



National Health Service Reorganisation Act 1973

1973 CHAPTER 32

PART II

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

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,

Status: This is the original version (as it was originally enacted).

- 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 ;
- (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.