



# National Health Service (Scotland) Act 1978

## 1978 CHAPTER 29

### PART V

#### PROPERTY AND FINANCE

##### *Finance and accounts*

#### **[<sup>F1</sup>85A Financial duties of bodies referred to in section 85.**

- (1) It is the duty of each such body as is referred to in section [<sup>F2</sup>85AA(1) or] 85(1), in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—
- (a) the amounts allotted to that body for that year under section [<sup>F2</sup>85AA(1) or] 85(1) [<sup>F3</sup>and, as the case may be, section [<sup>F4</sup>85AA(3)]];
  - (b) any other sums received under this Act in that year by that body; and
  - (c) any sums received otherwise than under this Act in that year by that body for the purposes of enabling them to defray any such expenditure.

[ References to “functions” in subsection (1) are, in the application of that subsection <sup>F5</sup>(1A) to HIS, to be construed as references to HIS's health service functions only.]

- (2) [<sup>F6</sup>Subsection (9) of section 85AA] shall apply for the purposes of this section as it applies for the purposes of that section.
- (3) The Secretary of State may give such directions to a body referred to in section [<sup>F7</sup>85AA(1) or] 85(1) as appear to him to be requisite to secure that the body comply with the duty imposed on them by subsection (1) and it shall be the duty of the body to comply with the directions.

Directions under this subsection may be specific in character.

*Status: Point in time view as at 07/12/2019.*

*Changes to legislation: National Health Service (Scotland) Act 1978, Section 85A 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)*

- (4) To the extent to which—
- (a) any expenditure of a Health Board [<sup>F8</sup>, HIS] or a local health council is defrayed by that body as trustee; or
  - (b) any sums are received by such a body as trustee or under section 84A, that expenditure and, subject to subsection (5), those sums shall be disregarded for the purposes of this section, and, for those purposes, sums which, in the hands of such a body, cease to be trust funds and become applicable by the body otherwise than as trustee shall be treated, on their becoming so applicable, as having been received by the body otherwise than as trustee.
- (5) Of the sums received by a body under section 84A so much only as accrues to the body after defraying any expenses incurred in obtaining them shall be disregarded under subsection (4).
- (6) Subject to subsection (4), the Secretary of State may, by directions, determine—
- (a) whether sums of a description specified in the directions are or are not to be treated for the purposes of this section as being receivable under this Act by a body of a description so specified;
  - (b) whether expenditure of a description specified in the directions is or is not to be treated for the purposes of this section as being attributable to the performance of functions by a body of a description so specified; or
  - (c) the extent to which and the circumstances in which sums received but not yet spent by a body under section [<sup>F9</sup>85AA(1)] 85(1) [<sup>F10</sup>, or, as the case may be, section [<sup>F11</sup>85AA(3)]] are to be treated for the purposes of this section as part of the expenditure of the body and to which financial year's expenditure they are to be attributed.]

#### Textual Amendments

- F1** S. 85A inserted by [Health Services Act 1980 \(c. 53\), s. 6\(4\)\(5\)](#) in relation to the financial year 1980 to 1981 and subsequent years
- F2** Words in s. 85A(1) inserted (1.10.1999) by [1999 c. 8, s. 65\(1\), Sch. 4 para. 55\(a\)](#); S.S.I. 1999/90, art. 2(a)(b), [Sch. 1](#)
- F3** Words inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\), s. 16\(4\)\(a\)](#)
- F4** Word in s. 85A(1)(a) substituted (1.10.1999) by [1999 c. 8, s. 65\(1\), Sch. 4 para. 55\(a\)](#); S.S.I. 1999/90, art. 2(a)(b), [Sch. 1](#)
- F5** S. 85A(1A) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), Sch. 17 para. 17\(a\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F6** Words in s. 85A(2) substituted (1.10.1999) by [1999 c. 8, s. 65\(1\), Sch. 4 para. 55\(b\)](#); S.S.I. 1999/90, art. 2(a)(b), [Sch. 1](#)
- F7** Words in s. 85A(3) inserted (1.10.1999) by [1999 c. 8, s. 65\(1\), Sch. 4 para. 55\(c\)](#); S.S.I. 1999/90, art. 2(a)(b), [Sch. 1](#)
- F8** Words in s. 85A(4)(a) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), Sch. 17 para. 17\(b\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F9** Word in s. 85A(6)(c) inserted (1.10.1999) by [1999 c. 8, s. 65\(1\), Sch. 4 para. 55\(d\)](#); S.S.I. 1999/90, art. 2(a)(b), [Sch. 1](#)
- F10** Words inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\), s. 16\(4\)\(b\)](#)
- F11** Word in s. 85A(6)(c) substituted (1.10.1999) by [1999 c. 8, s. 65\(1\), Sch. 4 para. 55\(d\)](#); S.S.I. 1999/90, art. 2(a)(b), [Sch. 1](#)

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**Modifications etc. (not altering text)**

- C1** S. 85A(1)(3) extended by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), ss. 2(8)(b), 17(2), 91(2), [Sch. 1 para. 8\(d\)](#)
- C2** Ss. 85(1)(2A), 85A(1)(3)(4) applied (1.4.1991) by [S.I. 1990/2639](#), art. 5(1)(2), [Sch. Pt. I](#)
- C3** S. 85A(1)(3)(4) applied (1.4.1993) by [S.I. 1993/577](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)  
S. 85A(1)(3)(4) applied (1.4.1995) by [S.I. 1995/574](#), art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)  
S. 85A(1)(3)(4) applied (1.4.1999) by [S.I. 1999/686](#), art. 5(1)(2), [Sch. Pt. I](#)  
S. 85A(1)(3)(4) applied (1.4.1999) by [S.I. 1999/726](#), art. 5(1)(2), [Sch. Pt. I](#)  
S. 85A(1)(3)(4) applied (1.4.2000) by [S.S.I. 2000/47](#), art. 5(1)(2), [Sch. Pt. I](#)  
S. 85A(1)(3)(4) applied (6.4.2001) by [S.S.I. 2001/137](#), art. 5(1), [Sch. Pt. I](#)  
S. 85A(1)(3)(4) applied (31.3.2002) by [S.S.I. 2002/103](#), art. 6, [Sch. Pt. I](#) (with art. 4(4))  
S. 85A(1)(3)(4) applied (27.6.2002) by [S.S.I. 2002/305](#), art. 5(1), [Sch. Pt. I](#) (with art. 4(4))
- C4** S. 85A(1) applied (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 4(3), 333(2)-(4), [Sch. 1 para. 9\(b\)](#), [S.S.I. 2005/161](#), [art. 3](#)
- C5** S. 85A(3) applied (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 4(3), 333(2)-(4), [Sch. 1 para. 9\(b\)](#), [S.S.I. 2005/161](#), [art. 3](#)
- C6** S. 85A(4) applied (7.12.2019) by [The Public Health Scotland Order 2019 \(S.S.I. 2019/336\)](#), art. 1(2), [sch. 1 Pt. 1](#) (with art. 4(4)(5))

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