



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART I

ORGANISATION

Trusts

[^{F1}12D Transfer of property rights and liabilities to NHS trusts.

- (1) The Secretary of State may by order provide for the transfer to an NHS trust, with effect from such date as may be specified in the order, of such of the property, liabilities and obligations of a Health Board, the Agency or the Secretary of State as, in his opinion, need to be transferred to the NHS trust for the purpose of enabling it to carry out its functions.
- (2) An order under this section may create or impose, or provide for the creation or imposition of, such new rights, liabilities or obligations in respect of what is transferred or what is retained by a Health Board or the Agency as appear to the Secretary of State to be necessary or expedient.
- (3) Nothing in this section affects the power of the Secretary of State or any power of a Health Board or the Agency to transfer property, liabilities or obligations to an NHS trust otherwise than under subsection (1).
- (4) Stamp duty shall not be chargeable in respect of any transfer to an NHS trust effected by virtue of an order under this section.
- (5) Where an order under this section provides for the transfer—
 - (a) of land held on lease from a third party, that is to say, a person other than the Secretary of State; or
 - (b) of any other asset leased or hired from a third party or in which a third party has an interest,

Status: Point in time view as at 01/12/2003.

Changes to legislation: *National Health Service (Scotland) Act 1978, Section 12D is up to date with all changes known to be in force on or before 04 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

the transfer shall be binding on the third party notwithstanding that, apart from this subsection, it would have required his consent or concurrence, or would have required to be intimated to him.

- (6) Any property, liabilities and obligations which are to be transferred to an NHS trust shall be identified by agreement between, on the one hand, the NHS trust and, on the other hand, a Health Board or the Agency; or, in default of agreement, by direction of the Secretary of State.
- (7) Where, for the purpose of a transfer pursuant to an order under this section, it becomes necessary to apportion any property, liabilities and obligations, the order may contain such provisions as appear to the Secretary of State to be appropriate for the purpose; and where any such property falls within subsection (5), the order shall contain such provisions as appear to the Secretary of State to be appropriate to safeguard the interests of third parties, including, where appropriate, provision for the payment of compensation of an amount to be determined in accordance with the order.
- (8) Without prejudice to section 105(7), an order under this section may include provision for matters to be settled by arbitration by a person determined in accordance with the order.]

Textual Amendments

F1 Ss. 12A–12F inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 31

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