STATUTORY INSTRUMENTS

1974 No. 330

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Transferred Local Authority Property) Order 1974

Made - - -	*28th February* 1974
Laid before Parliament	*6th March* 1974
Coming into Operation	*11th March* 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 on them by section 16(2) and (4) 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 (Transferred Local Authority Property) Order 1974 and shall come into operation on 11th March 1974.

(2) In this Order—

"the Act" means the National Health Service Reorganisation Act 1973;

"health functions" has the meaning assigned to it in section 16(6) of the Act;

"local authority" has the meaning assigned to it in section 16(6) of the Act;

"new local authority" means a new local authority established under the Local Government Act 1972(b);

"school health functions" means functions under the enactments mentioned in section 16(3) of the Act (Medical and Dental Inspection and Treatment).

(3) References in this Order to section 16(1) of the Act are references to that sub-section as extended by section 16(3) of the Act.

(a) 1973 c. 32.

(b) 1972 c. 70.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(a)** shall apply for the purpose of the interpretation of this Order as they apply for the purpose of the interpretation of an Act of Parliament.

Change of use

2.—(1) Subject to the next following paragraph, article 6 of this Order and any Order made under section 16(4) of the Act, where any property has at any time during the period beginning with 16th November 1972 and ending immediately before 1st April 1974 been held by a local authority—

(*a*) solely for the purposes of one or more of its health functions or school health functions, or

(*b*) otherwise than as mentioned in sub-paragraph (*a*) above and used wholly or mainly for the purposes so mentioned,

but in consequence of anything done otherwise than in the ordinary course of business is not so held or, as the case may be, held and used by that authority immediately before 1st April 1974, that property shall be treated for the purposes of section 16(1) of the Act as so held, or held and used, by that authority immediately before 1st April 1974.

(2) In any case where there has been such a change as is mentioned in paragraph (1) above, it shall be for the local authority whose interest in the property would by virtue of the provisions of paragraph (1) above be transferred to the Secretary of State to prove that the change in question was made in consequence of something done in the ordinary course of business.

Settlement of disputes

3.—(1) Any question—

(*a*) whether any property was held or held and used as mentioned in section 16(1) of the Act; or

(*b*) whether any property is or is not transferable by virtue of the provisions of section 16(2)(*a*) of the Act; or

(*c*) whether any local authority was entitled to rights, or subject to liabilities, as mentioned in section 16(1) of the Act,

shall, subject to the next following paragraphs, be determined by the local authority in which that property was vested immediately before 1st April 1974, or which, as the case may be, was entitled to those rights or subject to those liabilities immediately before that date.

(2) If the Secretary of State gives notice before 1st April 1975 that he is dissatisfied with any such determination, the question shall be determined by agreement between the Secretary of State and the local authority, or failing such agreement shall be determined by a person to be appointed by agreement between the Secretary of State and the local authority or in default of such agreement by a single person appointed by the Lord Chancellor.

(a) 1889 c. 63.

(3) If a local authority fails to make a determination under paragraph (1) of this article, the Secretary of State may before 1st April 1975 give notice to the appropriate local authority that a question exists and the question shall be determined as if it were a question to which paragraph (2) of this article applied and the provisions of that paragraph shall apply accordingly.

(4) Any question as to the interpretation of this Order may be determined by the decision of a person agreed upon by the parties concerned or in default of such agreement by a single person appointed by the Lord Chancellor.

Factors to be taken into account or disregarded

4.—(1) The provisions of the next following paragraphs of this article shall have effect for the purpose of determining whether immediately before 1st April 1974 any property was held or held and used as mentioned in section 16(1) of the Act.

(2) The following matters are to be taken into account, that is to say—

(*a*) the purposes for which land and premises were acquired or to which they have been appropriated;

(*b*) the manner in which the cost of acquiring and maintaining the property is shown in the accounts of the local authority;

(*c*) in the case of land or premises—

(i) the area of floor space used by the local authority for the purposes of its health functions or school health functions and the area of floor space used for the purposes of other functions;

(ii) the extent to which land and premises were used by the local authority for the purposes of its health functions or school health functions and for the purposes of other functions during the year ending on 31st March 1974;

(iii) the length of time in the period of three months ending on 31st March 1974 during which land and premises were used by the local authority for the purposes of the local authority's health functions or school health functions and for the purposes of other functions;

(*d*) in the case of moveable property, other than consumable stores, held or used for more than one purpose, the extent to which during the year ending on 31st March 1974, the moveable property was used by the local authority for the purposes of the local authority's health functions or school health functions and for the purposes of other functions;

(*e*) in the case of consumable stores—

(i) the manner in which the cost of those stores is shown in the accounts of the local authority for the year ending on 31st March 1974;

(ii) the extent to which stocks of consumable stores were held or used for the purposes of health functions or school health functions and for the purposes of other functions during the year ending on 31st March 1974.

(3) Where moveable property held or held and used wholly or mainly for health functions or school health functions is situated on land or in premises not so held or held and used the functions for which the land or premises are held or held and used shall be disregarded.

User rights

5.—(1) Where any premises transferred to the Secretary of State by virtue of section 16(1) of the Act contain accommodation which was used immediately before 1st April 1974 for the purposes of a local authority other than for health functions or school health functions, that accommodation may be used by the new local authority, the Greater London Council, the Inner London Education Authority or London borough council, as the case may be, exercising those functions after 31st March 1974 for those purposes on such terms and for such period as may be agreed by the Secretary of State and the local authority or failing such agreement by the determination of a person agreed upon by the Secretary of State and the local authority or in default of such agreement by a single person appointed by the Lord Chancellor.

(2) Where any premises not transferred to the Secretary of State by virtue of section 16(1) of the Act contain accommodation which was used immediately before 1st April 1974 for the purposes of health functions or school health functions, that accommodation may be used by the Secretary of State for purposes of the Health Service Acts on such terms and for such period as may be agreed by the Secretary of State and the local authority or failing such agreement by the determination of a person agreed upon by the Secretary of State and the local authority or in default of such agreement by a single person appointed by the Lord Chancellor.

(3) Any question whether paragraph (1) or (2) of this article applies to any property shall, subject to the following paragraph, be determined by the authority in which that property is vested immediately before 1st April 1974.

(4) If the Secretary of State gives notice before 1st April 1975 that he is dissatisfied with any such determination the question shall be determined by agreement between the Secretary of State and the local authority or failing such agreement by the determination of a person agreed upon by the Secretary of State and the local authority or in default of such agreement by a single person appointed by the Lord Chancellor.

Excepted property rights and liabilities

6.—(1) The following property shall not be transferred to the Secretary of State under section 16(1) of the Act, that is to say—

(*a*) land and premises held for the purposes of specific functions which do not include the purposes of one or more of the authority's health functions or school health functions;

(*b*) land and premises held under section 125 of the Local Government Act 1933**(a)** (Offices and Buildings for Public Meetings) and not used wholly or substantially so for health functions or school health functions;

(a) 1933 c. 51.

(*c*) land and premises within the curtilage of a school or other educational establishment maintained by a local education authority;

but without prejudice to any rights of the Secretary of State under article 5(2) of this Order.

(2) Subject to paragraph (3) of this article the land and premises specified in Schedules 1 and 2 to this Order together with all the rights and liabilities relating to that land and those premises shall not be transferred to the Secretary of State under section 16 of the Act.

(3) The provision of paragraph (2) of this article shall be without prejudice to any rights acquired by the Secretary of State under section 16(2)(*d*) of the Act (which provides for the Secretary of State to acquire rights to use property not transferred to him under the said section 16) in respect of land and premises specified in Schedule 2 to this Order.

(4) The following rights or liabilities shall not be transferred to the Secretary of State under section 16(1) of the Act, that is to say rights and liabilities in respect of—

(*a*) sums of money outstanding and due to or chargeable against the revenue accounts of the local authority in respect of rights acquired or liabilities incurred for services rendered or goods supplied before 1st April 1974;

(*b*) sums of money outstanding and chargeable to the capital accounts of the local authority in respect of services rendered, work done or goods supplied for which bills for payment have been received by a local authority before 15th March 1974.

Enforceability of rights and liabilities

7.—(1) Subject to paragraph (2) of this article all rights and liabilities transferred to the Secretary of State under section 16(1) of the Act shall—

(*a*) if they were acquired or incurred by a local authority in respect of property be enforceable by or against the Regional Health Authority or the Area Health Authority, as the case may be, which on 1st April 1974 will control and manage that property;

(*b*) if they were acquired or incurred by a local authority in the performance of its health functions or of its school health functions be enforceable by or against the Regional Health Authority, or in Wales the Area Health Authority, in the region or area of which, as the case may be, is contained on 1st April 1974 all or the largest part of the area of the authority which was entitled or subject to those rights and liabilities.

(2) If such rights and liabilities were acquired or incurred in respect of property in Wales which will be controlled and managed by the Welsh Health Technical Services Organisation on 1st April 1974, they shall be enforceable by or against that body.

Variation of instruments

8. All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, a local authority in respect of

property, rights or liabilities transferred under section 16(1) of the Act to the Secretary of State shall be of full force and effect in favour of, or against, the Secretary of State.

Maintenance of property and discharge of liabilities pending determination of disputes

9.—(1) Where there is a dispute whether any property was held or held and used as mentioned in section 16(1) of the Act or any local authority was subject to any liability incurred as so mentioned, the new local authority, the Greater London Council, the Inner London Education Authority or the London borough council, as the case may be, shall maintain such property and so far as may be appropriate to do so discharge such liability until the dispute is determined, and if it is determined that the property or liability is transferred to the Secretary of State, he shall indemnify such local authority against any expenditure incurred by it in maintaining the property or discharging the liability during the period between 1st April 1974 and the date of the determination of the dispute.

(2) If only one new local authority claims to be entitled to the property or may be subject to the liability, that new local authority shall be the new local authority for the purposes of this article.

(3) If more than one new local authority claims to be entitled to the property or may be subject to the liability, those new local authorities shall by instrument in writing agree which one of them shall be the new local authority for the purposes of this article.

Inspection of documents

10. Any officer of a Regional Health Authority or Area Health Authority, duly authorised in that behalf, may during ordinary office hours inspect and take extracts from any books or documents which relate to any property, rights or liabilities, as the case may be, to which section 16(1) of the Act refers.

General provisions as to disputes

11.—(1) Any provisions in this Order enabling the Secretary of State and the local authority to agree upon the determination of a dispute by a person shall be construed as enabling them to agree upon such determination by three persons.

(2) Section 31 of the Arbitration Act 1950**(a)** shall have effect for the purposes of the determination of any question under any provision of this Order as if such determination were an arbitration under any other Act within the meaning of that section.

Keith Joseph,
Secretary of State for Social Services.

27th February 1974.

Peter Thomas,
Secretary of State for Wales.

28th February 1974.

(a) 1950 c. 27.

Article 6

SCHEDULE 1

EXCEPTED PROPERTY

PART 1

ENGLAND

Column (1) Name of Local Authority	Column (2) Description of Property
The county council of Cambridgeshire and Isle of Ely	Nurses' residential accommodation situated at Spring Hill, Weston Colville
The county council of Cambridgeshire and Isle of Ely	Health offices situated at Block C, Gloucester Court, Shire Hall, Castle Hill, Cambridge
The county council of Cheshire	Nurses' residential accommodation situated at 13 Waterhouse Avenue, Bollington
The county council of Durham	Nurses' residential accommodation situated at 7 The Green, Washington
The county council of Essex	Nurses' residential accommodation situated at 21 Daws Heath Road, Rayleigh
The county council of Essex	Land for nurses' residential accommodation situated in Alphamstone Road, Alphamstone
The county council of Essex	Site of Manor Estate, The Park, Brightlingsea
The county council of Lancaster	School clinic situated at School Street, Radcliffe
The county council of Lincoln Parts of Kesteven	Proposed site of health centre situated at 93 and 95 High Street, Market Deeping
The county council of Lincoln Parts of Kesteven	Proposed site of health centre situated at Middle Street, North Hykeham
The county council of Lincoln Parts of Lindsey	Proposed site of health centre at Ludgate Hill, Waltham, Grimsby
The county council of Norfolk	Health offices situated at County Hall, Norwich
The county council of Northumberland	Nurses' residential accommodation known as nurses' cottage, Stobswood
The county council of Northumberland	Nurses' residential accommodation situated at Fernholme, Sparty Lea, Allenheads
The county council of Northumberland	Former health office situated at 156 Woodhorn Road, Ashington
The county council of Staffordshire	Former health visitors' offices situated at 44 Wolverhampton Road, Stafford
The county council of Wiltshire	Former ambulance station and control centre, Newbridge Hospital, Odstock Road, Salisbury
The county council of Wiltshire	Nurses' residential accommodation situated at Four Winds, High Street, Maiden Bradley
The county council of Wiltshire	Nurses' residential accommodation situated at 57 Winsley Road, Bradford on Avon
The county council of Wiltshire	Nurses' residential accommodation situated at Wynstay, Kite Hill, Wanborough
The county council of Yorkshire, East Riding	Office accommodation situated at Manor Road, Beverley
The county council of Yorkshire, East Riding	Former divisional headquarters situated at St. Mary's Manor, Beverley
The county council of Yorkshire, West Riding	Training centre situated at Elm Bank, Bradford Road, Cleckheaton

SCHEDULE 1

EXCEPTED PROPERTY

PART 1

ENGLAND

Column (1) Name of Local Authority	Column (2) Description of Property
The council of the county borough of Chester	Former ambulance station situated at Tramway Street, Chester
The council of the county borough of Dudley	Former health offices situated at Ednam House, St. James' Road, Dudley
The council of the county borough of Gateshead	Former administrative offices situated at Greensfield House, Mulgrave Terrace, Gateshead
The council of the county borough of Leeds	Woodhouse child health clinic situated at Cross Chancellor Street, Leeds 6
The council of the county borough of Manchester	Collyhurst maternal and child health clinic situated at Thornton Street, Manchester
The council of the county borough of Manchester	Ancoats school clinic situated at Canwell Street, Manchester
The council of the county borough of Sheffield	Health service depot situated at Clough Road, Sheffield
The council of the county borough of Sheffield	Health service depot situated at 484 Lupton Road, Sheffield
The council of the county borough of West Bromwich	Former health department offices situated at Lombard Street West, West Bromwich
The Greater London Council	Divisional ambulance office situated at Hayes Lane, Bromley
The Greater London Council	Divisional ambulance office situated at Yeomanry House, London Road, Bromley
The Greater London Council	Bromley control centre situated at 4a London Road, Bromley
The Greater London Council	Former ambulance headquarters situated at 220 Waterloo Road and 21/25 Pear Place, London, SE1
The Greater London Council	Ambulance accommodation situated at Wembley Fire Station, Harrow Road, Wembley, Brent
The Greater London Council	Ambulance station situated at 7 Woolmore Street, London, E14
The Greater London Council	Ambulance station situated at the Old Fire Station, The Green, Tottenham, Haringey
The council of the London borough of Greenwich	Site of proposed health centre at Briset Road, Eltham, London, SE9
The council of the London borough of Greenwich	Former mortuary situated at Greenwich church, Bardsley Lane, London, SE10
The council of the London borough of Hackney	Former health offices situated at municipal offices, 380 Old Street, London, EC1
The council of the Royal borough of Kensington and Chelsea	Former school treatment centre situated at 92 Tavistock Road, London, W11
The council of the Royal borough of Kingston upon Thames	Parcel of land having an area of approximately 0.0429 ha (0.102 acres) and situated at the rear of the site known as Nos. 13, 14, 15 and part of 16 Browns Road, Surbiton, Surrey

SCHEDULE 1

EXCEPTED PROPERTY

PART 1

ENGLAND

Column (1) Name of Local Authority	Column (2) Description of Property
The council of the London borough of Richmond upon Thames	Former equipment store situated at Elmfield House, Waldegrave Road, Teddington
The council of the borough of Swindon	Proposed health centre site at Upper Studley, Trowbridge

SCHEDULE 1

EXCEPTED PROPERTY

PART 2

WALES

Column (1) Name of Local Authority	Column (2) Description of Property
The council of the county borough of Newport	Former health department offices situated at civic centre, Newport, Monmouthshire

SCHEDULE 2

EXCEPTED PROPERTY (without prejudice to any rights of the Secretary of State under Article 5(2) of the order)

PART I

ENGLAND

Column (1) Name of Local Authority	Column (2) Description of Property
The county council of Buckinghamshire	Health offices situated at Clarke House, High Wycombe
The county council of Buckinghamshire	Area health offices situated at Walton Lodge, Aylesbury
The county council of Cambridgeshire and Isle of Ely	Ambulance station situated at Queen's Close, County Hall, March
The county council of Devon	Child health clinic and ambulance station situated at "Tresillian," Fore Street, Kingsbridge
The county council of Dorset	Shaftesbury ambulance station, situated at Crookhayes, Shaftesbury
The county council of Dorset	The Clinic situated at Victoria Road, Ferndown
The county council of Dorset	Health clinic situated at secondary modern school, Shaftesbury
The county council of Dorset	Branksome clinic situated at Layton Road, Parkstone, Poole
The county council of Essex	Temporary ambulance station site, situated at Scrub Lane, Hadleigh
The county council of Essex	Temporary ambulance station site, situated at Kenneth Road, Thundersley
The county council of Essex	Clinic situated at 39 Queen's Road, Brentwood
The county council of Essex	Transport workshops known as Sectional Factory Bay 23, Temple Fields, Harlow
The county council of Essex	Transport workshops situated at Great Oaks, Town Centre, Basildon
The county council of Gloucestershire	Health clinic situated at 9 John Street, Stroud
The county council of Gloucestershire	Ambulance station situated at The Chippings, Wotton under Edge
The county council of Oxfordshire	Health clinic and dental clinic situated at Old Place Yard, Bicester
The county council of Shropshire	Child health clinic situated at 28-32 Upper Brook Street, Oswestry
The county council of Surrey	Health clinic situated at Gresham Road, Staines
The county council of Surrey	Temporary clinic situated at Portesbury Road, Camberley
The county council of Surrey	Nurses' offices situated at The Grange, Gresham Road, Staines
The county council of East Sussex	Health service store situated at Penrhoes, Waterloo Place, Lewes
The county council of Yorkshire, East Riding	Clinic situated at Oxford Street, Bridlington
The county council of Yorkshire, West Riding	Child health centre situated at Sheep Dip Lane, Dunscroft
The county council of Yorkshire, West Riding	Child health centre situated at Doncaster Road, Dalton

SCHEDULE 2

EXCEPTED PROPERTY (without prejudice to any rights of the Secretary of State under Article 5(2) of the order)

PART 1

ENGLAND

Column (1) Name of Local Authority	Column (2) Description of Property
The council of the county borough of Birmingham	Health centre situated at Greenbank House, Denby Close, Birmingham 7
The council of the county borough of Bootle	Temporary clinic situated at Glovers Lane, Bootle
The council of the county borough of Bristol	Corbett House clinic situated at Barton Hill, Bristol
The council of the county borough of Bristol	Temporary ambulance car park situated at Castle Street, Bristol
The council of the county borough of Bristol	Office accommodation at Metropolitan House, 21-23 Prince Street, Bristol
The council of the county borough of Eastbourne	Former clinic situated at 22 Tideswell Road, Eastbourne
The council of the county borough of Exeter	Topsham health clinic situated at Matthews Hall, Topsham, Exeter
The council of the county borough of Gateshead	Former Greensfield clinic situated at Mulgrave Terrace, Gateshead
The council of the county borough of Gateshead	Greensfield hearing unit situated at Mulgrave Terrace, Gateshead
The council of the county borough of Ipswich	Car parking facilities situated at Wingfield Street, Ipswich
The council of the county borough of Leeds	West Hunslet child health clinic situated at 272 Dewsbury Road, Leeds 11
The council of the county borough of Leeds	St. Nicholas child health clinic situated at 199 Jack Lane, Leeds 10
The council of the county borough of Leicester	Temporary car park situated at Conduit Street/ Swan Street, Leicester
The council of the county borough of Leicester	Temporary car park situated at 1 to 9 Ann Street, Leicester
The council of the county borough of Manchester	Harpurhey maternal and child health clinic situated at 3 Beech Mount, Manchester
The council of the county borough of Northampton	School clinic situated at 45 Upper Mounts, Northampton
The council of the county borough of Norwich	Administrative offices situated at Churchman House, 68 St. Giles' Street, Norwich
The council of the county borough of Oldham	Child welfare centre situated at Tate Street, Oldham
The council of the county borough of Oxford	Temporary car park situated at the west side of Paradise Square, Oxford
The council of the county borough of Oxford	Health storage accommodation situated at 21 Paradise Street, Oxford
The council of the county borough of Reading	Star Lane clinic situated at Star Lane, Reading
The council of the county borough of Southend	Municipal health centre situated at Warrior Square, Southend on Sea

SCHEDULE 2

EXCEPTED PROPERTY (without prejudice to any rights of the Secretary of State under Article 5(2) of the order)

PART 1

ENGLAND

Column (1) Name of Local Authority	Column (2) Description of Property
The council of the county borough of St. Helens	Central school clinic situated at Parade Street, St. Helens
The council of the county borough of St. Helens	Family Planning Association clinic situated at Bickerstaffe Street, St. Helens
The council of the county borough of West Bromwich	Highfields clinic situated at Highfields, Bratt Street, West Bromwich
The council of the county borough of Wolverhampton	Ambulance station situated at Herbert Street, Wolverhampton
The Greater London Council	Ambulance station situated at 93 Regency Street, London, SW1
The Greater London Council	Ambulance station situated at Lawn Road, London, NW3
The council of the London borough of Bexley	Freehold interest of the site of the proposed health centre situated at Queen Street and Erith High Street, Erith
The council of the London borough of Greenwich	Horn Park clinic situated at 137 Alnwick Road, London, SE12
The council of the London borough of Greenwich	Burney Street clinic situated at Burney Street, London, SE10
The council of the London borough of Hackney	Maternal and child health clinic situated at 186 Upper Clapton Road, London, E5
The council of the London borough of Hackney	Clinic situated at Wick Centre, 29 Cadogan Terrace, London, E9
The council of the London borough of Haringey	Clinic situated at Gordon Road, London, N11
The council of the London borough of Hillingdon	Northwood clinic situated at Ryefield Court, Joel Street, Northwood
The council of the London borough of Southwark	Consort infant centre situated at 221 Consort Road, London, SE15
The council of the London borough of Tower Hamlets	Administrative offices situated at Cheviot House, 227/233 Commercial Road, London, E1
The council of the city of Westminster	Clinic situated at 217 Lissom Grove, London, NW8

SCHEDULE 2

EXCEPTED PROPERTY (withoutprejudice to any rights of the Secretary of State under Article 5(2) of the order)

PART 2

WALES

Column (1) Name of Local Authority	Column (2) Description of Property
The county council of Glamorgan	Temporary clinic situated at former city primary school, Lisvane, Glamorgan
The county council of Glamorgan	Health clinic situated at Park Road, Bargoed, Glamorgan
The county council of Glamorgan	Radio transmitter situated at Cefn Hirgoed, Bridgend, Glamorgan
The county council of Glamorgan	Ambulance station situated at Llynfi Lane, Maesteg, Glamorgan
The council of the county borough of Newport	Health clinic situated at 1 Evans Street, Newport, Monmouthshire

EXPLANATORY NOTE

(This Note is not part of the Order.)

1. This Order makes various provisions relating to the transfer of property under section 16(1), as extended by section 16(3), of the National Health Service Reorganisation Act 1973 to the Secretary of State from local authorities.

2. The main provisions relate to—

(*a*) change of use since 16 November 1972 (Article 2);

(*b*) settlement of disputes (Articles 3, 5 and 11);

(*c*) factors to be taken into account or disregarded for the purposes of determining transfer (Article 4);

(*d*) concurrent user rights (Article 5);

(*e*) the exception from transfer of various categories of property, rights and liabilities (Article 6) and of various specific properties set out in the Schedules.

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