STATUTORY INSTRUMENTS

1974 No. 63

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Amendment of Trust Instruments) Order 1974

Made - - -	14*th January* 1974
Laid before Parliament	25*th January* 1974
Coming into Operation	15*th February* 1974

The Secretary of State for Social Services, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred upon them by section 54(2) of the National Health Service Reorganisation Act 1973(**a**) and of all other powers enabling them in that behalf, hereby make the following order:—

Citation, commencement and interpretation

1.—(1) This order may be cited as the National Health Service (Amendment of Trust Instruments) Order 1974 and shall come into operation on 15th February 1974.

(2) In this order a reference to the holder of an office is a reference to the person who from time to time is the holder of that office, a reference to "the Act" is a reference to the National Health Service Reorganisation Act 1973, and the expressions "a charity", "charity trustees" and "trusts" have the same meaning as in the Charities Act 1960(**b**).

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**c**) shall apply for the purposes of the interpretation of this order as they apply for the purposes of the interpretation of an Act of Parliament.

Appointment of new trustees

2. Where under the trusts of any charity connected with hospital purposes, not being a charity incorporated under the Companies Acts 1948 to 1967 or by charter, the charity trustees immediately before 1st April 1974 include the holder of an office connected with a Regional Hospital Board, a Hospital Management Committee (including a University Hospital Management Committee) or a Board of Governors which is not a preserved Board, those trustees shall instead include by virtue of this order the holder of such office as may be designated—

(*a*) where a charity trustee is the holder of an office connected with a Regional Hospital Board in England, by the Regional Health Authority the region of which includes all or most of the region of the Regional Hospital Board;

(a) 1973 c. 32. (b) 1960 c.58. (c) 1889 c. 63.

(*b*) where a charity trustee is the holder of an office connected with a Board of Governors which is not a preserved Board or a University Hospital Management Committee and the charity is wholly or mainly associated with a Teaching Hospital or University Hospital for which Special Trustees are appointed under section 29 of the Act, by the Area Health Authority which will be wholly or mainly responsible for that hospital, on the nomination of those Special Trustees;

(*c*) where a charity trustee is—

(i) the holder of an office connected with a Hospital Management Committee which is not a University Hospital Management Committee; or

(ii) the holder of an office connected with the Board of Governors of a Teaching Hospital or University Hospital Management Committee of a University Hospital for which Special Trustees have not been appointed,

and the hospital or hospitals with the purposes of which the charity is connected and which are controlled and managed by that Board or that Committee will be administered by more than one Area Health Authority after 1st April 1974, by those Area Health Authorities either jointly or severally, as they may agree;

(*d*) in any other case, by the Area Health Authority which will administer the hospital or hospitals with the purposes of which the charity is connected.

Vesting of trust property

3. Where immediately before 1st April 1974 any property belonging to a charity connected with hospital purposes is held as sole trustee or sole trustees by the holder or holders of an office or offices to which article 2 of these regulations applies, that property shall by virtue of this order vest (on the same trusts) on 1st April 1974 or on the date of designation, whichever is the later, in the holder or holders of the office designated under the provisions of article 2 of this order.

Exercise of powers

4.—(1) Where immediately before 1st April 1974 any power (including a power to appoint trustees but not including any power by virtue of being a charity trustee thereof) with respect to a charity connected with hospital purposes, not being a charity incorporated under the Companies Acts 1948 to 1967 or by charter, is under the trusts of the charity vested in, or in the holder of an office connected with, a Regional Hospital Board, a Board of Governors which is not a preserved Board or a Hospital Management Committee (including a University Hospital Management Committee) that power shall, subject to paragraph (2) below, on 1st April 1974 vest—

(*a*) where the power is vested in, or in the holder of an office connected with, a Regional Hospital Board, in the Regional Health Authority the region of which includes all or most of the region of the Regional Hospital Board or, as the case may be, in the holder of an office connected with and designated by that Authority;

(*b*) subject to sub-paragraph (*c*) below where the power is vested in, or in the holder of an office connected with, a Hospital Management Committee (including a University Hospital Management Committee) or a Board of Governors of a teaching hospital which is not a preserved Board—

(i) where the power relates to a hospital or hospitals which will be administered by one Area Health Authority, in that Area Health Authority or, as the case may be, the holder of an office connected with and designated by that Authority;

(ii) where the power relates to a hospital or hospitals which will be administered by more than one Area Health Authority, in those Area Health Authorities acting jointly or, as the case may be, the holder of an office connected with one of those Area Health Authorities designated jointly by those Authorities;

(*c*) where the charity to which the power relates is wholly or mainly associated with a Teaching Hospital or University Hospital for which Special Trustees are appointed, a designation under sub-paragraph (*b*) above shall be made by the Authority or Authorities concerned, on the nomination of those Special Trustees.

(2) Where a designation of an officer is made after 1st April 1974, the vesting in that designated officer of the power referred to in paragraph (1) of this article shall take effect on the later date.

Designations

5. Any designations under this order shall be by instrument in writing.

Choice of trustees, etc.

6. In making designations under this order a Regional Health Authority and an Area Health Authority, and in making nominations Special Trustees, shall secure that so far as is practicable the offices of the new trustees designated under this order or the offices of persons to whom powers are transferred by this order, shall correspond as closely as possible to the offices of the trustees, or of those persons, as they exist immediately before 1st April 1974.

Keith Joseph,
Secretary of State for Social Services.

11th January 1974.

Peter Thomas,
Secretary of State for Wales.

14th January 1974.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

Various trust instruments contain references to Hospital Authorities which are to be abolished under the National Health Service Reorganisation Act 1973 or to offices connected with them. This Order makes provision for those references to be replaced by references to Health Authorities and offices connected with them but does not alter any trust.

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