

Status: Point in time view as at 01/09/2006.

Changes to legislation: There are currently no known outstanding effects for the Health Authorities Act 1995, Cross Heading: Property, rights and liabilities of RHAs, DHAs, FHSAs and SHAs. (See end of Document for details)

SCHEDULES

SCHEDULE 2

TRANSITIONAL PROVISIONS AND SAVINGS

Property, rights and liabilities of RHAs, DHAs, FHSAs and SHAs

- 1 (1) On 1st April 1996—
- (a) all property held by a Regional Health Authority immediately before that date, and
 - (b) all rights and liabilities to which a Regional Health Authority are entitled or subject immediately before that date,
- shall by virtue of this sub-paragraph be transferred to and vest in the Secretary of State.
- (2) Sub-paragraph (1) has effect in relation to any rights and liabilities which immediately before 1st April 1996 are (by or by virtue of any enactment) enforceable by or against a Regional Health Authority so that on and after that date they are enforceable by or against the Secretary of State.
- (3) Sub-paragraph (1) does not apply to—
- (a) property, rights or liabilities transferred to an NHS trust on 1st April 1996,
 - (b) property, rights or liabilities transferred by virtue of paragraph 3 of this Schedule or section 92 of the ^{M1}National Health Service Act 1977 (transfers of trust property and rights and liabilities arising from trust property) on that date, or
 - (c) rights or liabilities which are transferred by paragraph 9 of this Schedule (or would be so transferred but for sub-paragraph (5) or (8) of that paragraph) or to which paragraph 14 of this Schedule applies.

Marginal Citations

M1 1977 c. 49.

- 2 (1) The Secretary of State may, where it appears appropriate to do so, by order transfer to a specified [^{F1}Primary Care Trust,]^{F2}Strategic Health Authority,] Health Authority or Special Health Authority any specified property, rights or liabilities which have been transferred by paragraph 1(1).
- (2) An order may be made under sub-paragraph (1) to have effect in relation to any specified rights or liabilities such as are mentioned in paragraph 1(2) so that they are enforceable by or against (or only by or against) a specified [^{F1}Primary Care Trust,]^{F2}Strategic Health Authority,] Health Authority or Special Health Authority.
- (3) An order made under sub-paragraph (1) may take effect immediately after paragraph 1 takes effect or on a later specified date.

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- (4) An order made under sub-paragraph (1) may, in particular, specify any Special Health Authority administering a scheme under section 21 of the ^{M2}National Health Service and Community Care Act 1990 (schemes for meeting liabilities of health service bodies).
- (5) An order made under sub-paragraph (1) may create or impose such new rights or liabilities in respect of what is transferred, or what is retained by the Secretary of State, as appear appropriate.
- (6) In the case of any transfer made by an order under sub-paragraph (1), a certificate issued by the Secretary of State that—
- (a) any property described in the certificate,
 - (b) any interest in or right over property so described, or
 - (c) any right or liability so described,
- is vested in the specified [^{F1}Primary Care Trust,][^{F2}Strategic Health Authority,] Health Authority or Special Health Authority shall be conclusive evidence of that fact for all purposes.
- (7) Sub-paragraph (1) does not affect any power of the Secretary of State to transfer any property, rights or liabilities to a [^{F1}Primary Care Trust,][^{F2}Strategic Health Authority,] Health Authority or Special Health Authority otherwise than under this paragraph.

Textual Amendments

- F1** Words in Sch. 2 para. 2 inserted (E.W.) (1.10.2002) by 2002 c. 17, s. 2(5), **Sch. 2 Pt. 2 para. 62**; S.I. 2002/2478, **art. 3(1)(d)**.
- F2** Words in Sch. 2 para. 2 inserted (1.10.2002) by S.I. 2002/2469, **reg. 4, Sch. 1 Pt. 1 para. 20**

Marginal Citations

- M2** 1990 c. 19.

- 3 (1) The Secretary of State may by order transfer on 1st April 1996 to a specified health service body any specified property held on trust by a Regional Health Authority immediately before that date.
- (2) In sub-paragraph (1) “health service body” means—
- (a) a Health Authority,
 - (b) a Special Health Authority,
 - (c) an NHS trust,
 - (d) special trustees, or
 - (e) trustees for an NHS trust.
- (3) Sub-paragraph (1) does not apply to property transferred by virtue of section 92 of the ^{M3}National Health Service Act 1977 on 1st April 1996.
- (4) The Secretary of State shall exercise the power conferred by sub-paragraph (1) so as to secure that all property to which that sub-paragraph applies is dealt with in exercise of the power.
- (5) In this paragraph references to property include references to any rights and liabilities arising from the property.

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M3 1977 c. 49.

- 4 (1) The Secretary of State may by order transfer on 1st April 1996 to a specified Health Authority—
- (a) any specified property held by a District Health Authority or a Family Health Services Authority immediately before that date, or
 - (b) any specified rights or liabilities to which a District Health Authority or a Family Health Services Authority are entitled or subject immediately before that date.
- (2) An order may be made under sub-paragraph (1) to have effect in relation to any specified rights or liabilities which immediately before 1st April 1996 are (by or by virtue of any enactment) enforceable by or against a District Health Authority or a Family Health Services Authority so that on and after that date they are enforceable by or against (or only by or against) a specified Health Authority.
- (3) Sub-paragraph (1) does not apply to—
- (a) property, rights or liabilities transferred to an NHS trust on 1st April 1996,
 - (b) property transferred by virtue of section 92 of the ^{M4}National Health Service Act 1977 on that date, or
 - (c) rights or liabilities which are transferred by paragraph 9 of this Schedule (or would be so transferred but for sub-paragraph (5) or (8) of that paragraph) or to which paragraph 14 of this Schedule applies.
- (4) The Secretary of State shall exercise the power conferred by sub-paragraph (1) so as to secure that all property to which that sub-paragraph applies is, and all rights and liabilities to which that sub-paragraph applies are, dealt with in exercise of the power.
- (5) In this paragraph references to property include trust property; and, for the purposes of this paragraph, rights and liabilities arising from trust property shall be treated as being part of the property (so that references in this paragraph to rights and liabilities do not include rights and liabilities arising from trust property).

Marginal Citations

M4 1977 c. 49.

- 5 (1) Where an order made under paragraph 2, 3 or 4 transfers—
- (a) land held on lease from a third party, or
 - (b) any other asset leased or hired from a third party or in which a third party has an interest,
- the transfer shall be binding on the third party even if, apart from this sub-paragraph, it would have required his consent or concurrence; and the order may contain such provisions as appear appropriate to safeguard the interests of the third party, including (where appropriate) provision for the payment of compensation of an amount to be determined in accordance with the order.
- (2) Stamp duty is not chargeable in respect of any transfer effected by or by virtue of any of paragraphs 1 to 4.

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[^{F3}(2A) For the purposes of stamp duty land tax a land transaction effected by virtue of paragraph 2 is exempt from charge.

(2B) Relief under sub-paragraph (2A) must be claimed in a land transaction return or an amendment of such a return.

(2C) In this paragraph—

“land transaction” has the meaning given in section 43(1) of the Finance Act 2003;

“land transaction return” has the meaning given by section 76(1) of that Act.]

(3) The references in sections 93(1), 94(1) and (3) and 96A(10) of the ^{M5}National Health Service Act 1977 (provisions about trust property) to section 92 of that Act include references to paragraphs 3 and 4 of this Schedule; and the reference in section 93(2) of that Act to Part IV of that Act includes a reference to those paragraphs.

Textual Amendments

F3 Sch. 2 para. 5(2A)-(2C) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 23**

Marginal Citations

M5 1977 c. 49.

6 Nothing in this Act prevents any rights or liabilities which immediately before 1st April 1996 are (by or by virtue of any enactment repealed by this Act) enforceable by or against a Special Health Authority from continuing on and after that date to be enforceable by or against the Special Health Authority.

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