 - (d) for requiring an authority or other person by whom a scheme is made in pursuance of this subsection to submit the scheme or provisions of it to the Secretary of State for his approval, and for requiring the authority or other person to make, before the appointed day, such changes in the scheme as the Secretary of State may direct.
- (2) The Secretary of State may by order make provision—
- (a) for the transfer on the appointed day to the employment of new health authorities of persons to whom this subsection applies;
 - (b) for requiring public health authorities designated by or under the order to make schemes for the transfer on the appointed day, to the employment of new health authorities designated by or under the schemes, of persons to whom this subsection applies ;
 - (c) as to the manner of determining whether an individual is a person to whom this subsection applies and which authority is the new health authority to whose employment such a person is to be transferred;
 - (d) for determining, in the case of a person who apart from provision made by virtue of this paragraph falls to be transferred to the same employment or different employments by virtue of this subsection and any other provision of this Act, which of the provisions in question are not to apply in his case ;
- and it shall be the duty of the Secretary of State, before he makes an order in pursuance of this subsection, to consult with respect to the order such bodies as appear to him to represent public health authorities and to be concerned with the order and any other body which he considers it desirable to consult about the order.
- (3) The persons to whom the preceding subsection applies are—
- (a) relevant staff employed immediately before the appointed day—
 - (i) by public health authorities wholly or mainly for the purposes of any functions of such authorities under sections 143, 147, 153 and 166 to 170 of the Public Health Act 1936, sections 40 and 41 of the Public Health Act 1961 and sections 49 to 52 of the Health Services and Public Health Act 1968 (which relate to the control of infectious disease and food poisoning) and Part IX of the Public Health Act 1936 (which relates to common lodging houses), or

- (ii) by public health authorities, in their capacities as food and drugs authorities within the meaning of the Food and Drugs Act 1955, wholly or mainly for the purposes of any functions of food and drugs authorities under that Act; and
 - (b) persons employed immediately before the appointed day wholly or mainly in premises provided in pursuance of section 196 of the Public Health Act 1936 (which relates to laboratories) and transferred to the Secretary of State by section 16 of this Act.
- (4) The Secretary of State may by order make provision for the transfer—
 - (a) to the employment of bodies who are local authorities for the purposes of the Local Authority Social Services Act 1970 of persons of descriptions specified in the order who are for the time being employed by old health authorities or new health authorities wholly or mainly for the purposes of functions which stand referred to social services committees by virtue of section 2 of that Act;
 - (b) to the employment of new health authorities of relevant staff and speech therapists who are for the time being employed wholly or mainly for the purposes mentioned in the preceding paragraph by bodies who are such local authorities as are there mentioned;and an order made by virtue of this subsection may include provision—
 - (i) for transfers in pursuance of the order to be made on such days as may be determined by or under the order; and
 - (ii) as to the manner of determining whether an individual is a person liable to be transferred by virtue of this subsection and which authority is the authority to whose employment such a person is to be transferred.
- (5) A person transferred by virtue of paragraph (a) of the preceding subsection to the employment of such a body as is mentioned in that paragraph shall not be required in the course of that employment to perform duties otherwise than at or in connection with a hospital unless he has consented to perform such duties.
- (6) The Secretary of State may by order make provision for the transfer to the employment of any new health authorities, with effect from such dates (whether before or after the making of the order) as may be specified in the order, of persons who—
 - (a) were employed by an old health authority, or by another authority in its capacity as a local health authority, immediately before the date when the authority ceased to exist or to be a local health authority; and
 - (b) are not on that date transferred to the employment of a new health authority by virtue of any provision of subsections (1) to (4) of this section.
- (7) In this section—

" new health authority " means any Regional or Area Health Authority and any special health authority;

" old health authority " means any Regional Hospital Board, Board of Governors or Executive Council and any pricing committee mentioned in section 14(1) of this Act;

" public health authority " means the council of a county, borough (including a London borough), urban district and rural district, the Common Council of the City of London and a port health authority constituted in pursuance of section 2 of the Public Health Act 1936 ; and

" relevant staff " means persons of any of the following categories, namely, medical practitioners, persons registered or enrolled within the meaning of the

Nurses Act 1957 and persons registered by a board in respect of a profession
in pursuance of the Professions Supplementary to Medicine Act 1960.

19 Provisions supplementary to s. 18

- (1) Without prejudice to the duty imposed on the Secretary of State by subsection (2) of the preceding section, it shall be the duty of the Secretary of State, before he makes an order in pursuance of that section or the following subsection, to consult with respect to the order such bodies as he may recognise as representing persons who in his opinion are likely to be transferred or affected by transfers in pursuance of the order.
- (2) It shall be the duty of the Secretary of State by order to make provision for securing, in the case of a person transferred to the employment of any body by virtue of the preceding section.—
 - (a) that, while he is in the employment of that body and has not been served with a notice in writing stating that it is served for the purposes of this subsection and specifying such new terms and conditions of employment as are mentioned in the following paragraph, the scale of his remuneration and, taken as a whole, the other terms and conditions of his employment by that body are not less favourable to him than were immediately before the transfer those of the employment from which the transfer was made;
 - (b) that any new terms and conditions determined by that body for his employment by that body are such that—
 - (i) so long as he is engaged in duties reasonably comparable to the duties in which immediately before the transfer he was engaged in the employment from which the transfer was made, the scale of his remuneration and, taken as a whole, the other terms and conditions of his employment by that body are not less favourable to him than were, immediately before the transfer, those of the employment from which the transfer was made, and
 - (ii) so long as he is engaged in duties not so comparable, the terms and conditions of his employment by that body (excluding terms as to remuneration) are, taken as a whole, not less favourable than as mentioned in the preceding sub-paragraph ;
 - (c) that for the purposes of any enactment specified in the order the employments from which and to which he was transferred by virtue of the preceding section are treated as one continuous employment;and an order made in pursuance of this subsection may contain provision for the determination of questions arising with respect to the effect in relation to any person of provision made by virtue of paragraphs (a) to (c) of this subsection.
- (3) An order or scheme made by virtue of any provision of the preceding section except subsection (4)(a) may include provision for securing that, in determining whether a person was at a particular time employed by an authority wholly or mainly for the purposes of functions of the authority of a particular kind mentioned in that section, any functions of that authority which are of a different kind so mentioned and for the purposes of which the person was at that time also employed by the authority may be treated as functions of the particular kind in question; and it is hereby declared that, in determining in pursuance of the preceding section whether a person was at any time employed by an authority wholly or mainly for the purposes of functions of the authority, any employment of his at that time which was not employment by the authority is to be disregarded.

- (4) An order made by virtue of the preceding section may include provision—
- (a) for the determination of any question arising in connection with the order as to whether a person is or was employed in a particular capacity or wholly or mainly for particular purposes ;
 - (b) for enabling any person who objects, on such grounds as may be specified in the order, to his transfer in pursuance of the order or a scheme made by virtue of the order to make in respect of the transfer representations to whichever of the two Commissions appointed in pursuance of the following section is appropriate in his case, and for requiring the Commission to advise the person who made the order or scheme or, if that person has ceased to exist, to advise the Secretary of State on whether it would be appropriate in consequence of the representations to amend the order or scheme before the day when transfers take effect in pursuance of it or to transfer a person on or after that day from the employment to which he is transferred in pursuance of the order or scheme;
 - (c) for the transfer of a person in consequence of such representations—
 - (i) from the employment of a new health authority to the employment of a different new health authority or, except where the person in question was transferred in pursuance of the order or scheme from the employment of an old health authority, to the employment of an authority established by or under the Local Government Act 1972 or a London authority, or
 - (ii) from the employment of a body to which the person in question was transferred by virtue of paragraph (a) of subsection (4) of the preceding section to the employment of a different body which is such a local authority as is mentioned in that paragraph;

and in this subsection " old health authority " and " new health authority " have the same meanings as in the preceding section and " London authority " means the Greater London Council, a London borough council and the Common Council of the City of London.

20 Health Service Staff Commissions

- (1) It shall be the duty of the Secretary of State to appoint, within one month beginning with the date of the passing of this Act, two Commissions to be called the National Health Service Staff Commission and the Welsh National Health Service Staff Commission; and the Commissions—
- (a) shall consist respectively of such persons as the Secretary of State may from time to time appoint as members of the Commission after consulting any bodies appearing to him to represent persons employed in England or, as the case may be, employed in Wales who are liable to transfer in pursuance of section 18 of this Act and any other bodies appearing to him to be concerned with transfers of such persons in pursuance of that section; and
 - (b) shall in the case of the National Health Service Staff Commission exercise its functions in relation to England and in the case of the other Commission exercise its functions in relation to Wales.
- (2) It shall be the duty of each Commission—
- (a) to keep under review the arrangements made by relevant bodies for recruiting and engaging employees and the arrangements made for transfers

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in pursuance of section 18 of this Act and to give advice to the Secretary of State and the relevant bodies with respect to the arrangements ;

- (b) to consider and advise the Secretary of State on any matter which he refers to the Commission as being a matter which in his opinion arises in connection with persons liable to transfer in pursuance of section 18 of this Act;
- (c) to consider and advise the Secretary of State on the steps required to safeguard the interests of persons liable as aforesaid ; and
- (d) to arrange for the consideration of representations made to the Commission in pursuance of provision made by virtue of paragraph (b) of subsection (4) of the preceding section and for the giving of advice in pursuance of provision so made ;

and each Commission shall have power to take any steps which it considers are appropriate for the purpose of selecting and recommending to Regional or Area Health Authorities and special health authorities persons whom it considers are suitable for employment by any of those authorities.

- (3) The Secretary of State may—
 - (a) give directions to each Commission with respect to its procedure;
 - (b) give directions to relevant bodies with respect to the furnishing by them of information requested by the appropriate Commission and with respect to the action to be taken by them in consequence of advice given by that Commission;
 - (c) pay to any member of either Commission such remuneration as the Secretary of State may determine with the approval of the Minister for the Civil Service ;
 - (d) defray any expenses incurred with his approval by either Commission in the performance of its functions ; and
 - (e) wind up either Commission in such manner and at such time as he thinks fit;
 and it shall be the duty of a body to which directions are given in pursuance of this subsection to comply with the directions.
- (4) In this section " relevant bodies " means bodies from and to whose employment persons are liable to be transferred by virtue of section 18 of this Act.

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—
- (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.

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1.	2.
<i>Existing trustees</i>	<i>New trustees</i>
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.

PART III

THE HEALTH SERVICE COMMISSIONERS FOR ENGLAND AND FOR WALES

31 Appointment and tenure of office

- (1) For the purpose of conducting investigations in accordance with this Part of this Act, there shall be appointed a Commissioner to be known as the Health Service Commissioner for England and a Commissioner to be known as the Health Service Commissioner for Wales.
- (2) Her Majesty may by Letters Patent from time to time appoint a person to be a Commissioner, and a person so appointed shall, subject to the following subsection, hold office during good behaviour.
- (3) A person appointed to be a Commissioner may be relieved of office by Her Majesty at his own request or may be removed from office by Her Majesty in consequence of Addresses from both Houses of Parliament, and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five years.
- (4) A person who is a member of a relevant body shall not be appointed to be a Commissioner, and a Commissioner shall not become a member of a relevant body.

32 Salaries and pensions

- (1) Subject to subsections (3) and (4) of this section, there shall be paid to the holder of the office of a Commissioner such salary as the House of Commons may by resolution from time to time determine, and any such resolution may take effect from the date on which it is passed or from another date specified in the resolution.
- (2) Subject to subsections (5) and (6) of this section, Schedule 1 to the Parliamentary Commissioner Act 1967 (which relates to pensions and other benefits) shall have effect with respect to persons who have held office as a Commissioner as it has effect with respect to persons who have held office as the Parliamentary Commissioner for Administration.
- (3) The salary payable to a holder of the office of a Commissioner shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he has previously been appointed or elected ; but any such abatement shall be disregarded in computing that salary for the purposes of the said Schedule 1.
- (4) A person holding the office of Parliamentary Commissioner for Administration and one or more of the offices of Health Service Commissioner for England, Health Service Commissioner for Scotland and Health Service Commissioner for Wales shall so long as he does so be entitled only to the salary pertaining to the first-mentioned office; and a person holding two or more of those offices other than that of

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Parliamentary Commissioner for Administration shall so long as he does so be entitled only to the salary pertaining to such one of those offices as he selects.

- (5) A person—
- (a) shall not be entitled to make simultaneously different elections in pursuance of paragraph 1 of the said Schedule 1 in respect of different offices mentioned in the preceding subsection ; and
 - (b) shall, if he has made or is treated as having made an election in pursuance of that paragraph in respect of such an office, be deemed to have made the same election in respect of all such other offices to which he is or is subsequently appointed;
- and no account shall be taken for the purposes of that Schedule of a period of service in such an office if salary in respect of the office was not paid for that period.
- (6) Subject to the preceding subsection, the Minister for the Civil Service may by regulations provide that the said Schedule 1 shall have effect, in relation to persons who have held more than one of the offices mentioned in subsection (4) of this section, with such modifications as the said Minister considers necessary in consequence of their having held more than one of those offices; and it is hereby declared that different regulations may be made in pursuance of paragraph 4 of that Schedule in relation to different offices so mentioned.
- (7) Any salary, pension or other benefit payable by virtue of this section shall be charged on and issued out of the Consolidated Fund.

33 Administrative provisions

- (1) A Commissioner may appoint such officers as he may determine with the approval of the Minister for the Civil Service as to numbers and conditions of service; and it shall be the duty of the Health Service Commissioner for Wales to include among his officers such persons having a command of the Welsh language as he considers are needed to enable him to investigate complaints in Welsh.
- (2) Any function of a Commissioner under this Part of this Act may be performed by any officer of the Commissioner authorised for that purpose by him or by any officer so authorised of another Commissioner mentioned in subsection (4) of the preceding section.
- (3) To assist him in any investigation a Commissioner may obtain advice from any person who in his opinion is qualified to give it and may pay such fees or allowances to any such person as he may determine with the approval of the said Minister.
- (4) The expenses of a Commissioner under this Part of this Act, to such amount as may be sanctioned by the said Minister, shall be defrayed out of money provided by Parliament.

34 Matters subject to investigation

- (1) In this Part of this Act " relevant body " means any of the following bodies, namely—
- (a) Regional Hospital Boards ;
 - (b) Boards of Governors ;
 - (c) Hospital Management Committees ;
 - (d) Executive Councils;

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- (e) Regional Health Authorities ;
- (f) Area Health Authorities;
- (g) any special health authority established on or before the appointed day;
- (h) any special health authority which is established after that day and is designated by Order in Council as an authority to which this paragraph applies ;
- (i) Family Practitioner Committees ; and
- (j) the Public Health Laboratory Service Board ;

and, except where the context otherwise requires, any reference in this Part of this Act to a relevant body includes a reference to an officer of the body.

- (2) The Health Service Commissioner for England shall not conduct an investigation under this Part of this Act in respect of the Welsh Hospital Board, any Hospital Management Committee responsible for hospitals in Wales, any Executive Council or Area Health Authority of which the area is in Wales, the Family Practitioner Committee established by such an Authority, or a special health authority exercising functions only or mainly in Wales, and the Health Service Commissioner for Wales shall not conduct such an investigation in respect of a relevant body other than one of the bodies aforesaid.
- (3) Subject to the provisions of this section, a Commissioner may investigate—
 - (a) an alleged failure in a service provided by a relevant body; or
 - (b) an alleged failure of a relevant body to provide a service which it was a function of the body to provide ; or
 - (c) any other action taken by or on behalf of a relevant body,in a case where a complaint is duly made by or on behalf of any person that he has sustained injustice or hardship in consequence of the failure or in consequence of maladministration connected with the other action.
- (4) Except as hereafter provided, a Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters—
 - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty's prerogative;
 - (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that a Commissioner may conduct an investigation notwithstanding that the person aggrieved has or had such a right or remedy, if satisfied that in the particular circumstances it is not reasonable to expect him to resort or have resorted to it.

- (5) Without prejudice to the preceding subsection, a Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action as is described in Schedule 3 to this Act; and nothing in this section shall be construed as authorising such an investigation in respect of action taken in connection with any general medical services, general dental services, general ophthalmic services or pharmaceutical services by a person providing the services.
- (6) Her Majesty may by Order in Council amend the said Schedule 3 so as to exclude from the provisions of that Schedule action described in paragraph 3 or 4 of the Schedule.
- (7) In determining whether to initiate, continue or discontinue an investigation under this Part of this Act, a Commissioner shall, subject to the preceding provisions of

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this section, act in accordance with his own discretion; and any question whether a complaint is duly made to a Commissioner under this Part of this Act shall be determined by the Commissioner.

35 Provisions relating to complaints

- (1) A complaint under this Part of this Act may be made by any individual, or by any body of persons whether incorporated or not, not being—
 - (a) a local authority or other authority or body constituted for purposes of the public service or of local government or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;
 - (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department, or whose revenues consist wholly or mainly of money provided by Parliament.
- (2) Where the person by whom a complaint might have been made under the preceding provisions of this Part of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or by some body or individual suitable to represent him; but except as aforesaid and as provided by subsection (5) of this section a complaint shall not be entertained under this Part of this Act unless made by the person aggrieved himself.
- (3) A complaint shall not be entertained under this Part of this Act by a Commissioner unless it is made in writing to him by or on behalf of the person aggrieved not later than one year from the day on which the person aggrieved first had notice of the matters alleged in the complaint; but a Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers it reasonable to do so.
- (4) Before proceeding to investigate a complaint a Commissioner shall satisfy himself that the complaint has been brought by or on behalf of the person aggrieved to the notice of the relevant body in question and that that body has been afforded a reasonable opportunity to investigate and reply to the complaint; but a Commissioner shall disregard the preceding provisions of this subsection in relation to a complaint made by an officer of the relevant body in question on behalf of the person aggrieved if the officer is authorised by virtue of subsection (2) of this section to make the complaint and the Commissioner is satisfied that in the particular circumstances those provisions ought to be disregarded.
- (5) Notwithstanding anything in the preceding provision of this section, a relevant body—
 - (a) may itself (excluding its officers) refer to a Commissioner a complaint that a person has, in consequence of a failure or maladministration for which the body is responsible, sustained such injustice or hardship as is mentioned in section 34(3) of this Act if the complaint—
 - (i) is made in writing to the relevant body by that person or by a person authorised by virtue of subsection (2) of this section to make the complaint to the Commissioner on his behalf, and
 - (ii) is so made not later than one year from the day mentioned in subsection (3) of this section or within such other period as the Commissioner considers appropriate in any particular case ; but
 - (b) shall not be entitled to refer a complaint in pursuance of the preceding paragraph after the expiration of three months beginning with the day on which the body received the complaint;

and a complaint referred to a Commissioner in pursuance of this subsection shall, subject to section 34(7) of this Act, be deemed to be duly made to him under this Part of this Act.

36 Application of certain provisions of Parliamentary Commissioner Act 1967

The following provisions of the Parliamentary Commissioner Act 1967 shall, with any necessary modifications, apply to the Commissioners, their officers and a relevant body as they apply to the Parliamentary Commissioner for Administration, his officers and a department concerned, namely—

- (a) section 7 (procedure in respect of investigations);
- (b) section 8 (evidence);
- (c) section 9 (obstruction and contempt);
- (d) section 11 (secrecy of information), except subsection (4);

but in sections 7(1) and 8(1) of that Act as applied by this section the words " the principal officer of " and " Minister " shall be omitted.

37 Reports by Commissioners

- (1) In any case where a Commissioner conducts an investigation under this Part of this Act, he shall send a report of the results of his investigation—
 - (a) to the person who made the complaint;
 - (b) to the relevant body in question ;
 - (c) to any person who is alleged in the complaint to have taken or authorised the action complained of;
 - (d) if the relevant body in question is not an Area Health Authority for an area in England, a Hospital Management Committee or a Family Practitioner Committee, to the Secretary of State ;
 - (e) if that body is an Area Health Authority for an area in England, to the Regional Health Authority of which the region includes that area ;
 - (f) if that body is a Hospital Management Committee, to the Regional Hospital Board by which the Committee was appointed; and
 - (g) if that body is a Family Practitioner Committee, to the Area Health Authority by which the Committee was established.
- (2) In any case where a Commissioner decides not to conduct an investigation under this Part of this Act, he shall send a statement of his reasons for doing so to the person who made the complaint and to the relevant body in question.
- (3) If, after conducting an investigation under this Part of this Act, it appears to a Commissioner that the person aggrieved has sustained such injustice or hardship as is mentioned in section 34(3) of this Act and that the injustice or hardship has not been and will not be remedied, he may if he thinks fit make a special report to the Secretary of State who shall, as soon as is reasonably practicable, lay a copy of the report before each House of Parliament.
- (4) Each of the Commissioners shall annually make to the Secretary of State a report on the performance of his functions under this Part of this Act and may from time to time make to the Secretary of State such other reports with respect to those functions as the Commissioner thinks fit, and the Secretary of State shall lay a copy of every such report before each House of Parliament.

- (5) For the purposes of the law of defamation, the publication of any matter by a Commissioner in sending or making a report in pursuance of subsection (1), (3) or (4) of this section or in sending a statement in pursuance of subsection (2) of this section shall be absolutely privileged.

38 Transitional provisions

Regulations may provide that, where a relevant body is abolished in pursuance of this Act, any prescribed provisions of this Part of this Act and Schedule 3 to this Act shall apply, with or without prescribed modifications, in relation to a complaint in respect of the body which was duly made to a Commissioner under this Part of this Act before the date of the abolition or is made in accordance with the regulations within the period of one year beginning with that date.

39 Interpretation of Part III

- (1) In this Part of this Act and Schedule 3 to this Act—
- " action " includes failure to act, and other expressions connoting action shall be construed accordingly;
 - " a Commissioner " means the Health Service Commissioner for England or the Health Service Commissioner for Wales and " the Commissioners " means both those persons;
 - " person aggrieved " means the person who claims or is alleged to have sustained such injustice or hardship as is mentioned in section 34(3) of this Act; and
 - " relevant body " has the meaning assigned to it by section 34(1) of this Act.
- (2) It is hereby declared that nothing in this Part of this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by a relevant body in the exercise of a discretion vested in that body.

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous

40 Special hospitals

- (1) The duty imposed on the Secretary of State by section 1 of the principal Act to provide services for the purposes of the health service shall include a duty to provide and maintain establishments (in this Act referred to as " special hospitals") for persons subject to detention under the Mental Health Act 1959 who in his opinion require treatment under conditions of special security on account of their dangerous, violent or criminal propensities.
- (2) Any institution provided under section 97 of the Mental Health Act 1959 or deemed to be so provided when that section came into force shall be deemed to be provided in pursuance of the preceding subsection.

41 Nursing homes and mental nursing homes

- (1) There are hereby transferred to the Secretary of State the functions which, immediately before this subsection comes into force, were exercisable by local authorities by virtue of any provision of the following enactments (which relate to the supervision of nursing homes and mental nursing homes), namely, sections 187 and 188 of the Act of 1936 (and section 298 of that Act so far as it relates to those sections) and sections 14 to 18 of the Act of 1959 (and section 23 of that Act so far as it relates to those sections); and any reference in any of the said sections to a local authority shall be construed accordingly.
- (2) The Secretary of State may make regulations—
- (a) with respect to the registration of persons under Part VI of the Act of 1936 in respect of nursing homes and mental nursing homes (and in particular, without prejudice to the generality of the preceding provisions of this paragraph, with respect to the making of applications for registration, the refusal and cancellation of registration and appeals to magistrates' courts against refusals and cancellations of registration);
 - (b) with respect to the keeping of records relating to nursing homes and mental nursing homes and with respect to the notification of events occurring in such homes;
 - (c) with respect to entry into and the inspection of premises used or reasonably believed to be used as a nursing home;
 - (d) containing such provisions (including provisions for the transfer of staff and provisions applying with prescribed modifications any provision made by virtue of section 19(2) of this Act) as the Secretary of State considers appropriate for the purpose of securing continuity between the system of supervising nursing homes and mental nursing homes which was in operation before the coming into force of the preceding subsection and the system of supervising such homes thereafter;
 - (e) providing that a contravention or failure to comply with any specified provisions of the regulations shall be an offence against the regulations.
- (3) Subsections (2) and (3) of section 1 of the Nursing Homes Act 1963 (which provide for an offence against regulations under that section to be punishable on summary conviction with a fine not exceeding £20, for cancellation of a person's registration in respect of a nursing home if he has been convicted of such an offence and for making officers of a body corporate which is guilty of such an offence also guilty of the offence) shall apply to an offence against regulations made by virtue of the preceding subsection as they apply to an offence against regulations under that section; and the said subsection (3) shall apply to an offence under section 187 of the Act of 1936 as it applies to an offence against regulations under the said section 1.
- (4) In this section—
- " the Act of 1936 " means the Public Health Act 1936;
 - " the Act of 1959 " means the Mental Health Act 1959;
 - " local authority " means the council of a county, county borough, county district or London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
 - " mental nursing home " has the same meaning as in Part III of the Act of 1959 ; and

" nursing home " has the same meaning as in the Act of 1936.

- (5) Sections 189 to 191, 194 and 195 of the Act of 1936 (which contain provisions which are superseded by subsections (2) and (3) of this section) shall cease to have effect.

42 Pharmaceutical services

For subsection (1) of section 38 of the principal Act (which relates to arrangements for pharmaceutical services) there shall be substituted the following subsection—

- (1) It shall be the duty of every Area Health Authority to make in accordance with regulations arrangements as respects its area for the supply to persons who are in that area of—
- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony); and
 - (b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions;

and the services provided in accordance with the arrangements are in this Act referred to as " pharmaceutical services".

In this subsection—

" the health service " means the service established by section 1 of this Act;

" listed " means included in a list for the time being approved by the Secretary of State for the purposes of this subsection; and

" the Scottish health service " and " the Northern Ireland health service " mean respectively the health service established in pursuance of section 1 of the National Health Service (Scotland) Act 1947 or any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.

and in subsection (2) of the said section 38 for the words from " receiving general medical services" to " dental practitioner rendering those services " there shall be substituted the words " for whom they are ordered as mentioned in the last foregoing subsection to receive the drugs, medicines and appliances there mentioned ".

43 Miscellaneous functions of Secretary of State

- (1) If the Secretary of State considers that any accommodation provided by him by virtue of the Health Service Acts is suitable for use in connection with the provision of general medical services, general dental services, general ophthalmic services or pharmaceutical services he may make the accommodation available on such terms as he thinks fit to persons providing any of those services.
- (2) The Secretary of State may permit any person who is a medical or dental practitioner, a registered pharmacist, an ophthalmic or dispensing optician or a person of any other description determined by him and who provides services under the Health Service Acts to use for the purpose of private practice, on such terms as the Secretary of State may determine, facilities available at accommodation provided by the Secretary of State by virtue of the Health Service Acts.

- (3) Where the Secretary of State makes arrangements with medical practitioners for the vaccination or immunisation of persons against disease, he shall so far as reasonably practicable give every medical practitioner providing general medical services an opportunity to participate in the arrangements.
- (4) It shall be the duty of the Secretary of State to make available, in premises provided by him by virtue of the Health Service Acts, such facilities as he considers are reasonably required, by any university which has a medical or dental school, in connection with clinical teaching and with research connected with clinical medicine or, as the case may be, clinical dentistry.
- (5) Nothing in this section shall be construed as prejudicing any powers exercisable by the Secretary of State apart from this section.

44 Provision for early retirement in lieu of compensation for loss of office

- (1) In order to facilitate the early retirement of certain persons who might otherwise suffer, in consequence of this Act, loss of employment or loss or diminution of emoluments, any person who—
 - (a) is in any such employment as may be prescribed for the purposes of this subsection ; and
 - (b) attains or has attained the age of fifty on or before a prescribed date; and
 - (c) fulfils such other conditions as may be prescribed ;may by notice given before a prescribed date and in the prescribed manner elect that this section shall apply to him.
- (2) Where any person has made an election under the preceding subsection, then, unless within a prescribed period notice of objection to the election is given to him by a prescribed person, this section shall apply to him on his retirement within a prescribed period and before attaining the normal retiring age and compensation on his retirement shall not be payable to or in respect of him in pursuance of section 24 of the Superannuation Act 1972 (which among other things relates to compensation for loss of office).
- (3) Subject to the following subsection, the Secretary of State shall by regulations provide for the payment by him to or in respect of a person to whom this section applies of benefits corresponding, as near as may be, to those which would have been paid to or in respect of that person under the relevant superannuation scheme if—
 - (a) at the date of his retirement he had attained the normal retiring age; and
 - (b) the actual period of his reckonable service were increased by such period as may be prescribed, not exceeding the period beginning on the date of his retirement and ending on the date on which he would attain the normal retiring age.
- (4) Regulations in pursuance of the preceding subsection shall be so framed as to secure that the sums which would otherwise be payable under the regulations in accordance with that subsection to or in respect of any person are reduced to take account of any benefits payable to or in respect of him under the relevant superannuation scheme.
- (5) Any sums payable under regulations made in pursuance of subsection (3) of this section shall be treated for the purposes of section 73 of the Finance Act 1972 (under which compensation for loss of office or employment is chargeable to tax as a

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payment made on retirement or removal from office or employment) in like manner as compensation paid in pursuance of the said section 24.

(6) In this section—

" normal retiring age " means—

- (a) in relation to any person to whom an age of compulsory retirement applies by virtue of the relevant superannuation scheme, that age ; and
- (b) in relation to any other person, the age of sixty five in the case of a man and sixty in the case of a woman or, in either case, such other age as may be prescribed;

" reckonable service ", in relation to any person, means service in respect of which benefits are payable under the relevant superannuation scheme ; and

" relevant superannuation scheme ", in relation to any person, means the instrument which is applicable in the case of his employment and which makes provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of certain requirements and conditions, are to be, or may be, paid to or in respect of persons in that employment.

45 Overseas aid

Each Regional and Area Health Authority, each special health authority and the Public Health Laboratory Service Board shall have power—

- (a) with the consent of the Secretary of State, to enter into and carry out agreements with the relevant Minister under which, at the expense of that Minister, the authority or board acts as the instrument by means of which he furnishes technical assistance in the exercise of the power conferred on him by section 1(1) of the Overseas Aid Act 1966 ;
- (b) with the consent of the Secretary of State and the relevant Minister, to enter into and carry out agreements under which the authority or board furnishes, for any purpose specified in the said section 1(1), technical assistance (excluding financial assistance) in any country or territory outside the United Kingdom against reimbursement to the authority or board of the cost of furnishing the assistance;

and in this section " the relevant Minister " means the Minister of the Crown by whom is exercisable the power conferred on the Minister for Overseas Development by the said section 1(1) as originally enacted.

46 Notices of births and deaths

- (1) It shall be the duty of each registrar of births and deaths to furnish, to the prescribed medical officer of the Area Health Authority of which the area includes the whole or part of the sub-district of the registrar, such particulars of each birth and death which occurred in the area of the Authority as are entered after this subsection comes into force in a register of births or deaths kept for that sub-district; and regulations may make provision as to the manner in which and the times at which particulars are to be furnished in pursuance of this subsection.
- (2) In section 203 of the Public Health Act 1936 (which among other things provides for the notification of births to medical officers of health of welfare authorities), in subsections (1) and (2) for references to the medical officer of health of the welfare authority there shall be substituted references to the prescribed medical officer of the Area Health Authority, and in subsection (2) for the reference to a welfare authority

there shall be substituted a reference to an Area Health Authority and references to a residence shall be omitted.

Financial provisions

47 Expenses of new health authorities

- (1) It shall be the duty of the Secretary of State 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) of this section.
- (2) It shall be 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 shall be 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 in pursuance of the preceding provisions of this section shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.

48 Expenses and receipts of Secretary of State etc.

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Secretary of State for the purposes of this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable under any other Act out of money so provided;

and any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

49 Stamp duty

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) shall apply to this Act or an order made in pursuance of this Act; and stamp duty shall not be payable on such an order.

50 Remission of charges, and consequential adaptation of 1966 c. 20 s. 6

- (1) Regulations may provide for the remission or repayment of any charges which, in pursuance of section 1 of the National Health Service Act 1951 or section 2 of the National Health Service Act 1952, are payable apart from this section, by a person whose income as calculated in accordance with regulations is at less than the prescribed rate, in respect of the supply or replacement of dental or optical appliances or in respect of services provided as part of the general dental services ; and accordingly in section 6 of the Ministry of Social Security Act 1966 (which specifies the medical, dental and similar requirements which are and are not to be taken into account for the purposes of that Act) the words from " include any requirement" to " but" and the word " other " shall be omitted.
- (2) In the application of the preceding subsection to Scotland the reference to general dental services shall be construed as a reference to general dental services provided under Part IV of the National Health Service (Scotland) Act 1947.

51 Compensation for loss of rights to sell medical practices

In section 36(3)(c) of the principal Act and 37(3)(c) of the National Health Service (Scotland) Act 1947 (under which regulations must secure that, except in prescribed circumstances, compensation for loss of the right to sell a medical practice is not paid until the retirement or death of the medical practitioner concerned, whichever first occurs), the words from " and secure " to " occurs " shall be omitted.

52 Miscellaneous financial provisions

- (1) If the Secretary of State considers it appropriate for remuneration in respect of services provided by any person in pursuance of Part IV of the principal Act to be paid by a particular body and apart from this subsection 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 ; and any sums required to enable any body having that function to pay remuneration in respect of such services shall, if apart from this subsection 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.
- (2) In deciding whether to make an order under subsection (1) of section 3 of the Local Government Act 1966 (which relates to the variation of rate support grant orders) in respect of the year beginning with 1st April 1974 or 1st April 1975 and what order to make under that subsection in respect of either year, the Secretary of State shall have regard to any relief in respect of the year in question which he considers has been or is likely to be obtained by local authorities in consequence of this Act and was not taken into account in making the relevant rate support grant order.

*Supplemental***53 Acquisition and use of land and other property**

- (1) In section 58(1) of the principal Act (which enables the Secretary of State to acquire by agreement or compulsorily any land required by him for the purposes of that Act), for the words " this Act" there shall be substituted the words " the National Health Service Acts 1946 to 1973 " and for the words " at any hospital vested in the Minister " there shall be substituted the words " for any purposes of those Acts " ; and the Secretary

of State may acquire any property, other than land, required by him for the purposes of the Health Service Acts.

- (2) Section 128 of the Town and Country Planning Act 1971 (which among other things provides that where a Minister acquires consecrated land or land comprised in a burial ground compulsorily he may, subject to the safeguards provided by that section, use the land for the purpose for which he acquired it notwithstanding any obligation or restriction imposed by ecclesiastical law or anything in any enactment relating to burial grounds) shall apply to consecrated land and land comprised in a burial ground within the meaning of that section which is held by the Secretary of State for any of the purposes of the health service and has not been acquired by him as mentioned in subsection (1) of that section as if the land had been so acquired for those purposes.
- (3) The Secretary of State may use, for the purposes of any of the functions conferred on him by the Health Service Acts, any property belonging to him by virtue of any of those Acts; and it is hereby declared that the Secretary of State has power to maintain all such property.

54 General ancillary provisions

- (1) If the Secretary of State considers that by reason of an emergency it is necessary, in order to ensure that a service falling to be provided in pursuance of the Health Service Acts is provided, to direct that during a period specified in the directions a function conferred on any body or person by virtue of those Acts shall to the exclusion of or concurrently with that body or person be performed by another body or person, he may give directions accordingly and it shall be the duty of the bodies or persons in question to comply with the directions; and the powers conferred on the Secretary of State by this subsection are in addition to any other powers exercisable by him.
- (2) The Secretary of State may by order make such incidental, supplemental, transitional or consequential provision (including provision making modifications of enactments) as he considers appropriate for any of the purposes of this Act or in consequence of or for giving full effect to any provision of this Act; and nothing in the following subsection or any other provision of this Act shall be construed as prejudicing the generality of the power conferred by this subsection.
- (3) An order made by virtue of the preceding subsection may include provision—
 - (a) for any thing duly done by a body in the exercise of functions which by virtue of this Act become functions of another body to be deemed to have been duly done by the other body; and
 - (b) without prejudice to the generality of the preceding paragraph, for any instrument, in so far as it was made in the exercise of such functions, to continue in force until varied or revoked by the other body.
- (4) In so far as—
 - (a) any apportionment, agreement, order or regulation made by virtue of an enactment repealed by this Act; or
 - (b) any approval, consent, direction or notice given by virtue of such an enactment; or
 - (c) any proceedings begun or thing done by virtue of such an enactment,could, if a corresponding enactment which is contained in this Act had been in force at the relevant time, have been made, given, begun or done by virtue of the corresponding enactment, it shall, if effective immediately before the relevant

corresponding enactment comes into force, continue to have effect thereafter as if made, given, begun or done by virtue of that corresponding enactment.

- (5) The Secretary of State may by order provide that any right which a Regional Hospital Board, a Board of Governors or a Hospital Management Committee was entitled to enforce by virtue of section 13 of the principal Act immediately before the appointed day and any liability in respect of which such a board or committee was liable by virtue of that section immediately before that day shall, on and after that day, be enforceable by or as the case may be against a Regional Health Authority, Area Health Authority or special health authority specified in the order as if the authority so specified were concerned as a principal with the matter in question and did not exercise functions on behalf of the Secretary of State.

55 Interpretation etc.

- (1) Except where the contrary intention appears, in this Act the following expressions have the following meanings—

" the appointed day " means such day as the Secretary of State may by order appoint;

" Board of Governors " means a body constituted in pursuance of section 11 of the principal Act as the Board of Governors of a teaching hospital;

" functions " includes powers and duties ;

" the health service " means the health service established in pursuance of section 1 of the principal Act;

" the Health Service Acts " means the National Health Service Acts 1946 to 1968 and this Act;

" local health authority " includes a joint board constituted in pursuance of section 19 of the principal Act and a body exercising delegated functions of such an authority in pursuance of section 46 of the Local Government Act 1958;

" modifications " includes additions, omissions and amendments;

" prescribed " means prescribed by regulations;

" preserved Board " has the meaning assigned to it by section 15(6) of this Act;

" the principal Act " means the National Health Service Act 1946:

" regulations " means, subject to subsection (2) of the following section, regulations made by the Secretary of State;

" special hospital " has the meaning assigned to it by section 40(1) of this Act ; and

" Special Trustees " has the meaning assigned to it by section 29(1) of this Act;

and any other expression to which a meaning is assigned by Part IV or section 79(1) of the principal Act has that meaning in this Act.

- (2) Section 269 of the Local Government Act 1972 (which relates to the meaning of "England" and "Wales" in Acts passed after 1st April 1974) shall apply to this Act as if this Act had been passed after that date; and it is hereby declared that in this Act " property " includes land.

- (3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment including this Act.

56 Orders and regulations etc.

- (1) Any power to make orders or regulations conferred by this Act shall be exercisable by statutory instrument; and
 - (a) a statutory instrument made by virtue of this subsection, except an instrument containing only such orders as are mentioned in the following paragraph, or by virtue of section 34 (1)(h) or (6) of this Act or subsection (6) of the following section shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) a statutory instrument containing only orders made by virtue of section 14(2), 24(2) or (3) or 54 of this Act or orders appointing a day in pursuance of this Act shall be laid before Parliament after being made.
- (2) Any power to make regulations conferred on the Secretary of State by this Act shall, if the Treasury so directs, be exercisable by the Treasury and the Secretary of State acting jointly.
- (3) Any power to make an order conferred by this Act, except sections 15(2)(d), 23(2) and 24(2) and (3), includes power to vary or revoke the order by a subsequent order made in the exercise of that power; but provisions of an order which appoint a day or provide for an enactment to come into force on a specified day shall not by virtue of this subsection be revoked or varied on or after that day.
- (4) Any power conferred by the Health Service Acts or the Nursing Homes Act 1963 to make orders, regulations or schemes, and any power conferred by section 7 of this Act to give directions by an instrument in writing, may unless the contrary intention appears be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
 - (b) so as to make, as respects the cases in relation to which it is exercised.—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of those Acts or that section;
 - (iii) any such provision either unconditionally or subject to any specified condition,and includes power to make such incidental or supplemental provision in the orders, regulations, schemes or directions as the persons making or giving them consider appropriate.
- (5) Any directions given in pursuance of any provision of this Act other than section 7 may be varied or revoked by subsequent directions given in pursuance of that provision.

57 Minor and consequential amendments, and repeals

- (1) The enactments mentioned in Schedule 4 to this Act shall have effect subject to the amendments specified in that Schedule.

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

- (2) The enactments and Order in Council mentioned in the first and second columns of Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) An order bringing any provision of the said Schedule 4 or Schedule 5 into force in pursuance of subsection (3) of the following section may, without prejudice to the generality of that subsection or subsection (4) of the preceding section, provide that the enactment or Order in Council amended or repealed by that provision shall, in such cases and for such periods as are specified in the order, continue to have effect as if the provision were not in force.
- (4) An order bringing any provision of the said Schedule 5 into force as mentioned in the preceding subsection may, without prejudice as therein mentioned, provide that any orders, regulations or other instruments in force by virtue of that provision shall continue in force; and an instrument continued in force in pursuance of this subsection may be varied or revoked by regulations.
- (5) The Secretary of State may by order repeal or amend any provision of any local Act passed before this Act (including an Act confirming a provisional order) or of any order or other instrument made under an Act so passed if it appears to him that the provision is inconsistent with, or has become unnecessary or requires alteration in consequence of, any provision of this Act or corresponds to any provision repealed by this Act.
- (6) Her Majesty may by Order in Council make such modifications of the Health Service Acts as She considers appropriate in connection with the consolidation of those Acts.

58 Citation, commencement and extent

- (1) This Act may be cited as the National Health Service Reorganisation Act 1973, and—
 - (a) this Act and the National Health Service Acts 1946 to 1968 may be cited together as the National Health Service Acts 1946 to 1973 ; and
 - (b) this Act so far as it extends to Scotland and the National Health Service (Scotland) Acts 1947 to 1972 may be cited together as the National Health Service (Scotland) Acts 1947 to 1973.
- (2) The following provisions of this Act shall come into force on the passing of this Act, namely sections 1, 5 to 10, 14 to 21, 23 to 26, 29, 30, 41 (so far as it is applied by sections 16 and 18), 44, 47 to 49, 51 to 57 and this section, Schedules 1 and 2, paragraphs 22, 79, 133, 141, 151 and 152 of Schedule 4 and the entry in Schedule 5 relating to section 36(3)(c) of the principal Act.
- (3) The provisions of this Act which do not come into force in pursuance of the preceding subsection shall come into force on such day as the Secretary of State may by order appoint; and, without prejudice to the generality of section 56(4) of this Act, different days may be appointed in pursuance of this subsection for different provisions of this Act and for different purposes of the same provision of this Act.
- (4) The Secretary of State may by order provide that this Act shall extend to the Isles of Scilly with such modifications, if any, as are specified in the order; and except as provided in pursuance of this subsection this Act shall not extend to the Isles of Scilly.
- (5) The following provisions only of this Act shall extend to Scotland, namely, this subsection and subsections (1) to (3) of this section, sections 32(4) to (7), 36, 37(5),

section 39(1) so far as it relates to those sections, sections 50, 51 and 57, paragraphs 41, 42, 43, 49, 58(2), 59(1), 67, 77 to 82, 96, 102, 104, 106, 109, 123, 128, 130, 133 to 135 and 138 to 150 of Schedule 4, the entries in Schedule 5 relating to the National Health Service (Scotland) Act 1947, the Dentists Act 1957, the Opticians Act 1958, the Radioactive Substances Act 1960, the Health Visiting and Social Working Training Act 1962, the Redundancy Payments Act 1965, (excluding the reference to paragraph 6), the Ministry of Social Security Act 1966 and the National Health Service (Scotland) Act 1972, and section 56 so far as it relates to subsection (3) of this section, sections 32(6) and 50 and paragraphs 138 and 139 of Schedule 4.

- (6) The following provisions only of this Act shall extend to Northern Ireland, namely, this subsection and subsections (1) to (3) of this section, sections 36 and 37(5), section 39(1) so far as it relates to those sections, section 57, paragraphs 40, 69, 79 to 82, 96, 102, 104, 109, 128, 130, 134, 146 and 148 of Schedule 4 and the entries in Schedule 5 relating to the Polish Resettlement Act 1947, the Dentists Act 1957, the Opticians Act 1958, the Radioactive Substances Act 1960, the Health Visiting and Social Work (Training) Act 1962 and the Order in Council of 1972.