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## SCHEDULES

### SCHEDULE 1

Sections 1 and 2.

#### HEALTH AUTHORITIES AND FAMILY HEALTH SERVICES AUTHORITIES

##### <sup>F1</sup>PART I

###### Textual Amendments

**F1** Sch. 1 Pt. I repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

##### <sup>F2</sup>PART II

###### Textual Amendments

**F2** Sch. 1 Pt. II repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

##### PART III

#### AMENDMENTS OF PART III OF SCHEDULE 5 TO THE PRINCIPAL ACT

<sup>F3</sup>6

###### Textual Amendments

**F3** Sch. 1 Pt. III para. 6 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

- 7 (1) In paragraph 9 of that Schedule (pay and allowances), in sub-paragraph (1) after the words “chairman of an authority” there shall be inserted “and to any member of a relevant authority who is appointed by the Secretary of State or a Regional Health Authority”.
- (2) At the end of the paragraph there shall be added the following sub-paragraph—
- “(7) In sub-paragraph (1) above “relevant authority” means—
- (a) a Regional Health Authority, a District Health Authority or a Family Health Services Authority; or
  - (b) any special health authority which is specified in Schedule 1 to the Authorities for London Post-Graduate Teaching Hospitals

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(Establishment and Constitution) Order 1982, in the Board of Governors of the Eastman Dental Hospital (Establishment and Constitution) Order 1984 or in any other provision of an order under this Act which specifies an authority for the purposes of this sub-paragraph.”

- 8 In paragraph 10 of that Schedule (staff) at the end of sub-paragraph (1A) there shall be added the words “and a direction under that sub-paragraph may relate to a particular officer or class of officer specified in the direction”.
- 9 In paragraph 12 of that Schedule (regulations as to tenure of office, committees and sub-committees and procedure etc. of authorities)—
- (a) at the end of paragraph (a) there shall be added the words “and any members of a committee or sub-committee of an authority who are not members of the authority”;
  - (b) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) the circumstances in which a member of an authority who is (or is to be regarded as) an officer of the authority may be suspended from performing his functions as a member”;and
  - (c) in paragraph (b) after the word “appointment” there shall be inserted “and constitution”.
- 10 After paragraph 12 of that Schedule there shall be inserted the following paragraph—
- “12A Regulations made by virtue of this Schedule or Schedule 1 to the National Health Service and Community Care Act 1990 may make provision (including provision modifying those Schedules) to deal with cases where the post of chief officer or any other officer of an authority is held jointly by two or more persons or where the functions of such an officer are in any other way performed by more than one person.”

## SCHEDULE 2

Section 5.

### NATIONAL HEALTH SERVICE TRUSTS

#### PART I

#### ORDERS UNDER SECTION 5(1)

- 1 (1) Any reference in this Part of this Schedule to an order is a reference to an order under section 5(1) of this Act establishing an NHS trust or any subsequent order under that provision amending or revoking a previous order.

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(2) An order shall be made by statutory instrument.

2 The provisions made by an order shall be in conformity with any general provision made by regulations under section 5(7) of this Act.

3 (1) Without prejudice to any amendment made by a subsequent order, the first order to be made in relation to any NHS trust shall specify—

- (a) the name of the trust;
- (b) the functions of the trust;
- (c) the number of executive directors and non-executive directors;
- (d) where the trust is to be regarded as having a significant teaching commitment, a provision to secure the inclusion in the non-executive directors referred to in paragraph (c) above of a person appointed from a university with a medical or dental school specified in the order;
- (e) the operational date of the trust, that is to say, the date on which the trust is to begin to undertake the whole of the functions conferred on it; and
- (f) if a scheme is to be made under section 6 of this Act, the [<sup>F4</sup>Health Authority or Special Health Authority which are], [<sup>F5</sup>or the Primary Care Trust which is] to make the scheme.

(2) For the purposes of sub-paragraph (1)(d) above, an NHS trust is to be regarded as having a significant teaching commitment in the following cases—

- (a) if the trust is established to [<sup>F6</sup>provide services at] a hospital or other establishment or facility which, in the opinion of the Secretary of State, has a significant teaching and research commitment; and
- (b) in any other case, if the Secretary of State so provides in the order.

(3) In a case where the order contains a provision made by virtue of sub-paragraph (1) (d) above and a person who is being considered for appointment by virtue of that provision—

- (a) is employed by the university in question, and
- (b) would also, apart from this sub-paragraph, be regarded as employed by the trust,

his employment by the trust shall be disregarded in determining whether, if appointed, he will be a non-executive director of the trust.

(4) An order shall specify the accounting date of the trust.

#### Textual Amendments

**F4** Words in Sch. 2 para. 3(1)(f) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 85(a)** (with Sch. 2 paras. 6, 16)

**F5** Words in Sch. 2 para. 3(1)(f) inserted (1.4.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 paras. 74, **83(2)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**

**F6** Words in Sch. 2 para. 3(2) substituted (*retrospectively*) by 1999 c. 8, s. **13(7)(10)**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**

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- 4 (1) An order may require a [<sup>F7</sup>Strategic Health Authority,][<sup>F8</sup>Health Authority, [<sup>F9</sup>Special Health Authority [<sup>F10</sup>, Primary Care Trust or Local Health Board]]] to make staff, premises and other facilities available to an NHS trust pending the transfer or appointment of staff to or by the trust and the transfer of premises or other facilities to the trust.
- (2) An order making provision under this paragraph may make provision with respect to the time when the [<sup>F11</sup>functions of the [<sup>F7</sup>Strategic Health Authority,][Health Authority, [<sup>F9</sup>Special Health Authority [<sup>F10</sup>, Primary Care Trust or Local Health Board]]] under the provision are to come to an end.

#### Textual Amendments

- F7** Words in Sch. 2 para. 4(1)(2) inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 46(a)**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)
- F8** Words in Sch. 2 para. 4(1) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 85(b)(i)** (with Sch. 2 paras. 6, 16)
- F9** Words in Sch. 2 para. 4 substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 paras. 74, **83(1)(3)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F10** Words in Sch. 2 para. 4 substituted (10.10.2002 for W. and otherwise in force immediately before the National Health Service Act 2006 (c. 41) (which Act came into force on 1.3.2007 in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act))) by 2002 c. 17, s. 6(2), **Sch. 5 para. 36(1)(2)**; S.I. 2002/2532, art. 2, **Sch.**; S.I. 2006/1407, arts. 1(1), 2, **Sch. 1 Pt. 2** {para. 12(c)}
- F11** Words in Sch. 2 para. 4(2) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 85(b)(ii)** (with Sch. 2 paras. 6, 16)

- 5 (1) An order may provide for the establishment of an NHS trust with effect from a date earlier than the operational date of the trust and, during the period between that earlier date and the operational date, the trust shall have such limited functions for the purpose of enabling it to begin to operate satisfactorily with effect from the operational date as may be specified in the order.
- (2) If an order makes the provision referred to in sub-paragraph (1) above, then, at any time during the period referred to in that sub-paragraph, the NHS trust shall be regarded as properly constituted (and may carry out its limited functions accordingly) notwithstanding that, at that time, all or any of the executive directors have not yet been appointed.
- (3) If an order makes the provision referred to in sub-paragraph (1) above, the order may require a [<sup>F12</sup>Strategic Health Authority,][<sup>F13</sup>Health Authority or Special Health Authority] to discharge such liabilities of the NHS trust as—
- may be incurred during the period referred to in that sub-paragraph; and
  - are of a description specified in the order.

#### Textual Amendments

- F12** Words in Sch. 2 para. 5(3) inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 46(a)**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)
- F13** Words in Sch. 2 para. 5(3) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 85(c)** (with Sch. 2 paras. 6, 16)

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## PART II

### DUTIES, POWERS AND STATUS

#### *Specific duties*

- 6 (1) An NHS trust shall carry out effectively, efficiently and economically the functions for the time being conferred on it by an order under section 5(1) of this Act and by the provisions of this Schedule <sup>F14</sup> . . .

<sup>F15</sup>(2) . . . . .

#### Textual Amendments

- F14** Words in Sch. 2 para. 6(1) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, s. 65(1), Sch. 4 para. 83(4)(a); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 1999/3184, art. 2(2), Sch. 2; and those same words repealed (1.4.2000) by 1999 c. 8, s. 65(2), Sch. 5; S.I. 2000/1041, art. 2(d), Sch.
- F15** Sch. 2 para. 6(2) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, s. 65(1), Sch. 4 para. 83(4)(b); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 1999/3184, art. 2(2), Sch. 2; and para. 6(2) repealed (1.4.2000) by 1999 c. 8, s. 65(2), Sch. 5; S.I. 2000/1041, art. 2(d), Sch.

- 7 (1) For each accounting year an NHS trust shall prepare and send to the Secretary of State an annual report in such form as may be determined by the Secretary of State.
- (2) At such time or times as may be prescribed, an NHS trust shall hold a public meeting at which its audited accounts and annual report and any report on the accounts made pursuant to [<sup>F16</sup>section 8 of the Audit of the Audit Commission Act 1998][<sup>F17</sup>or section 96A of the Government of Wales Act 1998] shall be presented.
- (3) In such circumstances and at such time or times as may be prescribed, an NHS trust shall hold a public meeting at which such document as may be prescribed shall be presented.

#### Textual Amendments

- F16** Words in Sch. 2 para. 7(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), Sch. 3 para. 20
- F17** Words in Sch. 2 para. 7(2) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 66, 73(1), Sch. 2 para. 14; S.I. 2005/558, art. 2(1), Sch. 1 (subject to Sch. 2)

- 8 An NHS trust shall furnish to the Secretary of State such reports, returns and other information, including information as to its forward planning, as, and in such form as, he may require.

- 9 (1) An NHS trust shall be liable to pay—
- (a) to the chairman and any non-executive director of the trust remuneration of an amount determined by the Secretary of State, not exceeding such amount as may be approved by the Treasury;

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- (b) to the chairman and any non-executive director of the trust such travelling and other allowances as may be determined by the Secretary of State with the approval of the Treasury;
  - (c) to any member of a committee or sub-committee of the trust who is not also a director such travelling and other allowances as may be so determined.
- (2) If an NHS trust so determines in the case of a person who is or has been a chairman of the trust, the trust shall be liable to pay such pension, allowances or gratuities to or in respect of him as may be determined by the Secretary of State with the approval of the Treasury.
- (3) Different determinations may be made under sub-paragraph (1) or sub-paragraph (2) above in relation to different cases or descriptions of cases.

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

- C1** Sch. 2 para. 9(2): Treasury approval requirement continued (W.)(1.7.1999) by S.I. 1999/672, arts. 1(2), 2, Sch. 1

*Specific powers*

- 10 In addition to carrying out its other functions, an NHS trust may, as the provider, enter into NHS contracts.
- [<sup>F18</sup>(2) An NHS trust may not, as the provider, enter into an NHS contract for the provision of high security psychiatric services unless the NHS trust is approved for the purpose of this paragraph by the Secretary of State.
- (3) Such approval—
- (a) shall be for a period specified in the approval,
  - (b) may be given subject to conditions, and
  - (c) may be amended or revoked at any time.]

**Textual Amendments**

- F18** Sch. 2 para. 10(2)(3) inserted (1.4.2000) by 1999 c. 8, s. 41(3); S.I. 1999/2793, art. 2(3)(a), Sch. 3

- 11 An NHS trust may undertake and commission research and make available staff and provide facilities for research by other persons.
- 12 An NHS trust may—
- (a) provide training for persons employed or likely to be employed by the trust or otherwise in the provision of services under the principal Act; and
  - (b) make facilities and staff available in connection with training by a university or any other body providing training in connection with the health service.

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- 13 An NHS trust may enter into arrangements for the carrying out, on such terms as seem to the trust to be appropriate, of any of its functions jointly [<sup>F19</sup>with any Primary Care Trust][<sup>F20</sup>or Local Health Board,] with any [<sup>F21</sup>Strategic Health Authority,][<sup>F22</sup>Health Authority or Special Health Authority], with another NHS trust or with any other body or individual.

#### Textual Amendments

- F19** Words in Sch. 2 para. 13 inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 paras. 74, **83(5)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F20** Words in Sch. 2 para. 13 inserted (10.10.2002 for W. and otherwise in force immediately before the National Health Service Act 2006 (c. 41) (which Act came into force on 1.3.2007 in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act))) by 2002 c. 17, s. 6(2), **Sch. 5 para. 36(1)(3)**; S.I. 2002/2532, art. 2, **Sch.**; S.I. 2006/1407, arts. 1(1), 2, **Sch. 1 Pt. 2** {para. 12(c)}
- F21** Words in Sch. 2 para. 13 inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 46(a)**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)
- F22** Words in Sch. 2 para. 13 substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1) (3), **Sch. 1 Pt. II para. 85(e)** (with Sch. 2 paras. 6, 16)

- 14 According to the nature of its functions, an NHS trust may make accommodation or services or both available for patients who give undertakings (or for whom undertakings are given) to pay, in respect of the accommodation or services (or both) such charges as the trust may determine.

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

- C2** Sch 2 para. 14 extended (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199(1), **Sch. 4 para. 85(a)**; S.I. 2004/759, **art. 2**

- 15 For the purpose of making additional income available in order better to perform its functions, an NHS trust shall have the powers specified in section 7(2) of the <sup>M1</sup>Health and Medicines Act 1988 (extension of powers of Secretary of State for financing the Health Service).

#### Marginal Citations

- M1** 1988 c. 49.

- [<sup>F23</sup>15A An NHS Trust may arrange for <sup>F23</sup>the provision of accommodation and services outside England and Wales.]

#### Textual Amendments

- F23** Sch. 2 para. 15A inserted (29.11.2002) by S.I. 2002/2759, **reg. 4**

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### General powers

- 16 (1) Subject to Schedule 3 to this Act, an NHS trust shall have power to do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions, including in particular power—
- (a) to acquire and dispose of land and other property;
  - (b) to enter into such contracts as seem to the trust to be appropriate;
  - (c) to accept gifts of money, land or other property, including money, land or other property to be held on trust, either for the general or any specific purposes of the NHS trust or for all or any purposes relating to the health service; <sup>F24</sup>and
  - (d) to employ staff on such terms as the trust thinks fit.]
- (2) The reference in sub-paragraph (1)(c) above to specific purposes of the NHS trust includes a reference to the purposes of a specific hospital or other establishment or facility <sup>F25</sup>at or from which services are provided] by the trust.
- <sup>F26</sup>(3) An NHS trust may employ such staff as it thinks fit.
- (4) Subject to sub-paragraph (5) below, an NHS trust may—
- (a) pay its staff such remuneration and allowances, and
  - (b) employ them on such other terms and conditions,
- as it thinks fit.
- (5) An NHS trust shall—
- (a) in exercising its powers under sub-paragraph (4) above, and
  - (b) otherwise in connection with the employment of its staff,
- act in accordance with regulations and any directions given by the Secretary of State.
- (6) Before making any regulations under sub-paragraph (5) above, the Secretary of State shall consult such bodies as he may recognise as representing persons who, in his opinion, are likely to be affected by the regulations.]

#### Textual Amendments

- F24** Sch. 2 para. 16(1)(d) and the word "and" preceding it repealed (1.10.2001 for E. by S.I. 2001/3294, art. 2 to the extent that s. 16(1)(d) is omitted by virtue of s. 6(3)(a) of the repealing Act, and otherwise in force immediately before the National Health Service Act 2006 (c. 43) (which Act came into force on 1.3.2007 in accordance with s. 277(1) (subject to s. 277(2)-(5)) of that Act) by Health and Social Care Act 2001 (c. 15), ss. 6(3)(a), 67(2), 70, Sch. 6 Pt. 1 (with ss. 64(9), 65(4)); S.I. 2006/1407, arts. 1(1)(2), 2, Sch. 1 Pt. 2 {para. 8(c)}
- F25** Words in Sch. 2 para. 16(2) substituted (*retrospectively*) by 1999 c. 8, s. 13(8)(10); S.I. 1999/2540, art. 2(1)(a), Sch. 1; S.I. 1999/3184, art. 2(1), Sch. 1
- F26** Sch. 2 para. 16(3)-(6) inserted (1.10.2001 for E. and 24.1.2004 for W.) by 2001 c. 15, ss. 6(3)(b), 70 (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 2; S.I. 2004/103, art. 2

- 17 (1) Without prejudice to the generality of paragraph 16 above, for or in respect of such of its employees as it may determine, an NHS trust may make such arrangements for providing pensions, allowances or gratuities as it may determine; and such



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arrangements may include the establishment and administration, by the trust or otherwise, of one or more pension schemes.

- (2) The reference in sub-paragraph (1) above to pensions, allowances or gratuities to or in respect of employees of an NHS trust includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the trust's employees who suffer loss of office or employment or loss or diminution of emoluments.

### *Status*

- 18 An NHS trust shall not be regarded as the servant or agent of the Crown or, except as provided by this Act, as enjoying any status, immunity or privilege of the Crown; and an NHS trust's property shall not be regarded as property of, or property held on behalf of, the Crown.

## PART III

### SUPPLEMENTARY PROVISIONS

#### *Re-imbursement for health services work carried out otherwise than under NHS contract*

F27 19 .....

#### **Textual Amendments**

**F27** Sch. 2 para. 19 omitted (1.10.1999 for E. and 1.4.2000 for W.) by virtue of 1999 c. 8, s. 65(1), **Sch. 4 para. 83(6)**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**; and para. 19 repealed (1.4.2000) by 1999 c. 8, s. 65(2), **Sch. 5**; S.I. 2000/1041, art. 2(d), **Sch.**

F28 20 .....

#### **Textual Amendments**

**F28** Sch. 2 para. 20 omitted (1.10.1999 for E. and 1.4.2000 for W.) by virtue of 1999 c. 8, s. 65(1), **Sch. 4 para. 83(6)**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**; and para. 20 repealed (1.4.2000) by 1999 c. 8, s. 65(2), **Sch. 5**; S.I. 2000/1041, art. 2(d), **Sch.**

#### *Supply of goods and services by local authorities*

21 F29 .....

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**Textual Amendments**

**F29** Sch. 2 para. 21 repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), Sch. 14 Pt. 1; S.I. 2004/759, art. 12

*Making of charges*

- 22 In each of sections 81 (charges for more expensive supplies) and 82 (charges for repairs and replacement necessitated by an act or omission of the person supplied etc.) of the principal Act, in paragraph (a)—
  - (a) after the words “Secretary of State” there shall be inserted “or an NHS trust”; and
  - (b) after the word “him” there shall be inserted “or, as the case may be, by the trust”.

*Power to raise money by appeals etc.*

- 23 (1) In section 96A of the principal Act (power <sup>F30</sup> . . . to raise money etc. by appeals, collections etc.) in subsection (1), after the word “authority”, in each place where it occurs, there shall be inserted “or NHS trust”.
- <sup>F31</sup>(2) . . . . .
- (3) In subsection (5), of that section, for the words from “Area or District” onwards there shall be substituted “body responsible for the hospital if that body and the special trustees agree; and in this subsection the body responsible for a hospital is,—
  - (a) in the case of a hospital vested in a NHS trust, that trust; and
  - (b) in any other case, the District Health Authority exercising functions on behalf of the Secretary of State in respect of the hospital”.
- (4) After subsection (5) of that section there shall be inserted the following subsection—
 

“(5A) Where property is given in pursuance of this section on trust for any purposes of an NHS trust for which trustees have been appointed under section 11(1) of the National Health Service and Community Care Act 1990, then, if those trustees and the NHS trust agree, the property may be held, administered and applied by those trustees instead of by the NHS trust.”
- <sup>F31</sup>(5) . . . . .

**Textual Amendments**

**F30** Words in Sch. 2 Pt. III para. 23(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)  
**F31** Sch. 2 Pt. III para. 23(2) and (5) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

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### *Accounts and audit*

24 <sup>F32</sup>(1) .....

(2) After subsection (2A) of that section there shall be inserted—

“(2B) in preparing its annual accounts in pursuance of subsection (2) above, an NHS trust shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—

- (a) the methods and principles according to which the accounts are to be prepared; and
- (b) the information to be given in the accounts.”

#### **Textual Amendments**

**F32** Sch. 2 para. 24(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

### *Protection of members and officers*

25 In section 125 of the principal Act (protection of members and officers of health authorities etc.)—

<sup>F33</sup>(a) .....

(b) <sup>F34</sup> .....

#### **Textual Amendments**

**F33** Sch. 2 para. 25(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

**F34** Sch. 2 para. 25(b) repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), Sch. 14 Pt. 1; S.I. 2004/759, art. 12

### *Compulsory acquisition*

26 (1) An NHS trust may be authorised to purchase land compulsorily for the purposes of its functions by means of an order made by the trust and confirmed by the Secretary of State.

(2) Subject to sub-paragraph (3) below, the <sup>M2</sup>Acquisition of Land Act 1981 shall apply to the compulsory purchase of land under this paragraph.

(3) No order shall be made by an NHS trust under Part II of the Acquisition of Land Act 1981 with respect to any land unless the proposal to acquire the land compulsorily—

- (a) has been submitted to the Secretary of State in such form and together with such information as he may require; and
- (b) has been approved by him.

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

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#### Marginal Citations

M2 1981 c. 67.

#### *Use and development of consecrated land and burial grounds*

- 27 Section 128 of the <sup>M2</sup>Town and Country Planning Act 1971 (use and development of consecrated land and burial grounds) applies to consecrated land and land comprised in a burial ground, within the meaning of that section, which an NHS trust holds for any of its purposes as if—
- (a) that land had been acquired by the trust as mentioned in subsection (1) of that section; and
  - (b) the trust were a statutory undertaker, within the meaning of that Act.

#### Marginal Citations

M3 1971 c. 78.

#### *Instruments etc.*

- 28
- (1) The fixing of the seal of an NHS trust shall be authenticated by the signature of the chairman or of some other person authorised either generally or specially by the trust for that purpose and of one other director.
  - (2) Any document purporting to be a document duly executed under the seal of an NHS trust shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
  - (3) A document purporting to be signed on behalf of an NHS trust shall be received in evidence and shall, unless the contrary is proved, be deemed to be so signed.

### PART IV

#### DISSOLUTION

- 29
- (1) The Secretary of State may by order made by statutory instrument dissolve an NHS trust.
  - (2) An order under this paragraph may be made—
    - (a) on the application of the NHS trust concerned; or
    - (b) if the Secretary of State considers it appropriate in the interests of the health service.
  - (3) Except where it appears to the Secretary of State necessary to make an order under this paragraph as a matter of urgency, no such order shall be made until after the completion of such consultation as may be prescribed.

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

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- 30 (1) If an NHS trust is dissolved under this Part of this Schedule, the Secretary of State may by order transfer or provide for the transfer to—
- (a) the Secretary of State, or
  - [<sup>F35</sup>(aa) a Strategic Health Authority, or]
  - [<sup>F36</sup>(b) a Health Authority, or
  - (bb) a Special Health Authority, or]
  - [<sup>F37</sup>(bbb) a Primary Care Trust, or]
  - [<sup>F38</sup>(bbc) a Local Health Board, or]
  - [<sup>F39</sup>(bbd) an NHS foundation trust, or]
  - (c) another NHS trust,
- of such of the property, rights and liabilities of the NHS trust which is dissolved as in his opinion is appropriate; and any such order may include provisions corresponding to those of section 8 of this Act.
- [<sup>F40</sup>(1A) The liabilities which may be transferred by virtue of sub-paragraph (1) above to any of the bodies mentioned in paragraphs (aa) to (c) of that sub-paragraph include criminal liabilities.]
- (2) An order under this paragraph may make provision in connection with the transfer of staff employed by or for the purposes of the NHS trust which is dissolved; and such an order may include provisions corresponding to those of sections 6 and 7 of this Act, including provision for the making of a scheme by such [<sup>F41</sup>Strategic Health Authority,][<sup>F42</sup>Health Authority, Special Health Authority] or other body as may be specified in the order.
- (3) No order shall be made under this paragraph until after completion of such consultation as may be prescribed.

#### Textual Amendments

- F35** Sch. 2 para. 30(1)(aa) inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 46(b)**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)
- F36** Sch. 2 para. 30(1)(b)(bb) substituted (1.4.1996 subject to s. 8 of the amending Act) for Sch. 2 para. 30(1)(b) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 85(g)** (with Sch. 2 paras. 6, 16)
- F37** Sch. 2 para. 30(1)(bbb) inserted (4.1.2000 for E. and otherwise prosp.) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 paras. 74, **83(7)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F38** Sch. 2 para. 30(1)(bbc) inserted (10.10.2002 for W. and otherwise in force immediately before the National Health Service Act 2006 (c. 41) (which Act came into force on 1.3.2007 in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act))) by 2002 c. 17, s. 6(2), **Sch. 5 para. 36(1)(4)**; S.I. 2002/2532, art. 2, **Sch.**; S.I. 2006/1407, arts. 1(1), 2, **Sch. 1 Pt. 2** {para. 12(c)}
- F39** Sch. 2 para. 30(1)(bbd) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199(1), **Sch. 4 para. 85(b)**; S.I. 2004/759, **art. 2**
- F40** Sch. 2 para. 30(1A) inserted (19.7.2006) by Health Act 2006 (c. 28), **ss. 74(5)**, 83(1)(a)
- F41** Words in Sch. 2 para. 30(2) inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 46(a)**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)
- F42** Words in Sch. 2 para. 30(2) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 85(g)** (with Sch. 2 paras. 6, 16)

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31 Without prejudice to the generality of paragraph 30 above, if an NHS trust is dissolved under this Part of this Schedule, the Secretary of State or such other NHS trust <sup>F43</sup>, or such <sup>F44</sup>Strategic Health Authority,<sup>F45</sup>Primary Care Trust,Health Authority or Special Health Authority,] as he may direct shall undertake the responsibility for the continued payment of any such pension, allowances or gratuities as, by virtue of paragraph 9(2) or paragraph 17 above, would otherwise have been the responsibility of the trust which has been dissolved.

**Textual Amendments**  
**F43** Words in Sch. 2 para. 31 substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1) (3), **Sch. 1 Pt. II para. 85(h)** (with Sch. 2 paras. 6, 16)  
**F44** Words in Sch. 2 para. 31 inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 46(a)**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)  
**F45** Words in Sch. 2 para. 31 inserted (1.10.2002) by 2002 c. 17, s. 2(5), **Sch. 2 Pt. 2 para. 58**; S.I. 2002/2478, **art. 3(1)(d)** (with art. 3(3) and transitional provision in art. 4)

32 An NHS trust may not be dissolved or wound up except in accordance with this Part of this Schedule <sup>F46</sup>or section 28 of the Health and Social Care (Community Health and Standards) Act 2003].

**Textual Amendments**  
**F46** Words in Sch. 2 para. 32 inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199(1), **Sch. 4 para. 85(e)**; S.I. 2004/759, **art. 2**

SCHEDULE 3

Section 9.

FINANCIAL PROVISIONS RELATING TO NHS TRUSTS

*Borrowing*

1 (1) Subject to <sup>F47</sup>any direction given by the Secretary of State under section 17 of the principal Act, to] the provisions of this paragraph and to any limit imposed under the following provisions of this Schedule, for the purpose of its functions an NHS trust may borrow (both temporarily, by way of overdraft, and longer term) from the Secretary of State or from any other person.

(2) An NHS trust may not mortgage or charge any of its assets or in any other way use any of its assets as security for a loan.

<sup>F48</sup>(3) .....

<sup>F48</sup>(4) .....

<sup>F48</sup>(5) .....

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- [<sup>F49</sup>(6) It shall be for the Secretary of State, with the consent of the Treasury, to determine the terms of any loan made by him to an NHS trust (including terms as to the payment of interest, if any).]

#### Textual Amendments

- F47** Words in *Sch. 3 para. 1* inserted (1.9.1999 for E. and 1.11.1999 for W.) by 1999 c. 8, s. 17(1)(2); S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**
- F48** *Sch. 3 para. 1(3)-(5)* omitted (1.9.1999 for E. and 1.11.1999 for W.) by virtue of 1999 c. 8, s. 17(1)(3); S.I. 1999/2342, art. 2(1), **Sch.**; S.I. 1999/3184, art. 2(1), **Sch. 1**; and para. 1(3)-(5) repealed (1.4.2000) by 1999 c. 8, s. 65(2), **Sch. 5**; S.I. 2000/1041, art. 2(d), **Sch.**
- F49** *Sch. 3 para. 1(6)* substituted (1.9.1999 for E. and 1.11.1999 for W.) by 1999 c. 8, s. 17(1)(4); S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**

#### *Guarantees of borrowing*

- 2 (1) The Secretary of State may guarantee, in such manner and on such conditions as, with the approval of the Treasury, he considers appropriate, the repayments of the principal of and the payment of interest on any sums which an NHS trust borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.
- (3) Where any sum is issued for fulfilling a guarantee so given, the Secretary of State shall lay before each House of Parliament a statement relating to that sum as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the NHS trust concerned shall make to the Secretary of State, at such times and in such manner as the Secretary of State may from time to time direct,—
- (a) payments of such amounts as the Secretary of State with the consent of the Treasury so directs in or towards repayment of the sums so issued; and
- (b) payments of interest, at such rates as the Secretary of State with the consent of the Treasury so directs, on what is outstanding for the time being in respect of sums so issued.

#### *Limits on indebtedness*

- 3 (1) The aggregate of all sums borrowed by NHS trusts [<sup>F50</sup>which are required to provide services at or from], hospitals or other establishments or facilities which are situated in England shall not exceed £5,000 million or such other sum not exceeding £10,000 million as may be specified by order made by the Secretary of State with the consent of the Treasury.
- <sup>F51</sup>(2) The aggregate of all sums borrowed by NHS trusts [<sup>F50</sup>which are required to provide services at or from], hospitals or other establishments or facilities which are situated

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in Wales shall not exceed £300 million or such other sum not exceeding £600 million as may be specified by order made by the Secretary of State with the consent of the Treasury.

<sup>F51</sup>(3) . . . . .

#### Textual Amendments

- F50** Words in Sch. 3 para. 3(1)(2) substituted (*restrospectively*) by 1999 c. 8, s. 13(9)(10); S.I. 1999/2540, art. 2(1)(a), Sch. 1; S.I. 1999/3184, art. 2(1), Sch. 1
- F51** Sch. 3 para. 3(3) omitted (1.9.1999 for E. and 1.11.1999 for W.) by virtue of 1999 c. 8, s. 15(6); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 1999/3184, art. 2(1), Sch. 1; and para. 3(3) repealed (1.4.2000) by 1999 c. 8, s. 65(2), Sch. 5; S.I. 2000/1041, art. 2(d), Sch.

- 4 Any power to make an order under paragraph 3 above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### *Additional public dividend capital*

- 5 (1) If the Secretary of State, with the consent of the Treasury, considers it appropriate to do so, he may, instead of making a loan to an NHS trust under paragraph 1 above, pay an amount to the trust as public dividend capital.

<sup>F52</sup>(2) . . . . .

#### Textual Amendments

- F52** Sch. 3 para. 5(2) omitted (1.9.1999 for E. and 1.11.1999 for W.) by virtue of 1999 c. 8, s. 15(6); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 1999/3184, art. 2(1), Sch. 1; and para. 5(2) repealed (1.4.2000) by 1999 c. 8, s. 65(2), Sch. 5; S.I. 2000/1041, art. 2(d), Sch.

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

- C3** Sch. 3 para. 5: Treasury consent requirement continued (W.) (1.7.1999) by S.I. 1999/672, arts. 1(2), 2, Sch. 1

#### *Supplementary payments*

[<sup>F53</sup>5A (1) If the Secretary of State considers it appropriate to do so, he may make a payment to the trust.

(2) The payment may be subject to such conditions as he thinks fit to impose, including conditions as to repayment.]

#### Textual Amendments

- F53** Sch. 3 para. 5A inserted (1.8.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, s. 3(1), (with ss. 64(9), 65(4)); S.I. 2001/2804, art. 2(1)(a); S.I. 2002/1475, art. 2(1), Sch. Pt. 1



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### *Surplus funds*

- 6 If it appears to the Secretary of State that any [<sup>F54</sup>sum held by an NHS trust otherwise than as a trustee] is surplus to its foreseeable requirements, the trust shall, if the Secretary of State with the approval of the Treasury and after consultation with the trust so directs, pay [<sup>F54</sup>that sum] into the Consolidated Fund.

#### **Textual Amendments**

**F54** Words in Sch. 3 para. 6 substituted (1.9.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, s. 65(1), Sch. 4 paras. 74, **84(2)(b)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**

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

**C4** Sch. 3 para. 6 modified (W.) (1.7.1999) by S.I. 1999/672, arts. 1(2), 2, **Sch. 1**

### *Investment*

- [<sup>F557</sup> An NHS trust shall have power to invest money held by it in any investments, including investments which do not produce income, specified in directions under section 17 of the principal Act; but nothing in this paragraph applies in relation to money held by an NHS trust as trustee]

#### **Textual Amendments**

**F55** Sch. 3 para. 7 substituted (1.9.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, s. 65(1), Sch. 4 paras. 74, **84(3)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**

- [<sup>F568</sup> Any direction under section 17 of the principal Act with respect to—  
(a) the power conferred on an NHS trust by paragraph 1 above; or  
(b) the maximum amount which an NHS trust may invest in any investments or class of investments,  
may be given only with the consent of the Treasury.]

#### **Textual Amendments**

**F56** Sch. 3 para. 8 inserted (1.9.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, s. 65(1), Sch. 4 paras. 74, **84(4)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**

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### Textual Amendments

**F57** Sch. 4 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5

## SCHEDULE 5

Section 27.

### HEALTH BOARDS, THE COMMON SERVICES AGENCY AND STATE HOSPITALS

#### *Health Boards*

- 1 Schedule 1 to the 1978 Act shall be amended in accordance with paragraphs 2 to 7 below.
- 2 After paragraph 2 of that Schedule (membership of Health Boards) there shall be inserted the following paragraph—
- “2A In the case of a prescribed Health Board at least one of the persons appointed under paragraph 2 above must hold a post in a university with a medical or dental school.”
- 3 In paragraph 4 of that Schedule (remuneration), after the words “Health Board” there shall be inserted “and to such other members of a Health Board as may be prescribed”.
- 4 At the end of paragraph 5A of that Schedule there shall be added the words “and a direction under that paragraph may relate to a particular officer or servant or class of officer or servant specified in the direction”.
- 5 After paragraph 7 of that Schedule there shall be inserted the following paragraphs—
- “7A Regulations may provide for the transfer of officers and servants from a Health Board to—
- (a) another Health Board;
- (b) the Agency; or
- (c) a state hospital,
- and for arrangements under which the services of an officer or servant of a Health Board are placed at the disposal of a body mentioned in sub-paragraphs (a) to (c).
- 7B Directions may be given by the Secretary of State—
- (a) to a Health Board to place services of any of its officers or servants at the disposal of a body mentioned in sub-paragraphs (a) to (c) of paragraph 7A; and
- (b) to any such body to employ as an officer or servant any person who is or was employed by a Health Board and is specified in the direction,
- and a Board or body to which such directions are given shall comply with the directions.

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- 7C Before making regulations under paragraph 7A or 8A, the Secretary of State shall consult such bodies and organisations as appear to him to be concerned.”
- 6 After paragraph 8 of that Schedule there shall be inserted the following paragraph—
- “8A In connection with arrangements relating to community care services (within the meaning of section 5A(4) (local authority plans for community care services) of the Social Work (Scotland) Act 1968), regulations may make provision with respect to—
- (a) the transfer to employment by a local authority of officers or servants employed by a Health Board; and
  - (b) the transfer to employment by a National Health Service body of officers and servants transferred to employment by a local authority by virtue of this paragraph,
- and for the purposes of this paragraph “National Health Service body” means a Health Board, the Agency or an NHS trust.”
- 7 In paragraph 11(b) of that Schedule (delegation to committees etc), for the words “composed, as to a majority, by members of Health Boards” there shall be substituted “constituted in accordance with the regulations”.

*Common Services Agency*

- 8 Schedule 5 to the 1978 Act shall be amended in accordance with paragraphs 9 to 12 below.
- 9 In paragraph 3 of that Schedule (appointment of chairman and members) for the words from “other members appointed” to the end there shall be substituted “such other members as the Secretary of State may, after consultation with the Health Boards, appoint.”
- 10 In paragraph 3A of that Schedule (remuneration), after the words “management committee” there shall be inserted “and to such other members of the management committee as may be prescribed”.
- 11 After paragraph 7A of that Schedule there shall be inserted the following paragraphs—
- “7B Regulations may provide for the transfer of officers and servants from the Agency to a Health Board or state hospital, and for arrangements under which the services of an officer or servant of the Agency are placed at the disposal of a Health Board or state hospital.
- 7C Directions may be given by the Secretary of State—
- (a) to the Agency to place services of any of its officers or servants at the disposal of a Health Board or state hospital; and
  - (b) to a Health Board or state hospital to employ as an officer or servant any person who is or was employed by the Agency and is specified in the direction,
- and it shall be the duty of the Agency, a Health Board or a state hospital to comply with any such directions given to it.”
- 12 After paragraph 8 of that Schedule there shall be inserted the following paragraphs—

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- “8A In connection with arrangements relating to community care services (within the meaning of section 5A(4) (local authority plans for community care services) of the Social Work (Scotland) Act 1968), regulations may make provision with respect to—
- (a) the transfer to employment by a local authority of officers or servants employed by the Agency; and
  - (b) the transfer to employment by a National Health Service body of officers and servants transferred to employment by a local authority by virtue of this paragraph,
- and for the purposes of this paragraph “National Health Service body” means the Agency, a Health Board or an NHS trust.
- 8B Before making regulations under paragraph 7B or 8A, the Secretary of State shall consult such bodies and organisations as appear to him to be concerned.”.

*State hospitals*

13

F58

**Textual Amendments**

**F58** Sch. 5 para. 13 repealed (5.10.2005) by *Mental Health (Care and Treatment) (Scotland) Act 2003* (asp. 13), ss. 331(2), 333(3), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3** (as substituted by S.S.I. 2005/375, **art. 2** and as amended by S.S.I. 2005/459, **art. 2**)

SCHEDULE 6

Section 32.

SCHEDULES TO BE INSERTED AFTER SCHEDULE 7 TO THE  
 NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

“SCHEDULE 7A

NATIONAL HEALTH SERVICE TRUSTS

**PART I**

ORDERS ESTABLISHING NHS TRUSTS ETC.

- 1 Any reference in this Part of this Schedule to an order is a reference to an order under section 12A(1) establishing an NHS trust or any subsequent order under that provision amending or revoking a previous order.
- 2 The provisions made by an order shall be in conformity with any general provision made by regulations under section 12A(5).
- 3 (1) Without prejudice to any amendment made by a subsequent order, the first order to be made in relation to any NHS trust shall specify—
  - (a) the name of the trust;

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- (b) the functions of the trust;
  - (c) the number of executive directors and non-executive directors;
  - (d) where the trust is to be regarded as having a significant teaching commitment, a provision to secure the inclusion in the non-executive directors referred to in paragraph (c) of a person appointed from a university with a medical or dental school specified in the order;
  - (e) the operational date of the trust, that is to say, the date on which the trust is to begin to undertake the whole of the functions conferred on it; and
  - (f) if a scheme is to be made under section 12B, the body (being a Health Board or the Agency) which is to make the scheme.
- (2) For the purposes of sub-paragraph (1)(d), an NHS trust is to be regarded as having a significant teaching commitment in the following cases—
- (a) if the trust is established to assume responsibility for the ownership and management of a hospital or other establishment or facility which, in the opinion of the Secretary of State, has a significant teaching and research commitment; and
  - (b) in any other case, if the Secretary of State so provides in the order.
- (3) In a case where the order contains a provision made by virtue of sub-paragraph (1)(d) and a person who is being considered for appointment by virtue of that provision—
- (a) is employed by the university in question; and
  - (b) would also, apart from this sub-paragraph, be regarded as employed by the trust, his employment by the trust shall be disregarded in determining whether, if appointed, he will be a non-executive director of the trust.
- (4) An order shall specify the accounting date of the trust.
- 4 (1) An order may require a Health Board and the Agency to make staff, premises and other facilities available to an NHS trust pending the transfer or appointment of staff to or by the trust and the transfer of premises or other facilities to the trust.
- (2) An order making provision under this paragraph may make provision with respect to the time when the Health Board's functions under the provision are to come to an end.
- 5 (1) An order may provide for the establishment of an NHS trust with effect from a date earlier than the operational date of the trust and, during the period between that earlier date and the operational date, the trust shall have such limited functions for the purposes of enabling it to begin to operate satisfactorily with effect from the operational date as may be specified in the order.
- (2) If an order makes the provision referred to in sub-paragraph (1), then, at any time during the period referred to in that sub-paragraph, the NHS trust shall be regarded as properly constituted (and may carry out its limited functions accordingly) notwithstanding that, at that time, all or any of the executive officers have not yet been appointed.
- (3) If an order makes the provision referred to in sub-paragraph (1) above, the order may require a Health Board to discharge such liabilities of the NHS trust as—
- (a) may be incurred during the period referred to in that sub-paragraph; and
  - (b) are of a description specified in the order.

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## PART II

### DUTIES, POWERS AND STATUS OF NHS TRUSTS

#### *Specific duties*

- 6 (1) An NHS trust shall carry out effectively, efficiently and economically the functions for the time being conferred on it by an order under section 12A(1) and by the provisions of this Schedule and, with respect to the exercise of the powers conferred by an order under section 12A(8) or paragraphs 10 to 15, shall comply with any directions given to it by the Secretary of State, whether of a general or a particular nature.
- (2) An NHS trust shall comply with any directions given to it by the Secretary of State with respect to all or any of the following matters—
- (a) the qualifications of persons who may be appointed as officers of the trust;
  - (b) the employment, for the purpose of performing functions specified in the direction, of officers having qualifications or experience of a description so specified;
  - (c) the manner in which officers of the trust are to be appointed;
  - (d) prohibiting or restricting the disposal of, or of any interest in, any asset which, at the time the direction is given, the Secretary of State reasonably considers to have a value in excess of such sum as may be specified in an order under section 12A(1) and in respect of which the Secretary of State considers that the interests of the National Health Service require that the asset should not be disposed of;
  - (e) compliance with guidance or directions given (by circular or otherwise) to Health Boards or particular descriptions of Health Boards, or the Agency; and
  - (f) the implementation of awards relating to the distinction or merit of medical practitioners or dental practitioners or any class or classes of such practitioners.
- 7 (1) For each accounting year an NHS trust shall prepare and send to the Secretary of State an annual report in such form as may be determined by the Secretary of State.
- (2) At such time or times as may be prescribed, an NHS trust shall hold a public meeting at which its audited accounts, its annual report, and such other documents as may be prescribed shall be presented.
- (3) In such circumstances and at such time or times as may be prescribed, an NHS trust shall hold a public meeting at which such documents as may be prescribed shall be presented.
- 8 An NHS trust shall furnish to the Secretary of State such reports, returns and other information, including information as to its forward planning as, and in such form as, he may require.
- 9 (1) An NHS trust shall be liable to pay—
- (a) to the chairman and any non-executive director of the trust—
    - (i) remuneration of an amount determined by the Secretary of State, not exceeding such amount as may be approved by the Treasury; and
    - (ii) such travelling and other allowances as may be determined by the Secretary of State with the approval of the Treasury; and
  - (b) to any member of a committee or sub-committee of the trust who is not also a director such travelling and other allowances as may be so determined.

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

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- (2) If an NHS trust so determines in the case of a person who is or has been a chairman of the trust, the trust shall be liable to pay such pension, allowances or gratuities to or in respect of him as may be determined by the Secretary of State with the approval of the Treasury.
- (3) Different determinations may be made under sub-paragraph (1) or (2) in relation to different cases or description of cases.

#### *Specific powers*

- 10 An NHS trust may enter into NHS contracts.
- 11 An NHS trust may undertake and commission research and make available staff and provide facilities for research by other persons.
- 12 An NHS trust may—
  - (a) provide training for persons employed or likely to be employed by the trust or otherwise in the provision of services under this Act; and
  - (b) make facilities and staff available in connection with training by a university or any other body providing training in connection with the health service.
- 13 An NHS trust may enter into arrangements for the carrying out, on such terms as seem to it to be appropriate, of any of its functions jointly with any Health Board, with the Agency, with another NHS trust or with any other body or individual.
- 14 According to the nature of its functions, an NHS trust may make accommodation or services or both available for patients who give undertakings (or for whom undertakings are given) to pay, in respect of the accommodation or services (or both) such charges as the trust may determine.
- 15 For the purpose of making additional income available in order better to perform its functions, an NHS trust shall have the powers specified in section 7(2) of the Health and Medicines Act 1988 (extension of powers of Secretary of State for financing the Health Service).

#### *General powers*

- 16 Subject to Schedule 7B, an NHS trust shall have power to do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions, including in particular power—
  - (a) to acquire and dispose of land and other property;
  - (b) to enter into such contracts as seem to the trust to be appropriate;
  - (c) to accept gifts of money, land or other property, including money, land or other property to be held on trust, for purposes relating to any service which it is their function to provide, administer, or make arrangements for, which purposes shall include any purposes relating to a hospital or other establishment or facility which is provided or managed by the trust; and
  - (d) to employ staff on such terms as the trust thinks fit.
- 17 In connection with arrangements relating to community care services (within the meaning of section 5A(4) (local authority plans for community care services) of the Social Work (Scotland) Act 1968), the Secretary of State may by regulations make provision with respect to—

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- (a) the transfer to employment by a local authority of staff employed by an NHS trust; and
  - (b) the transfer to employment by a National Health Service body of staff transferred to employment by a local authority by virtue of this paragraph,
- and for the purposes of this paragraph “National Health Service body” means an NHS trust, a Health Board or the Agency.
- 18 Regulations made under paragraph 17 may make such incidental and consequential provision in relation to staff transferred by virtue of that paragraph as may be made in relation to officers and servants of a Health Board transferred by virtue of regulations made under paragraph 8A of Schedule 1.
- 19 Before making regulations under paragraph 17, the Secretary of State shall consult such bodies and organisations as appear to him to be concerned.
- 20 (1) Without prejudice to the generality of paragraph 16, to or in respect of such of its employees as it may determine, an NHS trust may make such arrangements for providing pensions, allowances or gratuities as it may determine; and such arrangements may include the establishment and administration, by the trust or otherwise, of one or more pension schemes.
- (2) The reference in sub-paragraph (1) to pensions, allowances or gratuities to or in respect of employees of an NHS trust includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the trust’s employees who suffer loss of office or employment or loss or diminution of emoluments.

#### *Status*

- 21 An NHS trust shall not be regarded as the servant or agent of the Crown or, except as provided by this Act, as enjoying any status, immunity or privilege of the Crown; and an NHS trust’s property shall not be regarded as property of, or property held on behalf of, the Crown.

### PART III

#### SUPPLEMENTARY PROVISIONS

##### *Reimbursement for health services work carried out otherwise than under contract*

- 22 (1) In any case where an NHS trust provides goods or services for the benefit of an individual and—
- (a) those goods or services are not provided pursuant to an NHS contract; and
  - (b) the condition of the individual is such that he needs those goods or services and, having regard to his condition, it is not practicable before providing them to enter into an NHS contract for their provision, and
  - (c) the provision of those goods or services is a function of a Health Board or is within the primary functions of a District Health Authority within the meaning of the National Health Service Act 1977,
- the trust shall be remunerated by that Board or Authority in respect of the provision of the goods or services in question.
- (2) The rate of any remuneration payable by virtue of sub-paragraph (1) shall be calculated in such manner or on such basis as may be determined by the Secretary of State.



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- 23 In any case where an NHS trust provides goods or services for the benefit of an individual and—
- (a) paragraph 22(1)(a) applies but paragraph 22(1)(c) does not apply; and
  - (b) the individual is resident outside the United Kingdom and is of a description (being a description associating the individual with another country) specified for the purposes of this paragraph by a direction made by the Secretary of State,
- the trust shall be remunerated by the Secretary of State in respect of the provision of the goods or services in question at such rate or rates as he considers appropriate.

*Use and development of land used for religious purposes and burial grounds*

- 24 Where land consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground, within the meaning of [<sup>F59</sup>section 197 of the Town and County Planning (Scotland) 1997] (provisions as to churches and burial grounds), is held by an NHS trust for any of its purposes, that section applies to the land as if—
- (a) the land had been acquired by the trust as mentioned in subsection (1) of that section; and
  - (b) the trust were a statutory undertaker, within the meaning of that Act.

## PART IV

### DISSOLUTION

- 25 (1) The Secretary of State may by order dissolve an NHS trust.
- (2) An order under this paragraph may be made—
- (a) on the application of the NHS trust concerned; or
  - (b) if the Secretary of State considers it appropriate in the interests of the health service as a whole.
- (3) Except where it appears to the Secretary of State necessary to make an order under this paragraph as a matter of urgency, no such order shall be made until after the completion of such consultation as may be prescribed.
- 26 (1) If an NHS trust is dissolved under this Part of this Schedule, the Secretary of State may by order transfer or provide for the transfer to—
- (a) the Secretary of State, or
  - (b) a Health Board, or
  - (c) the Agency, or
  - (d) another NHS trust,
- of such of the property, rights and liabilities of the NHS trust which is dissolved as in his opinion is appropriate and any such order may include provisions corresponding to those of section 12D.
- (2) An order under this paragraph may make provision in connection with the transfer of staff employed by or for the purposes of the NHS trust which is dissolved; and such an order may include provisions corresponding to those of sections 12B and 12C, including provision for the making of a scheme by such body (being a Health Board or the Agency) as may be specified in the order.

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- (3) No order shall be made under this paragraph until after completion of such consultation as may be prescribed.
- 27 If an NHS trust is dissolved under this Part of this Schedule, the Secretary of State or such other NHS trust or Health Board as he may direct or, if he so directs, the Agency shall undertake the responsibility for the continued payment of any such pension, allowances or gratuities as, by virtue of paragraph 9(2) or paragraph 20 above, would otherwise have been the responsibility of the trust which has been dissolved.
- 28 An NHS trust may not be dissolved or wound up except in accordance with this Part of this Schedule.

## SCHEDULE 7B

### FINANCIAL PROVISIONS RELATING TO NHS TRUSTS

#### *Borrowing*

- 1 (1) Subject to the provisions of this paragraph and to any limit imposed under the following provisions of this Schedule, for the purpose of its functions an NHS trust may borrow (both temporarily, by way of overdraft, and longer term) from the Secretary of State or from any other person.
- (2) An NHS trust may not grant any security over any of its assets or in any other way use any of its assets as security for a loan.
- (3) Except with the consent of the Secretary of State, an NHS trust may not borrow in any currency other than sterling; and the Secretary of State shall not give his consent to any such borrowing except with the approval of the Treasury.
- (4) Interest on any sums borrowed from the Secretary of State by an NHS trust shall be paid at such variable or fixed rates and at such times as the Treasury may determine.
- (5) A rate of interest under sub-paragraph (4) shall be determined as if section 5 of the National Loans Act 1968 had effect in respect of it and subsections (5) to (5B) of that section shall apply accordingly.
- (6) Subject to sub-paragraphs (4) and (5), the terms on which any sums are borrowed from the Secretary of State by an NHS trust shall be such as he may determine; and, in the event of the early repayment of any sums so borrowed, such terms may require the payment of a premium or allow a discount.

#### *Guarantees of borrowing*

- 2 (1) The Secretary of State may guarantee, in such manner and on such conditions as, with the approval of the Treasury, he considers appropriate, the repayments of the principal of and the payment of interest on any sums which an NHS trust borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.

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- (3) Where any sum is issued for fulfilling a guarantee so given, the Secretary of State shall lay before each House of Parliament a statement relating to that sum as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the NHS trust concerned shall make to the Secretary of State, at such times and in such manner as the Secretary of State may from time to time direct,—
- (a) payments of such amounts as the Secretary of State with the consent of the Treasury so directs in or towards repayment of the sums so issued; and
  - (b) payments of interest, at such rates as the Secretary of State with the consent of the Treasury so directs, on what is outstanding for the time being in respect of sums so issued.

#### *Limits on indebtedness*

- 3 (1) The aggregate of all sums borrowed by NHS trusts established to assume responsibility for the ownership and management of, or to provide and manage, hospitals or other establishments or facilities which are situated in Scotland shall not exceed £500 million or such other sum not exceeding £1,000 million as may be specified by order made by the Secretary of State with the consent of the Treasury.
- (2) The reference in sub-paragraph (1) to sums borrowed does not include a reference to the initial loan of NHS trusts.
- 4 Any power to make an order under paragraph 3 shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### *Additional public dividend capital*

- 5 (1) If the Secretary of State, with the consent of the Treasury, considers it appropriate to do so, he may, instead of making a loan to an NHS trust under paragraph 1, pay an amount to the trust as public dividend capital.
- (2) Section 12E shall apply to public dividend capital paid to an NHS trust under this paragraph as it applies to public dividend capital forming part of the trust's originating capital debt.

#### *Surplus funds*

- 6 If it appears to the Secretary of State that any amount standing in the reserves of an NHS trust is surplus to its foreseeable requirements, the trust shall, if the Secretary of State with the approval of the Treasury and after consultation with the trust so directs, pay that amount into the Consolidated Fund.

#### *Investment*

- 7 An NHS trust may not invest any money held by it except in securities of the Government of the United Kingdom or in such other manner as the Secretary of State may with the consent of the Treasury approve.”

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

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**Textual Amendments**

**F59** Sch. 6: words in para. 24 of the Sch. 7A to be inserted in 1978 c. 29 substituted (27.5.1997) by virtue of 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 46(1)**

SCHEDULE 7

Section 36.

AMENDMENTS RELATING TO AUDIT OF ACCOUNTS OF SCOTTISH HEALTH SERVICE BODIES

*The Local Government (Scotland) Act 1973*

1 Part VII of the <sup>M4</sup>Local Government (Scotland) Act 1973 (finance) shall be amended in accordance with paragraphs 2 to 13 below.

**Commencement Information**

**II** Sch. 7 para. 1 wholly in force; Sch. 7 para. 1 not in force at Royal Assent, see s. 67(2); Sch. 7 para. 1 in force for certain purposes at 24.10.1994 and 1.12.1994 and 1.4.1995 so far as not already in force by S.I. 1994/2658, **arts. 2, 3, 4**

**Marginal Citations**

**M4** 1973 c. 65.

**F60**<sub>2</sub> .....

**Textual Amendments**

**F60** Sch. 7 para. 2 repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 8**; S.S.I. 2000/10, **art. 2(3)**

3 (1) Section 97 (establishment of Commission for Local Authority Accounts in Scotland) shall be amended as follows.

(2) In subsection (1)—

(a) for the words “Commission for Local Authority Accounts in Scotland” there shall be substituted “Accounts Commission for Scotland”;

**F61**(b) .....

**F61**(c) .....

**F61**(d) .....

**F61**(3) .....

**F61**(4) .....

**F61**(5) .....

**F61**(6) .....

**F61**(7) .....

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

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**Textual Amendments**

**F61** Sch. 7 para. 3(2)(b)-(d)(3)-(7) repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

**Commencement Information**

**I2** Sch. 7 para. 3 wholly in force; Sch. 7 para. 3 not in force at Royal Assent see s.67(2); Sch. 7 para. 3 in force for certain purposes at 24.10.1994 and 1.12.1994 and and 1.4.1995 so far as not already in force by S.I. 1994/2658, arts. 2, 3, 4

F62<sub>4</sub> .....

**Textual Amendments**

**F62** Sch. 7 para. 4 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 8; S.S.I. 2000/10, art. 2(3)

F63<sub>5</sub> .....

**Textual Amendments**

**F63** Sch. 7 para. 5 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

F64<sub>6</sub> .....

**Textual Amendments**

**F64** Sch. 7 para. 6 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

7 (1) Section 100 (auditor’s right of access to documents) shall be amended as follows.

F65(2) .....

(3) After subsection (1) there shall be inserted the following subsection—

“(1A) In the case of a recognised fund-holding practice, the reference in subsection (1) above to documents includes a reference to documents relating to all the accounts and records of the members of the practice, whether or not relating to an allotted sum.”

F65(4) .....

**Textual Amendments**

**F65** Sch. 7 para. 7(2)(4) repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

F66<sub>8</sub> .....

**Textual Amendments**

**F66** Sch. 7 para. 8 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

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F67<sup>9</sup> .....

**Textual Amendments**

**F67** Sch. 7 para. 9 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

F68<sup>10</sup> .....

**Textual Amendments**

**F68** Sch. 7 para. 10 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

F69<sup>11</sup> .....

**Textual Amendments**

**F69** Sch. 7 para. 11 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

F70<sup>12</sup> .....

**Textual Amendments**

**F70** Sch. 7 para. 12 repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 8; S.S.I. 2000/10, art. 2(3)

13 In Schedule 8 (provisions as to the Commission), for the words “Commission for Local Authority Accounts in Scotland” in both places where they occur there shall be substituted “Accounts Commission for Scotland”.

*The National Health Service (Scotland) Act 1978*

14 (1) Section 86 of the <sup>M5</sup>National Health Service (Scotland) Act 1978 (keeping and audit of accounts of certain Scottish health bodies) shall be amended as follows.

(2) In subsections (1) and (1A), for the words “by auditors appointed by the Secretary of State” there shall be substituted “in accordance with Part VII of the Local Government (Scotland) Act 1973 by auditors appointed by the Accounts Commission for Scotland”.

(3) After subsection (1B) there shall be inserted the following subsection—

“(1C) In such circumstances and to such extent as regulations made by the Secretary of State so provide, the requirement in subsection (1A)(a) to have accounts audited shall not apply to the accounts for any year of a recognised fund-holding practice if those accounts are submitted to a Health Board and summarised in the Board’s accounts.”

(4) Subsection (2) shall cease to have effect.

**Marginal Citations**

**M5** 1978 c. 29.

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

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*General amendment*

- 15 Without prejudice to any express amendment made by this Act, for any reference in any enactment (including an enactment comprised in subordinate legislation) to the Commission for Local Authority Accounts in Scotland there shall be substituted a reference to the Accounts Commission for Scotland.

SCHEDULE 8

Section 60.

PROVISIONS ARISING OUT OF REMOVAL OF CROWN  
IMMUNITIES FROM HEALTH SERVICE BODIES

**Commencement Information**

**I3** Sch. 8 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), Sch. 3.

**PART I**

AMENDMENTS CONTINUING CERTAIN STATUTORY EXEMPTIONS

*The Employers' Liability (Compulsory Insurance) Act 1969*

- 1 In section 3 of the <sup>M6</sup>Employers' Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance), in subsection (2) after the words "subsection (1)(a) above" there shall be inserted—
- “(a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978; and
- (b)”.

**Marginal Citations**

**M6** 1969 c. 57.

*The Vehicles (Excise) Act 1971*

- <sup>F71</sup>2 .....

**Textual Amendments**

**F71** Sch. 8 para. 2 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), Sch. 5 Pt. I (with s. 57(4))

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*The Copyright, Designs and Patents Act 1988*

- 3 At the end of section 48 of the <sup>M7</sup>Copyright, Designs and Patents Act 1988 (material communicated to the Crown in the course of public business) there shall be added the following subsection—

“(6) In this section “the Crown” includes a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978; and the reference in subsection (1) above to public business shall be construed accordingly.”

**Marginal Citations**

M7 1988 c. 48.

*The Road Traffic Act 1988*

- 4 In section 144 of the <sup>M8</sup>Road Traffic Act 1988 (exceptions from requirement of third-party insurance or security) in subsection (2) after paragraph (d) there shall be inserted the following paragraphs—

- “(da) to a vehicle owned by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, at a time when the vehicle is being driven under the owner’s control,
- (db) to an ambulance owned by a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978, at a time when a vehicle is being driven under the owner’s control”.

**Marginal Citations**

M8 1988 c. 52.

**PART II**

CONSEQUENTIAL AMENDMENTS

*The Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947*

- 5 In the First Schedule to the <sup>M9</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (procedure for authorising compulsory purchases), after paragraph 10 there shall be inserted the following paragraph—

- “10A In paragraphs 9 and 10 of this Schedule “statutory undertakers” include—
- (a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and
- (b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;



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but in relation to a health service body, as so defined, any reference in those paragraphs to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for use by the Secretary of State for use or occupation by that body.”

**Marginal Citations**

**M9** 1947 c. 42.

*The Town and Country Planning Act 1971*

6 In section 128 of the <sup>M10</sup>Town and Country Planning Act 1971 (use and development of consecrated land and burial grounds) after subsection (4) there shall be inserted the following subsection—

“(4A) In the case of land—

- (a) which has been acquired by the Secretary of State under subsection (1) of section 87 of the National Health Service Act 1977 or to which, by virtue of subsection (6) of that section, this section applies as if it had been so acquired, and
- (b) which is held, used or occupied by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990,

subsection (1) or, as the case may be, subsection (4) above shall apply with the omission of paragraph (a) and, in paragraph (b), of the words “in any other case”.”

**Marginal Citations**

**M10** 1971 c. 78.

*The Town and Country Planning (Scotland) Act 1972*

F727

**Textual Amendments**

**F72** Sch. 8 para. 7 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. I (with s. 5, Sch. 3)

*The Acquisition of Land Act 1981*

8 (1) At the end of section 16 of the <sup>M11</sup>Acquisition of Land Act 1981 (statutory undertakers’ land excluded from compulsory purchase) there shall be added the following subsection—

“(3) In the preceding provisions of this section “statutory undertakers” include—

- (a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and

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(b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;

but in relation to a health service body, as so defined, any reference in those provisions to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for acquisition by the Secretary of State for use or occupation by that body”.

(2) In section 17 of that Act (local authority and statutory undertakers’ land) at the end of subsection (2) there shall be inserted the following subsection—

“(2A) Subsection (3) of section 16 above applies in relation to subsections (1) and (2) above as it applies in relation to the preceding provisions of that section.”

**Marginal Citations**

**M11** 1981 c. 67.

*The Value Added Tax Act 1983*

F73<sup>9</sup> .....

**Textual Amendments**

**F73** Sch. 8 para. 9 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

*The Housing Act 1988*

10 In Schedule 2 to the <sup>M12</sup>Housing Act 1988 (grounds for possession of dwelling-houses let on assured tenancies), at the end of Ground 16 (dwelling-house let in consequence of employment by the landlord) there shall be added the following paragraph—

“For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.”

**Marginal Citations**

**M12** 1988 c. 50.

*The Housing (Scotland) Act 1988*

11 In Schedule 5 to the <sup>M13</sup>Housing (Scotland) Act 1988 (grounds for possession of houses let on assured tenancies) at the end of Ground 17 (house let in consequence of employment by the landlord) there shall be added the following paragraph—

“For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.”

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

*Changes to legislation: National Health Service and Community Care Act 1990 is up to date with all changes known to be in force on or before 28 June 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)*

**Marginal Citations**

**M13** 1988 c. 43.

**PART III**

TRANSITIONAL PROVISIONS

- 12 In this Part of this Schedule—
- (a) “the appointed day” means the day appointed for the coming into force of subsection (1) of section 60 of this Act;
  - (b) “functional health service land” means land which for the time being falls within paragraph (a) or paragraph (b) of that subsection;
  - (c) “health service body” has the same meaning as in that section; and
  - (d) “NHS trust” means such a trust established under Part I of this Act or the<sup>M14</sup>National Health Service (Scotland) Act 1978.

**Marginal Citations**

**M14** 1978 c. 29.

*The Building (Scotland) Act 1959*

- 13 (1) Notwithstanding section 60(1) of this Act, where, on or after the appointed day, relevant work is carried out by or on behalf of a health service body or an NHS trust—
- (a) in relation to a building which is, immediately before the appointed day, a Crown building within the meaning of section 26(3) of the<sup>M15</sup>Building (Scotland) Act 1959 (application to the Crown); or
  - (b) in constructing a building which, if it had been constructed before the appointed day, would have been a Crown building within the meaning of that provision,
- Part II of that Act shall apply to the relevant work as if it were being carried out before the appointed day.
- (2) In sub-paragraph (1) above, “relevant work” means work in respect of which, before the appointed day, a health service body has granted a certificate that the detail design has been completed.

**Marginal Citations**

**M15** 1959 c. 24.

*The Medicines Act 1968*

- 14 (1) In any case where—
- (a) before the appointed day, a health service body or an NHS trust has made an application for a licence under Part II of the<sup>M16</sup>Medicines Act 1968 or any

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- such application as is referred to in section 36 of that Act (applications for clinical trial and animal test certificates), and
- (b) the application was accompanied by a declaration under paragraph (a) or paragraph (b) of sub-paragraph (2) below, and
  - (c) the application has not been determined before the appointed day,
- then, on and after the appointed day and until the application is determined, the health service body or NHS trust concerned shall be treated for all purposes as if it held a licence or, as the case may be, a certificate of the description applied for.
- (2) The declarations referred to in sub-paragraph (1)(b) above are,—
    - (a) in the case of a health service body, that, at the date of the application, the body was carrying on activities which, after the appointed day, it would be unlawful to carry on except in accordance with a licence or certificate of the description applied for; and
    - (b) in the case of an NHS trust, that the trust has been established to assume responsibility for the ownership and management of a hospital or other establishment or facility and, at the date of the application, a health service body was carrying on at that hospital, establishment or facility activities which it is unlawful for the NHS trust to carry on except in accordance with a licence or certificate of the description applied for.
  - (3) For the purposes of sub-paragraph (1) above, an application is determined when the licensing authority—
    - (a) grant a licence or, as the case may be, certificate to the applicant (whether or not in accordance with the application); or
    - (b) notify the applicant of their refusal to grant a licence or certificate on the application.
  - (4) Expressions used in sub-paragraphs (1) to (3) above have the same meaning as in sections 18 to 22 of the Medicines Act 1968 (applications for, and grant of, licences), including, where applicable, any of those sections as applied by subsection (3) of section 36 of that Act in relation to applications falling within subsection (1) of that section.

**Marginal Citations**

**M16** 1968 c. 67.

*The Fire Precautions Act 1971*

- 15 (1) Without prejudice to the continuing validity on and after the appointed day of any fire certificate issued before that day in accordance with subsection (3) of section 40 of the <sup>M17</sup>Fire Precautions Act 1971 (certain functions in relation to premises occupied or owned by the Crown exercisable by a fire inspector instead of by the fire authority), any application made, notice issued or other thing done before the appointed day to or by a fire inspector in relation to premises held, used or occupied by a health service body, shall be treated on and after that day as if made, issued or done to or by a fire authority.

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- (2) Expressions used in sub-paragraph (1) above have the same meaning as in the Fire Precautions Act 1971.

#### Marginal Citations

M17 1971 c. 40.

- 15 (1) Without prejudice to the continuing validity on and after the appointed day of any fire certificate issued before that day in accordance with subsection (3) of section 40 of the <sup>M17</sup>Fire Precautions Act 1971 (certain functions in relation to premises occupied or owned by the Crown exercisable by a fire inspector instead of by the [<sup>F103</sup>appropriate authority]), any application made, notice issued or other thing done before the appointed day to or by a fire inspector in relation to premises held, used or occupied by a health service body, shall be treated on and after that day as if made, issued or done to or by [<sup>F104</sup>an appropriate authority].
- (2) Expressions used in sub-paragraph (1) above have the same meaning as in the Fire Precautions Act 1971.

#### Extent Information

E1 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

F103 Words in Sch. 8 para. 15 substituted (S.) (2.8.2005) by The Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) Order 2005 (S.S.I. 2005/383), arts. 1, 2(1), Sch. 1 para. 10(a); S.S.I. 2005/392, art. 2(a)

F104 Words in Sch. 8 para. 15 substituted (S.) (2.8.2005) by The Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) Order 2005 (S.S.I. 2005/383), arts. 1, 2(1), Sch. 1 para. 10(b); S.S.I. 2005/392, art. 2(a)

#### Marginal Citations

M17 1971 c. 40.

- 15<sup>F105</sup>(1) Without prejudice to the continuing validity on and after the appointed day of any fire certificate issued before that day in accordance with subsection (3) of section 40 of the <sup>M17</sup>Fire Precautions Act 1971 (certain functions in relation to premises occupied or owned by the Crown exercisable by a fire inspector instead of by the [<sup>F106</sup>fire and rescue authority]), any application made, notice issued or other thing done before the appointed day to or by a fire inspector in relation to premises held, used or occupied by a health service body, shall be treated on and after that day as if made, issued or done to or by a [<sup>F106</sup>fire and rescue authority].
- (2) Expressions used in sub-paragraph (1) above have the same meaning as in the Fire Precautions Act 1971.]

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#### **Extent Information**

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

- F105** Sch. 8 para. 15 repealed (E.W.) (1.4.2006) by [The Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 53(2), [Sch. 4](#) (with art. 49)
- F106** Words in Sch. 8 para. 15(1) substituted (E.W.) (7.9.2004 for E. for specified purposes, otherwise 1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), ss. 53(1), 61, [Sch. 1 para. 73](#); S.I. 2004/2304, [art. 2](#); S.I. 2004/2917, [art. 2](#)

#### **Marginal Citations**

- M17** 1971 c. 40.

### *The Town and Country Planning Act 1971*

- 16 (1) This paragraph applies if—
- (a) before the appointed day, notice of any proposed development has been given to a local planning authority in accordance with arrangements relating to development by government departments; and
  - (b) the development relates to land which, at the time the notice was given, was functional health service land; and
  - (c) the proposed development has not been carried out before the appointed day.
- (2) So far as relates to the carrying out of the development of which notice was given as mentioned in sub-paragraph (1)(a) above, for the purposes of the arrangements referred to in that paragraph and of the <sup>M18</sup>Town and Country Planning Act 1971,—
- (a) the carrying out of the development shall continue to be regarded as being by or on behalf of the Crown; and
  - (b) so long as the interest of the Secretary of State in the land referred to in sub-paragraph (1)(b) above continues on and after the appointed day to be held in fact by the Secretary of State or an NHS trust, that interest shall be regarded as continuing to be an interest of, or held on behalf of, the Crown.
- (3) Subject to paragraph 12 above, expressions used in sub-paragraphs (1) and (2) above have the same meaning as in the Town and Country Planning Act 1971.

#### **Marginal Citations**

- M18** 1971 c. 78.

### *The Town and Country Planning (Scotland) Act 1972*

- 17 (1) This paragraph applies if—
- (a) before the appointed day, notice of any proposed development has been given to a planning authority in accordance with arrangements relating to development by government departments; and
  - (b) the development relates to land which, at the time the notice was given, was functional health service land; and

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- (c) the proposed development has not been carried out before the appointed day.
- (2) So far as relates to the carrying out of the development of which notice was given as mentioned in sub-paragraph (1)(a) above, for the purposes of the arrangements referred to in that paragraph and of [<sup>F74</sup>the Town and Country Planning (Scotland) Act 1997]—
- (a) the carrying out of the development shall continue to be regarded as being by or on behalf of the Crown; and
- (b) so long as the interest of the Secretary of State in the land referred to in sub-paragraph (1)(b) above continues on and after the appointed day to be held in fact by the Secretary of State or an NHS trust, that interest shall be regarded as continuing to be an interest of, or held on behalf of, the Crown.
- (3) Subject to paragraph 12 above, expressions used in sub-paragraphs (1) and (2) above have the same meaning as in [<sup>F74</sup>the Town and Country Planning (Scotland) Act 1997].

#### Textual Amendments

**F74** Words in [Sch. 8 para. 17\(2\)\(3\)](#) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 46\(2\)](#)

#### *The Building Act 1984*

- 18 (1) If, immediately before the appointed day, approved work is proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) the fact that, on or after the appointed day, the work may be carried out by or on behalf of a health service body or an NHS trust shall not prevent it continuing to be regarded for the purposes of Part I of the <sup>M19</sup>Building Act 1984 as work carried out by a Crown authority.
- (2) Subject to sub-paragraph (3) below, expressions used in sub-paragraph (1) above have the same meaning as in section 44 of the <sup>M20</sup>Building Act 1984 (application of Part I to Crown).
- (3) Any reference in sub-paragraph (1) above to approved work is a reference to work in respect of which, before the appointed day, either a contract for carrying it out was entered into or all necessary design certificates were signed in accordance with arrangements relating to compliance with the substantive requirements of building regulations by Regional and District Health Authorities and certain Special Health Authorities.

#### Marginal Citations

**M19** 1984 c. 55.

**M20** 1984 c. 55.

#### *The Housing Act 1988 and the Rent Act 1977*

- 19 (1) This paragraph applies to a tenancy—
- (a) which was entered into before the appointed day; and

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- (b) which is of land in England or Wales which, immediately before the appointed day, was functional health service land.
- (2) If and so long as the interest of the landlord under a tenancy to which this paragraph applies continues on and after the appointed day to belong in fact either to the Secretary of State or to an NHS trust, it shall be taken to belong to a government department for the purposes of—
- (a) paragraph 11 of Schedule 1 to the <sup>M21</sup>Housing Act 1988 (Crown tenancies entered into after the commencement of Part I of that Act not to be assured tenancies); or
  - (b) section 13 of the <sup>M22</sup>Rent Act 1977 (earlier Crown tenancies not to be protected tenancies).
- (3) Expressions used in sub-paragraphs (1) and (2) above have the same meaning as in Part I of the Housing Act 1988 or, as the case may require, the Rent Act 1977.

**Marginal Citations**

**M21** 1988 c. 50.

**M22** 1977 c. 42.

*The Housing (Scotland) Act 1988 and the Rent (Scotland) Act 1984*

- 20 (1) This paragraph applies to a tenancy—
- (a) which was entered into before the appointed day; and
  - (b) which is of land in Scotland which, immediately before the appointed day, was functional health service land.
- (2) If and so long as the interest of the landlord under a tenancy to which this paragraph applies continues on and after the appointed day to belong in fact either to the Secretary of State or to an NHS trust, it shall be taken to belong to a government department for the purposes of—
- (a) paragraph 10 of Schedule 4 to the <sup>M23</sup>Housing (Scotland) Act 1988 (Crown tenancies entered into after the commencement of that Schedule not to be assured tenancies); or
  - (b) section 4 of the <sup>M24</sup>Rent (Scotland) Act 1984 (earlier Crown tenancies not to be protected tenancies).
- (3) Expressions used in sub-paragraphs (1) and (2) above have the same meaning as in Part II of the Housing (Scotland) Act 1988 or, as the case may be, the Rent (Scotland) Act 1984.

**Marginal Citations**

**M23** 1988 c. 43.

**M24** 1984 c. 58.



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## SCHEDULE 9

Section 66(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Public Health (Scotland) Act 1897*

- 1 (1) In section 54 of the <sup>M25</sup>Public Health (Scotland) Act 1897 (removal of infected persons without proper lodging to hospital), after the words “Secretary of State” in both places where they occur, there shall be inserted the words “or to any hospital managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978”.
- (2) In section 55(1) of that Act (detention of infected persons without proper lodging in hospital) after the word “hospital”, where it first appears, there shall be inserted the words “vested in the Secretary of State or managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978”.
- (3) In section 55(3) of that Act, after the words “vested in the Secretary of State” there shall be inserted the words “or managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978”.
- (4) In section 96 of that Act (power of local authority to remove sick persons to hospital), after the words “Secretary of State” there shall be inserted the words “or managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978”.

#### Marginal Citations

M25 1897 c. 38.

#### *The Voluntary Hospitals (Paying Patients) Act 1936*

- 2 In section 1 of the <sup>M26</sup>Voluntary Hospitals (Paying Patients) Act 1936 (definitions)
- (a) in the definition of “voluntary hospital”, after the words “of the rates” there shall be inserted “or which is vested in an NHS trust”; and
- (b) after the definition of “committee of management” there shall be inserted—
- ““NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990.”

#### Marginal Citations

M26 1936 c. 17.

#### *The Nursing Homes Registration (Scotland) Act 1938*

- [<sup>F753</sup> In section 10(3)(a) (interpretation) of the <sup>M27</sup>Nursing Homes Registration (Scotland) Act 1938, after the words “local authority” there shall be inserted the words “or a

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National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978.”.]

#### Textual Amendments

**F75** Sch. 9 para. 3 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(i)

#### Marginal Citations

**M27** 1938 c. 73.

#### *The Public Health (Scotland) Act 1945*

- 4 In section 1(3) of the <sup>M28</sup>Public Health (Scotland) Act 1945 (regulations with regard to treatment and prevention of spread of certain diseases)—
- (a) after the words “Health Boards” there shall be inserted the words “or National Health Service trusts established under section 12A of the National Health Service (Scotland) Act 1978”; and
  - (b) in the proviso to that subsection, after the word “Board” there shall be inserted the words “National Health Service trust”.

#### Marginal Citations

**M28** 1945 c. 15. (9 & 10 Geo. 6).

#### *The National Assistance Act 1948*

- 5 (1) At the beginning of subsection (4) of section 21 of the <sup>M29</sup>National Assistance Act 1948 (accommodation provided under section 21 to be provided in premises managed by a local authority) there shall be inserted “Subject to the provisions of section 26 of this Act”.
- (2) For paragraphs (b) and (c) of subsection (7) of that section (which enable health services to be provided on premises where accommodation is provided under that section) there shall be substituted—
- “(b) make arrangements for the provision on the premises in which the accommodation is being provided of such other services as appear to the authority to be required.”
- (3) At the end of subsection (8) of that section (which excludes from that section provision required to be made by a local authority under other enactments) there shall be inserted “or authorised or required to be provided under the National Health Service Act 1977”.
- (4) In section 24 of that Act (authority liable for provision of accommodation)—
- (a) in subsection (6) for the words from “patient” to “shall” there shall be substituted “patient in a hospital vested in the Secretary of State or an NHS trust shall”; and
  - (b) at the end there shall be added—
- “(7) In subsection (6) above “NHS trust” means a National Health Service trust established under Part I of the National Health Service

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and Community Care Act 1990 or under the National Health Service (Scotland) Act 1978.”

- (5) In section 26 of that Act (provision of accommodation in premises maintained by voluntary organisations etc.)—
- (a) in subsection (2) the words “subsection (1) of” shall be omitted;
  - (b) after subsection (4) there shall be inserted—
    - “(4A) Section 21(5) of this Act shall have effect as respects accommodation provided under arrangements made by virtue of this section with the substitution for the reference to the authority managing the premises of a reference to the authority making the arrangements.”;
  - (c) in subsection (5) the words “subsection (1) of” shall be omitted.
- (6) Subsections (2) and (3) of section 35 of that Act (duty of authorities to exercise functions under Part III of that Act in accordance with regulations) shall cease to have effect.
- (7) Section 36 of that Act (default powers of Minister) shall cease to have effect.
- (8) Section 54 of that Act (which enables inquiries to be held for the purposes of that Act) shall cease to have effect.
- (9) In paragraph (f) of section 65 of that Act (application to Scotland)—
- (a) the words “Part IV of” shall cease to have effect;
  - (b) at the end there shall be inserted “or section 7 (functions of local authorities) of the Mental Health (Scotland) Act 1984,”.

#### Commencement Information

**I4** Sch. 9 para. 5 wholly in force at 1.4.1993; Sch. 9 para. 5 not in force at Royal Assent see s. 67(2); Sch. 9 para. 5(4) in force at 5.7.1990 by S.I. 1990/1329, art. 2(1), Sch. 1; Sch. 9 para. 5(6)(7)(8)(9)(b) in force at 1.4.1991 by S.I. 1990/2218, art. 2, Sch. and 1990/2510, art. 2, Sch.; Sch. 9 para. 5(1)-(3)(5)(9)(a) in force at 1.4.1993 by S.I. 1992/2975, art. 2(2), Sch.

#### Marginal Citations

**M29** 1948 c. 29.

#### *The Public Records Act 1958*

- 6 In Schedule 1 to the <sup>M30</sup>Public Records Act 1958 (definition of public records), in the Table in Part I, in the entry relating to the Department of Health, in the second column—
- (a) after the words “National Health Service Authorities” there shall be inserted “including National Health Service trusts”; and
  - (b) for the words “National health service hospitals” there shall be substituted “health service hospitals, within the meaning of the National Health Service Act 1977”.

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**Marginal Citations**  
M30 1958 c. 51.

*The Human Tissue Act 1961*

7 F76 .....

**Textual Amendments**  
F76 Sch. 9 para 7 repealed (1.9.2006) by Human Tissue Act 2004 (c. 30), ss. 57, 60(2), Sch. 7 Pt. 1 (with s. 58); S.I. 2006/1997, art. 3(1)(2) (subject to transitional provisions in arts. 4, 7, 8) (as amended by S.I. 2006/2169, art. 2)

*The Abortion Act 1967*

8 In section 1 of the <sup>M31</sup>Abortion Act 1967 (medical termination of pregnancy), in subsection (3) after the words “National Health Service (Scotland) Act 1978” there shall be inserted “or in a hospital vested in a National Health Service trust”.

**Marginal Citations**  
M31 1967 c. 87.

*The Leasehold Reform Act 1967*

9 In section 28 of the <sup>M32</sup>Leasehold Reform Act 1967 (retention or resumption of land required for public purposes)—  
(a) in subsection (5)(d) for the words “and any special health authority” there shall be substituted “any special health authority and any National Health Service trust”; and  
(b) in subsection (6)(c) for the words “or special health authority” there shall be substituted “special health authority or National Health Service trust”.

**Marginal Citations**  
M32 1967 c. 88.

*The Social Work (Scotland) Act 1968*

10 (1) The <sup>M33</sup>Social Work (Scotland) Act 1968 shall be amended as follows.  
(2) In section 2 (the social work committee), in subsection (2) after paragraph (k) there shall be inserted—  
“(l) sections 21 to 23 of the Health and Social Services and Social Security Adjudications Act 1983;  
(m) the Access to Personal Files Act 1987.”

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- (3) In section 4 (provisions relating to performance of functions by local authorities), after the word “Act”, there shall be inserted the words “or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984.”.
- (4) <sup>F77</sup> . . . . .
- (5) In section 12 (general social welfare services of local authorities) at the end there shall be inserted—
- “(6) For the purposes of subsection (2) of this section “person in need” includes a person who is in need of care and attention arising out of drug or alcohol dependency or release from prison or other form of detention.”
- (6) In section 14 (home help), for the words—
- (a) “home help”, where they first occur there shall be substituted the words “domiciliary services”;
- (b) “help is”, there shall be substituted the words “services are”; and
- (c) “home help is”, there shall be substituted the words “domiciliary services are”.
- (7) In section 59(1) (provision of residential and other establishments), at the beginning there shall be inserted the words “Subject to section 13A of this Act.”.
- <sup>F78</sup>(8) In section 61(1A) (definition of “establishment”)—
- (a) after the word “include” there shall be inserted “(a)”; and
- (b) at the end of the definition of “establishment” there shall be inserted—
- “; or
- (b) any establishment providing residential accommodation with nursing falling within section 13A of this Act;”.
- (9) In subsection (1) of section 67 (inspection of establishments by local authorities)—
- (a) for the words “duly authorised officer of” there shall be substituted the words “person duly authorised by”;
- (b) for the words “required to be kept therein by virtue of this Part of this Act” there shall be substituted the words “(in whatever form they are held) relating to the place or to any person for whom services have been or are provided there by virtue of this Act or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984”;
- (c) after the words “subsections (2)”, there shall be inserted the words “to (2D)”;
- (d) for the words “an officer”, where they first occur, there shall be substituted the words “a person”; and
- (e) for the words “an officer of” there shall be substituted the words “a person authorised by”.
- (10) In subsection (2) of the said section 67, for the word “officer”, in both places where it occurs, there shall be substituted the word “person”.]
- (11) In subsection (1)(d) of section 86 (adjustments between authority providing accommodation etc., and authority of area of residence), at the end there shall be inserted—
- “or

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

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- (e) in the provision of accommodation, services or facilities for persons ordinarily so resident under section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984;”.
- (12) In subsection (3) of the said section 86, after the words “1978” there shall be inserted the words “or in a hospital managed by a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or section 12A of the National Health Service (Scotland) Act 1978”.
- (13) In section 87 (charges for services and accommodation),—
- (a) in subsection (1), after the words “under this Act”, there shall be inserted the words “or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984”;
  - (b) in subsection (1A), after the words “under this Act”, there shall be inserted the words “or section 7 or 8 of the said Act of 1984”;
  - (c) in subsections (2), (3) and (4), after the words “under this Act”, there shall be inserted the words “or section 7 of the said Act of 1984;” and
  - (d) in subsection (4), after the word “organisation” there shall be inserted the words “or any other person or body”.
- (14) In subsection (1) of section 94 (interpretation),—
- (a) after the definition of “contributor” there shall be inserted the following definition—
 

““domiciliary services” means any services, being services provided in the home, which appear to a local authority to be necessary for the purpose of enabling a person to maintain as independent an existence as is practicable in his home;” and
  - (b) in the definition of “hospital”, after the words “1978” there shall be inserted—
 

“(aa) any hospital managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978;”.

#### Textual Amendments

- F77** Sch. 9 para. 10(4) repealed (S.) (23.2.2006) by [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#), **ss. 8(4)(e)**, 10(2)
- F78** Sch. 9 para. 10(8)-(10) repealed (S.) (1.4.2002) by [2001 asp 8](#), **ss. 80(1), 81(2)**, **Sch. 4**; [S.S.I. 2002/162](#), **art. 2(i)**

#### Commencement Information

- I5** Sch. 9 para. 10 partly in force; [Sch. 9 para. 10](#) not in force at Royal Assent see [s.67\(2\)](#); [Sch. 9 para. 10\(12\)\(14\)\(b\)](#) in force at 24.07.1990 by [S.I. 1990/1520](#); [Sch. 9 para. 10\(2\)-\(6\)\(9\)-\(11\)\(13\)\(14\)\(a\)](#) in force at 1.4.1991 by [S.I. 1990/2510](#), **art. 2**, **Sch.**; [Sch. 9 para. 10\(7\)\(8\)](#) in force at 1.4.1993 by [S.I. 1992/2975](#), **art. 2(2)**, **Sch.**

#### Marginal Citations

- M33** 1968 c. 49.

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

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### *The Local Authority Social Services Act 1970*

11 In Schedule 1 to the <sup>M34</sup>Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committee)—

- (a) in the entry relating to the Children Act 1989, in the second column after the words “health authorities” there shall be inserted “National Health Service trusts”;
- (b) for the entry relating to section 6 of the Local Authority Social Services Act 1970 there shall be substituted—

“Sections 6 and 7B of this Act	Appointment of director of social services, etc; provision and conduct of complaints procedure.”; and
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- (c) at the end of that Schedule there shall be inserted—

“National Health Service and Community Care Act 1990 (c.19)

Section 46	Preparation of plans for community care services.
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Section 47	Assessment of needs for community care services.”
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#### **Commencement Information**

**I6** Sch. 9 para. 11 wholly in force at 1.4.1993; Sch. 9 para. 11 not in force at Royal Assent see s. 67(2); Sch. 9 para. 11(b) in force and para. 11(c) in force for certain purposes at 1.4.1991 by S.I. 1990/2218, art. 2 Sch.; Sch. 9 para. 11(a) in force and para. 11(c) in force so far as not already in force at 1.4.1993 by S.I. 1992/2975, art. 2(2), Sch.

#### **Marginal Citations**

**M34** 1970 c. 42.

### *The Chronically Sick and Disabled Persons Act 1970*

12 In section 2(1) of the <sup>M35</sup>Chronically Sick and Disabled Persons Act 1970, the words from “to the provisions” in the first place where they occur, to “the purpose) and” shall be omitted and after the words “Secretary of State)” there shall be inserted “and to the provisions of section 7A of that Act (which requires local authorities to exercise their social services functions in accordance with directions given by the Secretary of State)”.

#### **Commencement Information**

**I7** Sch. 9 para. 12 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/2218, art. 2, Sch.

#### **Marginal Citations**

**M35** 1970 c. 44.

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

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*The Local Government Act 1972*

13 In section 113 of the <sup>M36</sup>Local Government Act 1972 (placing of staff at disposal of other bodies),—

(a) <sup>F79</sup> .....

(b) at the end there shall be added the following subsection—

“(4) In subsection (1A) above “NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990.”

**Textual Amendments**

**F79** Sch. 9 para. 13(a) repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), Sch. 14 Pt. 1; S.I. 2004/759, art. 12

**Marginal Citations**

**M36** 1972 c. 70.

*The Criminal Procedure (Scotland) Act 1975*

14 In section 462 (interpretation) of the <sup>M37</sup>Criminal Procedure (Scotland) Act 1975, in paragraph (a) of the definition of “hospital”, after the words “Secretary of State” there shall be inserted the words “or in a National Health Service trust”.

**Marginal Citations**

**M37** 1975 c. 21.

*The Child Benefit Act 1975*

<sup>F80</sup>15 .....

**Textual Amendments**

**F80** Sch. 9 para. 15 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), Sch.1 (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14) s. 118(5) (7) (with s. 118(1)(2)(4))).

**Commencement Information**

**I8** Sch. 9 para. 15, before being brought into force was repealed (1.7.1992). By art. 2(2), Sch. of S.I. 1992/2975 (made on 30.11.1992), Sch. 9 para. 15 was expressed to be brought into force on 1.4.1993.

*The Children Act 1975*

16 In section 99(1)(b) of the <sup>M38</sup>Children Act 1975 (inquiries in Scotland) the words “paragraph (a) of section 1(4) and” shall cease to have effect and after the word “(h)” there shall be inserted “to (k)”.



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**Commencement Information**

**I9** Sch. 9 para. 16 wholly in force at 10.12.1992 see s. 67(2) and S.I. 1992/2975, **art. 2(1)(b)**.

**Marginal Citations**

**M38** 1975 c. 72.

*The Adoption Act 1976*

17 **F81** .....

**Textual Amendments**

**F81** Sch. 9 para. 17 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(3), 148, **Sch. 5** (with Sch. 4 paras. 6-8); S.I. 2005/2897, **art. 2(b)**

*The National Health Service Act 1977*

18 (1) **F82** .....

(2) At the end of section 43 of that Act (persons authorised to provide pharmaceutical services) there shall be added the following subsection—

“(3) No arrangements for the provision of pharmaceutical services falling within section 41(d) above shall be made with persons other than those who are registered pharmacists or are of a prescribed description.”

(3) In section 63 of that Act (hospital accommodation on part payment) after subsection (1) there shall be inserted the following subsection—

“(1C) References in subsection (1) above to a health service hospital do not include references to a hospital vested in an NHS trust.”

(4) At the end of section 65 of that Act (accommodation and services for private patients) there shall be added the following subsection—

“(4) References in the preceding provisions of this section to a health service hospital do not include references to a hospital vested in an NHS trust.”

(5) In section 83A of that Act (remission and repayment of charges and payment of travelling expenses) in subsection (1)—

- (a) in paragraph (b) **F83** . . . at the end there shall be added “and”, and
- (b) after paragraph (b) there shall be inserted the following paragraph—

“(c) for the reimbursement by a District Health Authority to an NHS trust and, in such cases as may be prescribed to another District Health Authority, of payments made by virtue of exercising the functions conferred under paragraph (b) above”.

(6) **F84** .....

(7) In section 85 of that Act (default powers)—

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- (a) in subsection (1),<sup>F85</sup> . . . in the words following paragraph (g) after the words “this Act” there shall be inserted “or Part I of the National Health Service and Community Care Act 1990”;
- (b) in subsection (2), for the words from the beginning to “body shall” there shall be substituted “The members of the body in default shall”;

<sup>F85</sup>(c) .....

(8) In section 86 of that Act (emergency powers) after the words “this Act”, in the first place where they occur, there shall be inserted “or Part I of the National Health Service and Community Care Act 1990” and after the words “this Act”, in the second place where they occur, there shall be inserted “or that Part”.

(9) At the end of section 103 of that Act (special arrangement as to payment of remuneration) there shall be inserted the following subsection—

“(3) If the Secretary of State by order so provides with respect to remuneration in respect of such pharmaceutical services as may be specified in the order,—

- (a) an NHS trust determined in accordance with the order shall have the function of paying sums so determined to the Family Health Services Authority which, under Part II of this Act, has the function of paying that remuneration; and
- (b) nothing in subsection (2) above shall apply with respect to that remuneration.”

<sup>F86</sup>(10) .....

<sup>F86</sup>(11) .....

(12) In section 122 of that Act (recovery of charges), in subsection (1) after the words “this Act”, in the second place where they occur, there shall be inserted “or Part I of the National Health Service and Community Care Act 1990”.

(13) <sup>F87</sup> .....

(14) In Schedule 8 to that Act (local social services authorities’ functions)—

- (a) in paragraph 1 (care of mothers) after the word “mothers” there shall be inserted “(other than for the provision of residential accommodation for them)”;
- (b) in paragraph 2 (prevention, care and after-care)—
  - (i) sub-paragraphs (1)(a) and (4) (which make provision respectively for the provision by authorities of residential accommodation and for regulations to be made conferring powers of inspection of certain premises provided under that paragraph) shall cease to have effect; and
  - (ii) after sub-paragraph (4A) there shall be inserted—

“(4AA) No authority is authorised or may be required under this paragraph to provide residential accommodation for any person.”

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### Textual Amendments

- F82** Sch. 9 para. 18(1) repealed (1.7.2002 for W. and 1.4.2006 for E.) by 2001 c. 15, s. 67, **Sch. 6 Pt. 2** (with ss. 64(9), 65(4)); S.I. 2002/1475, **art. 2(1)**, Sch. Pt. 1; S.I. 2006/481, **art. 3**
- F83** Words in Sch. 9 para. 18(5)(a) repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), **Sch. 14 Pt. 1**; S.I. 2004/759, **art. 12**
- F84** Sch. 9 para. 18(6) repealed (7.6.2005) by Inquiries Act 2005 (c. 12), ss. 49(2), 51(1), **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, **art. 2**
- F85** Sch. 9 para. 18(1)(b)(7)(c)(13)(a) and words in sub-para. (7)(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)
- F86** Sch. 9 para. 18(10)(11) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 3** (with s. 3(4)).
- F87** Sch. 9 para. 18(13) repealed (20.10.2003 for W. and 1.12.2003 for E.) by Health (Wales) Act 2003 (c. 4), ss. 7(2), 10(2), Sch. 4; S.I. 2003/2660, **art. 2(1)(iii)**; S.I. 2003/3064, **art. 2(1)(iii)**

### Commencement Information

- I10** Sch. 9 para. 18 wholly in force at 1.4.1993; Sch. 9 para. 18 not in force at Royal Assent see s. 67(2); Sch. 9 para. 18(1)(b)(3)-(13) in force at 5.7.1990 and Sch. 9 para. 18(1)(a)(c)(2) in force at 17.9.1990 by S.I. 1990/1329; Sch. 9 para. 18(14) in force at 1.4.1993 by S.I. 1992/2975, **art. 2(2)**, **Sch.**

## *The National Health Service (Scotland) Act 1978*

- 19 (1) In section 2 of the <sup>M39</sup>National Health Service (Scotland) Act 1978 (Health Boards), in subsection (5) after the words “subsection (1)” there shall be inserted “and in exercising any function otherwise conferred on them by or under this Act”.
- (2) <sup>F88</sup> .....
- (3) In section 12 of that Act (Scottish Hospital Endowments Research Trust), after subsection (4) there shall be inserted the following subsections—
- “(4A) The Research Trust shall have power to engage in activities intended to stimulate the giving of money or other property to assist them in carrying out the purpose aforesaid.
- (4B) Subject to any directions of the Secretary of State excluding specified activities or descriptions of activity, the activities authorised by subsection (4A) include public appeals or collections, and the soliciting of sponsorship, donations, legacies, bequests and gifts.”
- (4) In section 13 of that Act (co-operation between Health Boards and other authorities), after the word “Boards,” there shall be inserted “NHS trusts,”.
- (5) In subsection (1)(a) of section 13A of that Act (co-operation in planning of services for disabled persons, the elderly and others) for the words from “being” to the end there shall be substituted the words “by Health Boards and such of the authorities mentioned in that section as may be concerned;”.
- (6) For paragraph (b) of subsection (2) of section 25 of that Act (arrangements for provision of general dental services) there shall be substituted the following paragraph—
- “(b) for conferring a right, subject to—
- (i) subsection (2A);

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- (ii) the provisions of this Part relating to the disqualification of persons providing services; and
- (iii) section 8 (persons over retiring age) of the Health and Medicines Act 1988 and regulations made under that section,
- on any dental practitioner who wishes to be included in any such list to be so included;”.
- (7) In section 27 of that Act (arrangements for provision of pharmaceutical services)—
- (a) in subsection (1)—
- (i) for the word “supply” there shall be substituted “provision”;
- (ii) in paragraph (b), after the word “Board” there shall be inserted “or by an NHS trust”;
- (iii) at the end of paragraph (c) there shall be inserted—
- “; and
- (d) such services as may be prescribed;”;
- (iv) for the words “services provided in accordance with the arrangements are” there shall be substituted “provision of drugs, medicines, appliances and services in accordance with the arrangements is”;
- (b) in subsection (2), after the word “mentioned” in the second place where it occurs there shall be inserted “; or to whom services mentioned in subsection (1)(d) are to be provided;”;
- (c) in subsections (3)(b), (c) and (d) and (4), before the word “services” in each place where it occurs there shall be inserted “pharmaceutical”; and
- (d) in subsection (4)(d) for the words “a prescribed criterion” there shall be substituted “prescribed criteria”.
- (8) In section 28(2) of that Act (persons authorised to provide pharmaceutical services)
- 
- (a) after the word “medicines” in the first place where it occurs there shall be inserted “or the provision of pharmaceutical services”;
- (b) after the word “undertake” there shall be inserted “(a)”;
- (c) for the word “supplied” there shall be substituted “provided”; and
- (d) after the word “dispensed” there shall be inserted—
- “; and
- (b) that all services mentioned in section 27(1)(d) provided by them under those arrangements shall be provided;”.
- (9) In section 55(1) (hospital accommodation on part payment) of that Act, after the word “hospital” there shall be inserted the words “vested in the Secretary of State”.
- (10) In section 57(1) (accommodation and services for private patients), after the word “hospital” where it first occurs there shall be inserted “vested in the Secretary of State”.
- (11) In section 73 of that Act (charges for more expensive supplies) at the end there shall be inserted—
- “(c) by a National Health Service trust in respect of the supply by them of any appliance or vehicle which is, at the request of the person

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supplied, of a more expensive type than the prescribed type, or in respect of the replacement or repair of any such appliance, or the replacement of any such vehicle.”.

- (12) In section 74 of that Act (charges for repairs and replacement in certain cases), after paragraph (b) there shall be inserted—

“or

- (c) by an NHS trust in respect of the replacement or repair of any appliance or vehicle supplied by them.”.

- (13) In section 75A of that Act (remission and repayment of charges and payment of travelling expenses)—

- (a) in subsection (1), at the end there shall be inserted—

“and

- (d) for the payment by the Secretary of State to NHS trusts of such sums as will reimburse them for any sums paid by them as travelling expenses in such cases as may be prescribed”; and

- (b) in subsection (2), for the words “or (c)” there shall be substituted the words “, (c) or (d)”.

- (14) In section 77 of that Act (default powers), after paragraph (a) of subsection (1) there shall be inserted—

“(aa) an NHS trust”.

- (15) In section 79 of that Act (purchase of land and moveable property)—

- (a) in subsection (1), after the word “Act” where it first appears there shall be inserted the words “and may take any such property or land on lease,”; and  
(b) in subsection (2), after the word “(1),” there shall be inserted the words “other than on lease”.

- (16) In section 84 of that Act (power of trustees to make payments to Health Boards)—

- (a) in subsection (1), after the words “Health Board” where they—  
(i) second occur, there shall be inserted the words “or an NHS trust”; and  
(ii) third occur, there shall be inserted the words “or NHS trust”;  
(b) in subsection (2)—  
(i) after the words “Health Board” there shall be inserted the words “or NHS trust”; and  
(ii) after the word “Boards” there shall be inserted the words “or NHS trusts”. and  
(c) in subsection (3), after the words “Health Board” there shall be inserted the words “or an NHS trust”.

- (17) In section 84A of that Act (power to raise money by appeals etc)—

- (a) in subsection (1), after the word “Board” there shall be inserted “or NHS trust”; and  
(b) in subsections (3) to (7), after the word “Board” in each place where it occurs there shall be inserted “, NHS trust”.

<sup>F89</sup>(18) .....

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- (19) In section 101 of that Act (protection of health bodies and their officers), after the word “Board” there shall be inserted “, an NHS trust”.
- (20) In section 102(1) of that Act (management of state hospitals), for the word “90(2)” there shall be substituted “91(2)”.
- (21) In section 105 of that Act (orders, regulations and directions)—
- (a) after subsection (1) there shall be inserted the following subsection—
 

“(1A) Subsection (1) does not apply to orders made under section 12D(1) or paragraph 26(1) of Schedule 7A.”;
  - (b) in subsection (4), after the words “10(3) to (5)” there shall be inserted the words “12A(1), 12A(8), 12E(1), 12G(2),”; and
  - (c) at the end of the said subsection (4) there shall be inserted the words “paragraph 25(1) of Schedule 7A and paragraph 3 of Schedule 7B”.
- (22) In section 108(1) of that Act (interpretation)—
- (a) in the definition of “Health Board”, for the word “board” there shall be substituted the words “Health Board”;
  - (b) at the end of the definition of “health service hospital” there shall be added “or vested in an NHS trust”;
  - (c) after the definition of “modifications” there shall be inserted—
 

““National Health Service trust” has the meaning indicated by section 12A and “NHS trust” shall be construed accordingly”; and

““NHS contract” has the meaning indicated by section 17A(3)”;
  - (d) after the definition of “officer” there shall be inserted—
 

““operational date”, in relation to an NHS trust, shall be construed in accordance with paragraph 3(1)(e) of Schedule 7A;”; and
  - (e) after the definition of “the Research Trust” there shall be inserted—
 

““Special Health Board” means a Special Health Board constituted under section 2;”.
- (23) In section 110 of that Act (citation, extent and commencement)—
- (a) in subsection (2), for the words “subsection (3)” there shall be substituted “subsections (2A) and (3)”;
  - (b) after subsection (2) there shall be inserted—
 

“(2A) Section 87B(3) extends also to England and Wales.”
- (24) In Schedule 6 to that Act (the Hospital Trust)—
- (a) in paragraph 4(c), after the words “Health Boards” there shall be inserted the words “and NHS trusts”;
  - (b) after paragraph 4(e) there shall be inserted—
 

“(ea) power to accept from any NHS trust for investment and management on behalf of the trust any property held on behalf of the trust by trustees appointed by virtue of section 12G(2), and any endowments or accumulated income otherwise held by the trust;”;
  - (c) in paragraph 4(f)—

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- (i) after the words “paragraph (e)” there shall be inserted the words “or, as the case may be, 0paragraph (ea)”; and
- (ii) after the words “Health Board” there shall be inserted the words “or, as the case may be, by an NHS Trust”;
- (d) in paragraph 6(2), after the words “Health Boards” there shall be inserted the words “or NHS trusts”;
- (e) in paragraph 7(1), after the words “Health Boards” there shall be inserted the words “, NHS trusts”;
- (f) in paragraph 7(2), after the words “Health Boards” there shall be inserted the words “, NHS trusts”; and
- (g) in paragraph 7(3), at the end there shall be inserted—
  - “(c) in so far as it is distributed among NHS trusts, being used by that trust for any purpose for which the trust was established.”

**Textual Amendments**

**F88** Sch. 9 para. 19(2) repealed (S.) (1.4.2002) by S.S.I. 2002/176, art. 5 and expressed to be repealed (S.) (prosp.) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp. 4), ss. 17, 21(2), sch. 4 para. 11(b)

**F89** Sch. 9 para. 19(18) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), Sch. 3 (with s. 3(4)).

**Marginal Citations**

**M39** 1978 c. 29.

*The Employment Protection (Consolidation) Act 1978*

<sup>F90</sup>20 .....

**Textual Amendments**

**F90** Sch. 9 para. 20 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-200, 202)

*The Overseas Development and Co-operation Act 1980*

<sup>F91</sup>21 .....

**Textual Amendments**

**F91** Sch. 9 para. 21 repealed (17.6.2002) by 2002 c. 1, s. 19, Sch. 4 (with s. 20, Sch. 5 para. 5); S.I. 2002/1408, art. 2

*The Education Act 1981*

<sup>F92</sup>22 .....

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

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#### Textual Amendments

**F92** Sch. 9 para. 22 repealed (1.9.1994) by S.I. 1994/2038, art. 3, Sch. 2 Appendix

#### *The Acquisition of Land Act 1981*

- 23 In the <sup>M40</sup>Acquisition of Land Act 1981, in section 17 (local authority and statutory undertakers' land), in subsection (4), in the definition of "statutory undertakers" after paragraph (a) there shall be inserted—
- “(aa) a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990, and”.

#### Marginal Citations

**M40** 1981 c. 67.

#### *The Mental Health Act 1983*

- 24 (1) In section 12 of the <sup>M41</sup>Mental Health Act 1983 (general provisions as to medical recommendations), in subsection (3) after the words "National Health Service Act 1977" there shall be inserted "or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990".
- (2) In section 19 of that Act (regulations as to transfer of patients), in subsection (3)—
- after the words "such a hospital" there shall be inserted "or in a hospital vested in a National Health Service trust", and
  - for the words from "for which the managers" to "also the managers", there shall be substituted "which is managed by the managers of, or is vested in the National Health Service trust for, the first-mentioned hospital".
- (3) In section 23 of that Act (discharge of patients)—
- in subsection (3) after the words "a contract with a" there shall be inserted "National Health Service trust"<sup>F93</sup>. . . , and
  - in subsection (4), after the word "exercised" there shall be inserted "subject to subsection (5) below" and after the word "authority", in each place in which it occurs, there shall be inserted "trust", and
  - after subsection (4) there shall be inserted the following subsection—
- “(5) The reference in subsection (4) above to the members of an authority, trust or body or the members of a committee or sub-committee of an authority, trust or body,—
- in the case of a District or Special Health Authority or a committee or sub-committee of such an authority, is a reference only to the chairman of the authority and such members (of the authority, committee or sub-committee, as the case may be) as are not also officers of the authority, within the meaning of the National Health Service Act 1977; and
  - in the case of a National Health Service trust or a committee or sub-committee of such a trust, is a reference only to the



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chairman of the trust and such directors or (in the case of a committee or sub-committee) members as are not also employees of the trust.”

<sup>F93</sup>(4) . . . . .

(5) In section 32 of that Act (regulations for purposes of Part II), in subsection (3) <sup>F93</sup> . . . and for the words “and authorities” there shall be inserted “authorities and trusts”.

<sup>F93</sup>(6) . . . . .

(7) In section 139 of that Act (protection for acts done in pursuance of the Act), at the end of subsection (4) there shall be inserted “or against a National Health Service trust established under the National Health Service and Community Care Act 1990”.

(8) In section 140 of that Act (notification of hospitals having arrangements for reception of urgent cases) after the words “administered by” there shall be inserted “or otherwise available to”.

(9) In section 145(1) of that Act (definitions) in the definition of “the managers”, after paragraph (b) there shall be inserted the following paragraph—

“(bb) in relation to a hospital vested in a National Health Service trust, the directors of the trust”.

**Textual Amendments**

**F93** Sch. 9 para. 24(4)(6) and words in sub-paras. (3)(a), (5) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

**Marginal Citations**

**M41** 1983 c. 20.

*The Health and Social Services and Social Security Adjudications Act 1983*

25 (1) In section 17 of the <sup>M42</sup>Health and Social Services and Social Security Adjudications Act 1983 (charges for local authority services in England and Wales) after paragraph (e) of subsection (2) (services to which that section applies) there shall be inserted “other than the provision of services for which payment may be required under section 22 or 26 of the National Assistance Act 1948”.

(2) In subsection (8) of section 21 of that Act (recovery of sums due to local authority where persons in residential accommodation have disposed of assets), at the end there shall be inserted the words “or section 7 (functions of local authorities) of the Mental Health (Scotland) Act 1984”.

**Commencement Information**

**I11** Sch. 9 para. 25 wholly in force at 12.4.1993; Sch. 9 para. 25 not in force at Royal Assent see s. 67(2); Sch. 9 para. 25(1) in force at 1.4.1993 and para. 25(2) in force at 12.4.1993 by S.I. 1992/2975, art. 2(2)(3)(b), Sch.

**Marginal Citations**

**M42** 1983 c. 41.

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*The Public Health (Control of Disease) Act 1984*

- 26 <sup>F94</sup>(1) .....
- (2) In section 37 of that Act (removal to hospital of person with notifiable disease), in subsection (1)—
  - (a) in paragraph (c) after the words “Secretary of State” there shall be inserted “or, pursuant to arrangements made by a District Health Authority (whether under an NHS contract or otherwise), in a suitable hospital vested in a NHS trust or other person”; <sup>F95</sup> . . .
  - <sup>F95</sup>(b) .....
- (3) In section 41 of that Act (removal to hospital of inmate of common lodging-house with notifiable disease), in subsection (1)—
  - (a) in paragraph (c) after the words “Secretary of State” there shall be inserted “or, pursuant to arrangements made by a District Health Authority (whether under an NHS contract or otherwise) in a suitable hospital vested in an NHS trust or any other person”; <sup>F96</sup> . . .
  - <sup>F96</sup>(b) .....
- (4) In section 74 of that Act (definitions) after the definition of “London port health authority” there shall be inserted—
 

““NHS trust” and “NHS contract” have the same meaning as in Part I of the National Health Service and Community Care Act 1990 or, as the case may require, the National Health Service (Scotland) Act 1978”.

**Textual Amendments**

**F94** Sch. 9 para. 26(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

**F95** Sch. 9 para. 26(2)(b) and preceding “and” repealed (1.10.2002) by S.I. 2002/2469, reg. 19, Sch. 13

**F96** Sch. 9 para. 26(3)(b) and preceding “and” repealed (1.10.2002) by S.I. 2002/2469, reg. 19, Sch. 13

*The Registered Homes Act 1984*

27 <sup>F97</sup> .....

**Textual Amendments**

**F97** Sch. 9 para. 27 repealed (1.4.2002 for E.W.) by 2000 c. 14, ss. 117(2), 122, Sch. 6; S.I. 2001/4150, arts. 3(3)(c)(ix) (subject to transitional provisions in art. 4 and S.I. 2002/1493, art. 4); S.I. 2002/920, art. 3(g)(vii) (with art. 3(5)(10))

*The Mental Health (Scotland) Act 1984*

28 <sup>F98</sup> .....

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**Textual Amendments**

**F98** Sch. 9 para. 28 repealed (S.) (5.10.2005) by **Mental Health (Care and Treatment) (Scotland) Act 2003** (asp. 13), ss. 331(2), 333(3), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3** (as substituted by S.S.I. 2005/375, **art. 2**, and as amended by S.S.I. 2005/459, **art. 2**)

*The Hospital Complaints Procedure Act 1985*

**F99**29 .....

**Textual Amendments**

**F99** Sch. 9 para. 29 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)

*The Disabled Persons (Services, Consultation and Representation) Act 1986*

30 (1) In section 2 of the <sup>M43</sup>Disabled Persons (Services, Consultation and Representation) Act 1986 (rights of authorised representatives of disabled persons), in subsection (5) (by virtue of which a disabled person's authorised representative may visit and interview him in various categories of accommodation)—

- (a) in paragraph (a) (hospital accommodation) after the words “the 1977 Act” there shall be inserted “or by a National Health Service trust established under the provisions of the National Health Service and Community Care Act 1990” and after the words “the 1978 Act” there shall be inserted “or by a National Health Service trust established under that Act”;
- (b) in paragraph (c) (accommodation provided by a voluntary organisation in accordance with arrangements made under section 26 of the National Assistance Act 1948) after the word “organisation”, in the first place where it occurs, there shall be inserted the words “or other person”; and
- (c) in paragraph (cc) (which is inserted by paragraph 59(4) of Schedule 13 to the <sup>M44</sup>Children Act 1989) after the word “organisation” there shall be inserted the words “or other person”.

(2) In section 7 of that Act (persons discharged from hospital), in subsection (9), in the definition of “managers” the word “and” at the end of paragraph (c) shall be omitted and after that paragraph there shall be inserted—

“(cc) in relation to a hospital vested in a National Health Service trust means the directors of that trust; and”.

**Marginal Citations**

**M43** 1986 c. 33.

**M44** 1989 c. 41.

*The Education (No. 2) Act 1986*

**F100**31 .....

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

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#### Textual Amendments

**F100** Sch. 9 para. 31 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt. I, **Sch. 39** (with ss. 1(4), 561, Sch. 39 paras. 5, 6, 8 and 30)

#### *The AIDS (Control) Act 1987*

32 (1) Section 1 of the <sup>M45</sup>AIDS (Control) Act 1987 (periodical reports on matters relating to AIDS and HIV) shall be amended as follows—

(a) in subsection (1), in paragraph (b) <sup>F101</sup> . . . at the end of sub-paragraph (iii) there shall be inserted—

“and

(iv) each NHS trust”;

<sup>F101</sup>(b) .....

<sup>F101</sup>(c) .....

(d) at the end there shall be added—

“(10) In this section “NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or, as the case may be, under the National Health Service (Scotland) Act 1978.”

(2) In the Schedule to that Act (contents of reports), after the word “Authority”, in each place in which that word appears, there shall be inserted “NHS trust”.

#### Textual Amendments

**F101** Sch. 9 para. 32(1)(b)(c) and words in para.(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)

#### Marginal Citations

**M45** 1987 c. 33.

#### *The Community Health Councils (Access to Information) Act 1988*

33 In section 1 of the <sup>M46</sup>Community Health Councils (Access to Information) Act 1988 (access to meetings and documents of Community Health Councils), in subsection (6)(a) after the words “exercises functions” there shall be inserted “or any National Health Service trust which is established under Part I of the National Health Service and Community Care Act 1990 and carries on any of its activities from premises in the area of the authority”.

#### Marginal Citations

**M46** 1988 c. 24.

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*The Health and Medicines Act 1988*

- 34 In section 7 of the <sup>M47</sup>Health and Medicines Act 1988 (extension of powers for financing the health service) in subsection (2), after the word “powers”, in the second place where it occurs, there shall be inserted “(exercisable outside as well as within Great Britain)”.

**Marginal Citations**

**M47** 1988 c. 49.

*The Road Traffic Act 1988*

- 35 In section 161 of the <sup>M48</sup>Road Traffic Act 1988 (interpretation) in subsection (1), in the definition of “hospital” for the word “an”, in the first place where it occurs, there shall be substituted “any health service hospital, within the meaning of the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978 and any other”.

**Marginal Citations**

**M48** 1988 c. 52.

*The Children Act 1989*

- 36 (1) In section 21 of the <sup>M49</sup>Children Act 1989 (provision of accommodation for children in police protection etc.), in subsection (3) after the words “vested in the Secretary of State” shall be inserted the words “or otherwise made available pursuant to arrangements made by a District Health Authority”.
- (2) In section 24 of that Act (advice and assistance for certain children)—
- (a) at the end of subsection (2)(d)(ii) there shall be added the words “or in any accommodation provided by a National Health Service trust”; and
  - (b) at the end of subsection (12)(c) there shall be added the words “or any accommodation provided by a National Health Service trust”.
- (3) In section 29 of that Act (recoupment of cost of providing services etc.), at the end of paragraph (c) of subsection (8) there shall be added the words “or any other hospital made available pursuant to arrangements made by a District Health Authority”.
- (4) In section 80 of that Act (inspection of children’s homes etc.)—
- (a) <sup>F102</sup> .....
  - (b) in subsection (5)(e) after the words “health authority” there shall be inserted “National Health Service trust”.
- (5) In section 85 of that Act (children accommodated by health authorities and local education authorities), in subsection (1) after the words “health authority” there shall be inserted “National Health Service trust”.

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#### Textual Amendments

**F102** Sch. 9 para. 36(4)(a) repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), Sch. 14 Pt. 1; S.I. 2004/759, art. 12

#### Marginal Citations

**M49** 1989 c. 41.

#### *The Opticians Act 1989*

- 37 In section 27 of the <sup>M50</sup>Opticians Act 1989 (sale and supply of optical appliances), at the end of subsection (4)(b)(i) there shall be inserted “or the National Health Service and Community Care Act 1990”.

#### Marginal Citations

**M50** 1989 c. 44.

## SCHEDULE 10

Section 66(2).

### ENACTMENTS REPEALED

#### Commencement Information

**I12** Sch. 10 partly in force; Sch. 10 not in force at Royal assent see s. 67(2); Sch. 10 in force so far as it relates to specified repeals: at 5.7.1990, 17.9.1990, 1.10.1990, 1.1.1991 and 1.4.1991 by S.I. 1990/1329; at 17.9.1990, 1.1.1991 and 1.4.1991 by S.I. 1990/1793; at 6.4.1992 by S.I. 1992/567, art 2; at 10.12.1992 and 1.4.1993 by S.I. 1992/2975, art. 2, Sch.; at 1.4.1995 by S.I. 1994/2658, art. 4(c)

Chapter	Short title	Extent of repeal
1 & 2 Geo.6 c. 73.	The Nursing Homes Registration (Scotland) Act 1938.	Section 1(3)(bb) and (bc).
11 & 12 Geo.6 c. 29.	The National Assistance Act 1948.	In section 21(8) the words from the beginning to “subsection”. Section 22(7). In section 26, in subsections (2) and (5) the words “subsection (1) of”. Section 35(2) and (3). Section 36.

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		In section 41(1) the words “the Mental Health Act 1959, or”.
		Section 54.
7 & 8 Eliz.2 c. 72.	The Mental Health Act 1959.	In section 8, subsection (1), in subsection (2) the words from the beginning to “description; and” and the words “accommodation or” in the second place where they occur and subsection (3).
1968 c. 46.	The Health Services and Public Health Act 1968.	Section 44(1).
		In section 45, in subsection (5), in paragraph (b) the word “36” and in paragraph (c) the word “54”.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 1, in subsection (4) (b), the word “and”, and subsection (4)(c).
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	In section 2(1) the words from “to the provisions” in the first place where they occur, to “the purpose) and”.
1971 c. 40.	The Fire Precautions Act 1971.	In section 40, subsections (2) (c) and (10).
1972 c. 70.	The Local Government Act 1972.	In Schedule 23, in paragraph 2, in sub-paragraph (3) the words from “in subsection (1)” to “whereby” and “of that section” and sub-paragraph (7), and paragraph 9(1).
1973 c. 32.	The National Health Service Reorganisation Act 1973.	In Schedule 4, paragraph 45.
1975 c. 14.	The Social Security Act 1975.	In section 35(6)(a) the words from “paragraph 2” to “1977”.
1975 c. 72.	The Children Act 1975.	In section 99(1)(b) the words “paragraph (a) of section 1(4) and”.
1976 c. 83.	The Health Services Act 1976.	The whole Act.
1977 c. 49.	The National Health Service Act 1977.	In section 8, in subsection (1) the word “areas”, in each

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place where it occurs, and in paragraph (b) the word “or”, where it first appears; subsection (1A)(b); in subsection (2) the words “area or” (and “Area or”), in each place where they occur; in subsection (3) the words “areas or” and “area or”; subsection (5).

Section 10(7).

In section 11(1) the words “Area or”.

In section 12(a) the words “Area Health Authorities”.

In section 13(1) the words “an Area Health Authority of which the area is in Wales”.

In section 14 the words “Area or” and “area or”, in each place where they occur.

In section 16, in subsection (1) the words “Area or”, where they occur in paragraphs (c) and (d); in subsection (2) the words “an Area Health Authority”, in the first place where they occur, and the words “an Area Health Authority and a District Health Authority are equivalent to each other”.

In section 18(3) the words “Area or”.

Section 33(7).

In section 41(b) the final word “and”.

Section 55.

Section 85(1)(e), (3) and (4).

In section 91(3)(b) the words “Area or”.

In section 97(6) the word “Area”.

In section 98, subsections (1) (b) and (3).



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		Section 99(1)(b). In Schedule 5, Parts I and II in paragraph 8 the words “Area Health Authority” and paragraph 15(2). In Schedule 8, in paragraph 2, sub-paragraph (1)(a), in sub-paragraph (3) the words “residential accommodation or”, and sub-paragraph (4). In Schedule 14, in paragraph 13(1)(b) the word “44”. In Schedule 15, paragraphs 5, 24(1), 63 and 67.
1978 c. 29.	The National Health Service (Scotland) Act 1978.	Section 2(9). Sections 5 and 6. In section 7(2), the words from “by local authorities” to “and for the appointment”. In section 10, in subsection (4), the words “the Planning Council”, and subsection (9). Section 13A(1)(c). Section 13B. Section 23(7). Section 57(3). Section 85(1)(a). Section 86(2). In section 108(1), the definitions of “the national consultative committees” and “the Planning Council”. Schedule 3. In Schedule 15, in paragraph 10(b) “82” and paragraph 15.
1978 c. 44.	The Employment Protection (Consolidation) Act 1978.	In section 99, in subsection (1), paragraph (c) and the word “or” immediately preceding it. In section 111(1)(a) the words “or paragraph (c)”.

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		Section 138(5).
		Section 149(1)(d).
		Schedule 5.
1980 c. 53.	The Health Services Act 1980.	Sections 12 to 15.
		Section 22.
		In Schedule 1, paragraph 5; in paragraph 78, subparagraphs (2) to (6); paragraph 79.
		In Schedule 2, paragraphs 1 to 6.
		Schedule 3.
		In Schedule 4, paragraph 7(b).
1983 c. 20.	The Mental Health Act 1983.	Section 124.
		In section 135(6) the words from “or under” to “1977”.
1983 c. 41.	The Health and Social Services and Social Security Adjudications Act 1983.	In section 30, in subsection (3), paragraph (a) and in the words following paragraph (b) the words “2(1) and” and “respectively”.
1984 c. 22.	The Public Health (Control of Disease) Act 1984.	In section 37(1) the words “Area or”.
		In section 41(1) the words “Area or”.
1984 c. 23.	The Registered Homes Act 1984.	Section 25(1)(d) and (e).
1984 c. 36.	The Mental Health (Scotland) Act 1984.	Section 13(1)(c).
1984 c. 48.	The Health and Social Security Act 1984.	In Schedule 3, paragraphs 6(a) and 12.
1986 c. 33.	The Disabled Persons (Services, Consultation and Representation) Act 1986.	In section 2(5)(b), the words “or Schedule 8 to the 1977 Act”.
1986 c. 50.	The Social Security Act 1986.	In Schedule 10, paragraph 32(2).
1986 c. 66.	The National Health Service (Amendment) Act 1986.	Sections 1 and 2.

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1988 c. 9.	The Local Government Act 1988.	In Schedule 1, in paragraph 2(4)(b) the words from “Schedule 8” to “1977”.
1988 c. 41.	The Local Government Finance Act 1988.	In Schedule 1, in paragraph 9(2)(b) the words from “or paragraph” to “1977”.
1988 c. 49.	The Health and Medicines Act 1988.	In Schedule 2, paragraph 11.
1989 c. 42.	The Local Government and Housing Act 1989.	In section 184, subsections (1) and (3).
1990 c. 19.	The National Health Service and Community Care Act 1990.	Section 36(5).

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