

Status: Point in time view as at 01/03/2007.

Changes to legislation: National Health Service Act 2006, SCHEDULE 10 is up to date with all changes known to be in force on or before 13 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)

SCHEDULES

SCHEDULE 10

Section 62

AUDIT OF ACCOUNTS OF NHS FOUNDATION TRUSTS

General duty

- 1 In auditing the accounts of any NHS foundation trust an auditor must by examination of the accounts and otherwise satisfy himself that—
- (a) they are prepared in accordance with directions under paragraph 25 of Schedule 7,
 - (b) they comply with the requirements of all other provisions contained in, or having effect under, any enactment which are applicable to them,
 - (c) proper practices have been observed in their compilation, and
 - (d) the trust has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Right to documents and information

- 2 (1) An auditor of an NHS foundation trust has a right of access at all reasonable times to every document relating to the trust which appears to him necessary for the purposes of his functions under this Chapter.
- (2) The auditor may—
- (a) require a person holding or accountable for any such document to give him such information and explanation as he considers necessary for the purposes of his functions under this Chapter,
 - (b) if he considers it necessary, require the person to attend before him in person to give the information or explanation or to produce the document.
- (3) The auditor may also—
- (a) require any director or officer of the trust to give him such information or explanation as he considers necessary for the purposes of his functions under this Chapter,
 - (b) if he considers it necessary, require the director or officer to attend before him in person to give the information or explanation.
- (4) The trust must provide the auditor with every facility and all information which he may reasonably require for the purposes of his functions under this Chapter; but this sub-paragraph does not affect the generality of sub-paragraphs (1) to (3).
- (5) A person who without reasonable excuse fails to comply with any requirement of an auditor of an NHS foundation trust under any of sub-paragraphs (1) to (3) is guilty of an offence.
- (6) A person guilty of an offence under sub-paragraph (5) is liable on summary conviction—

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- (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for the offence.
- (7) Any expenses incurred by an auditor of an NHS foundation trust in connection with proceedings for an offence under sub-paragraph (5) alleged to have been committed in relation to the audit of the accounts of the trust, so far as not recovered from any other source, are recoverable from the trust.

Reports

- 3 In auditing the accounts of an NHS foundation trust, the auditor must consider—
- (a) whether, in the public interest, he should make a report on any matter coming to his notice in the course of the audit, in order for it to be considered by the trust or brought to the attention of the public, and
 - (b) whether the public interest requires any such matter to be made the subject of an immediate report rather than of a report to be made at the conclusion of the audit.
- 4 (1) When an auditor of an NHS foundation trust has concluded his audit of the trust's accounts, he must enter on the accounts—
- (a) a certificate that he has completed the audit in accordance with this Chapter, and
 - (b) his opinion on the accounts.
- (2) But where the auditor makes a report to the board of governors and board of directors of the trust under paragraph 3 at the conclusion of the audit, he may instead include the certificate and his opinion in that report.
- 5 (1) Any report under paragraph 3 must be sent by the auditor to the board of governors and board of directors of the trust and to the regulator—
- (a) at once if it is an immediate report,
 - (b) otherwise not later than 14 days after conclusion of the audit.
- (2) The directors must take the report into consideration as soon as practicable after receiving it.

Referral to regulator

- 6 If the auditor of an NHS foundation trust has reason to believe that the trust or a director or officer of the trust—
- (a) is about to make, or has made, a decision which involves or would involve the incurring of expenditure which is unlawful, or
 - (b) is about to take, or has taken, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,
- he must refer the matter at once to the regulator.

Audit of accounts of directors or officers

- 7 (1) Where a director or officer of an NHS foundation trust receives money or other property—
- (a) on behalf of the trust, or
 - (b) for which he ought to account to the trust,

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the accounts of the director or officer must be audited by the auditor of the accounts of the trust.

- (2) The accounts of the director or officer must be made up to 31st March.
- (3) Paragraph 25(5) of Schedule 7 and paragraphs 1 to 5 of this Schedule apply with the necessary modifications to the audit under this paragraph.

Restriction on disclosure of information

- 8 (1) No information relating to an NHS foundation trust or other person and obtained by an auditor (or by a person acting on the auditor's behalf) under this Chapter or in the course of an audit under this Chapter may be disclosed except—
 - (a) with the consent of the person to whom the information relates,
 - (b) for the purposes of any functions of an auditor of an NHS foundation trust,
 - (c) for the purposes of the functions of the regulator,
 - (d) for the purposes of the functions of the Comptroller and Auditor General under this Chapter,
 - (e) for the purposes of the functions of the Commission for Healthcare Audit and Inspection under Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43),
 - (f) for the purposes of any criminal proceedings.
- (2) A person who discloses information in contravention of sub-paragraph (1) is guilty of an offence.
- (3) A person guilty of an offence under sub-paragraph (2) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or to both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or to both).
- (4) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' courts power to impose imprisonment) the reference in sub-paragraph (3) to a period of imprisonment of 12 months is a reference to a period of imprisonment of 6 months.

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