1973. No. 351 **[C]**

HEALTH AND PERSONAL SOCIAL SERVICES

Consequential, Transitional and Supplementary Provisions

ORDER, DATED 24TH SEPTEMBER 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER ARTICLE 76(1) OF AND PARAGRAPH 1 OF SCHEDULE 13 TO THE HEALTH AND PERSONAL SOCIAL SERVICES (NORTHERN IRELAND) ORDER 1972.

The Ministry of Health and Social Services, on behalf of the Secretary of State and in exercise of the powers conferred on it by Article 76(1) of and paragraph 1(*d*), (*e*) and (*g*) to (*l*) of Schedule 13 to the Health and Personal Social Services (Northern Ireland) Order 1972(a) and of every other power enabling it in that behalf, and in conjunction with the Ministry of Finance, hereby makes the following Order:

Citation

1. This Order may be cited as the Health and Personal Social Services (Consequential, Transitional and Supplementary Provisions) Order (Northern Ireland) 1973.

Interpretation

2. In this Order—

"the Act" means the Health Services Act (Northern Ireland) 1971(b);

"Health and Social Services Board" means such a Board established under the Order;

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"transferee" means, in relation to functions conferred by virtue of the Order, where the function is exercisable by the Ministry, a Health and Social Services Board, an officer of such Board, the Agency or the Staffs Council, that Ministry, body or officer or, in relation to any assets or liabilities transferred by virtue of the Order, the Ministry or, where an asset or liability is enforceable by or against a Health and Social Services Board, the Agency or the Staffs Council, that body;

"transferor" means any of the bodies mentioned in Article 74 of the Order, a health or welfare authority or officer of such body or authority by which or whom a function was exercisable before 1st October 1973, or any such body or authority or a local authority from which any asset or liability is transferred by virtue of the Order;

"the Tribunal" means the Tribunal within the meaning of the Act.

Enforcement of certain assets and liabilities

3.—(1) Notwithstanding Article 75 of the Order, assets (other than property) and liabilities (other than liabilities in relation to the payment of superannuation benefits and of compensation in respect of loss of employ-

(a) S.I. 1972, No. 1265 (N.I. 14). (b) 1971. c. 1 (N.I.).

ment or loss or diminution of emoluments) held, acquired or incurred for the purposes of any function which on 1st October 1973 becomes exercisable by a Health and Social Services Board, the Agency or the Staffs Council by virtue of the Order shall be enforceable on and after that date by or against that Board, the Agency or the Staffs Council, as the case may require.

(2) Where under paragraph (1) any asset or liability would be enforceable by or against two or more Health and Social Services Boards, the asset or liability shall be apportioned in such manner as may be determined by agreement among the Boards concerned or, in default of agreement, as shall be determined by the Ministry, and shall be enforceable accordingly.

Preparation and audit of accounts

4. The dissolution of any of the following bodies, namely the Northern Ireland General Health Services Board, the Northern Ireland Hospitals Authority and management committees, shall not affect any duty of the body to prepare and transmit to the Ministry accounts in respect of the period of six months ending on 30th September 1973 or the audit of such accounts, and, accordingly, the accounts shall be prepared and transmitted and the audit shall be made as if the body had not been dissolved and sections 56(2) and 57(1) of the Act had not been repealed; and any member or officer of the body who is required for the purposes of the preparation, transmission or audit of the accounts or for the purposes of any proceedings in connection therewith or consequent thereupon shall for those purposes be deemed to continue in office and be bound to perform the same duties and render the same account and be subject to the same liabilities as if the body had not been dissolved.

Transfers from medical etc. lists

5.—(1) The name of any person included immediately before 1st October 1973 in the lists prepared under Part II or Part IV of the Act—

(*a*) of medical practitioners undertaking to provide general medical services other than maternity medical services; or

(*b*) of medical practitioners undertaking to provide maternity medical services; or

(*c*) of dental practitioners undertaking to provide general dental services; or

(*d*) of medical practitioners undertaking to provide general eye services; or

(*e*) of ophthalmic opticians undertaking to provide general eye services; or

(*f*) of dispensing opticians undertaking to provide general eye services; or

(*g*) of persons undertaking to provide pharmaceutical services;

shall be transferred on that date—

(i) in the case of a person to whom paragraph (1)(*a*) or (*b*) applies, to the corresponding list of the Health and Social Services Board in whose area his surgery or main surgery is situated;

(ii) in the case of a person to whom paragraph (1)(*c*), (*d*), (*e*) or (*f*) applies, or to whom paragraph (1)(*g*) applies and who has undertaken to provide pharmaceutical services, including the supply of appliances, to the corresponding list of each Health and Social Services Board in whose area his premises are situated;

(iii) in the case of a person to whom paragraph (1)(*g*) applies, and who has undertaken to supply appliances only, to the corresponding list of each Health and Social Services Board in whose area he provides services.

(2) Where before 1st October 1973 the Tribunal has directed that the name of any person be removed from any of the lists referred to in paragraph (1) and the direction has not been carried out at that date, the Health and Social Services Board or Boards concerned shall remove the name from the list or lists in question to which it is transferred on 1st October 1973.

Transitional provisions

6.—(1) The following provisions of this Article shall apply in relation to functions conferred, and to any assets and liabilities transferred, by virtue of the Order.

(2) In the construction and for the purposes of any transferred provision, judgement, decree, order, award, deed, contract, bond, agreement, regulation, rule, certificate or other document made before 1st October 1973 any reference to, or which is to be construed as a reference to, a transferor shall, so far only as may be necessary for the purpose or in consequence of the conferment or the transfer, be construed as a reference to the transferee.

(3) The transfer shall not affect any order, regulation, rule, direction, instruction, approval, requirement or authorisation made or given or other thing done by a transferor before 1st October 1973 but any such matter shall, if in force immediately before that date continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the transferee.

(4) Anything commenced before 1st October 1973 by or under the authority of a transferor may, so far as it relates to any function conferred or any asset or liability transferred to or enforceable by or against a transferee, be carried on or completed by or under the authority of the transferee.

(5) Any investigation, legal proceeding or remedy under any transferred provision or otherwise in respect of any function conferred or any asset or liability transferred to or enforceable by or against a transferee may be instituted, continued or enforced by or against the transferee under the powers and provisions applicable thereto immediately before 1st October 1973.

(6) Any application, representation or complaint made to or by a transferor which is pending on 1st October 1973 shall, so far as it relates to any function conferred or any asset or liability transferred to or enforceable by or against a transferee, be deemed to have been made to or by the transferee.

Determination of questions or disputes

7. Any question or dispute arising under Article 75 or under an order made under Article 76 of the Order, shall—

(*a*) if the Ministry is not a party to the question or dispute, be referred to and determined by the Ministry;

(*b*) if the Ministry is a party to the question or dispute, be referred to and determined by the Ministry of Finance.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 21st day of September 1973.

(L.S.) *J. H. Copeland,*
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 24th day of September 1973.

(L.S.) *C. F. Darling,*
Assistant Secretary.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

This Order provides for the enforcement of certain assets and liabilities transferred to the Ministry of Health and Social Services by virtue of the Health and Personal Social Services (Northern Ireland) Order 1972, for the preparation and audit of accounts of bodies dissolved by that Order, for the transfer of names of doctors, dentists, opticians and pharmacists to lists of the Health and Social Services Boards and for other transitional matters.