

**Changes to legislation:** National Health Service Act 2006, SCHEDULE A1 is up to date with all changes known to be in force on or before 14 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) View outstanding changes

## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1

Section 1H(4)

### [<sup>F2</sup>NHS ENGLAND]

#### Textual Amendments

- F1** Sch. A1 inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. 9(2), 306(4), [Sch. 1](#) (with [Sch. 6 para. 2](#)); [S.I. 2012/1831](#), art. 2(2) (with art. 3(3)); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F2** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

#### Status

- 1 (1) [<sup>F2</sup>NHS England] is not to be regarded as a servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown.
- (2) [<sup>F2</sup>NHS England's] property is not to be regarded as property of, or property held on behalf of, the Crown.

#### Membership

- 2 (1) [<sup>F2</sup>NHS England] is to consist of—
  - (a) a chair appointed by the Secretary of State,
  - (b) at least five other members so appointed, and
  - (c) the chief executive and other members appointed in accordance with paragraph 3.
- (2) In this Schedule—
  - (a) references to non-executive members of [<sup>F2</sup>NHS England] are references to the members appointed in accordance with sub-paragraph (1)(a) and (b), and
  - (b) references to executive members of [<sup>F2</sup>NHS England] are references to the other members.
- (3) The number of executive members must be less than the number of non-executive members.

#### The chief executive and other executive members: appointment and status

- 3 (1) The chief executive and the other executive members of [<sup>F2</sup>NHS England] are to be appointed by the non-executive members.
- (2) A person may not be appointed as chief executive without the consent of the Secretary of State.

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- (3) The chief executive and the other executive members are to be employees of [F<sup>2</sup>NHS England].
- (4) The first chief executive of [F<sup>2</sup>NHS England] is to be appointed by the Secretary of State.

*Non-executive members: tenure*

- 4 (1) A person holds and vacates office as a non-executive member of [F<sup>2</sup>NHS England] in accordance with that person's terms of appointment.
- (2) A person may at any time resign from office as a non-executive member by giving notice to the Secretary of State.
- (3) The Secretary of State may at any time remove a person from office as a non-executive member on any of the following grounds—
  - (a) incapacity,
  - (b) misbehaviour, or
  - (c) failure to carry out his or her duties as a non-executive member.
- (4) The Secretary of State may suspend a person from office as a non-executive member if it appears to the Secretary of State that there are or may be grounds to remove that person from office under sub-paragraph (3).
- (5) A person may not be appointed as a non-executive member for a period of more than four years.
- (6) A person who ceases to be a non-executive member is eligible for re-appointment.

*Suspension of non-executive members*

- 5 (1) This paragraph applies where a person is suspended under paragraph 4(4).
- (2) The Secretary of State must give notice of the decision to the person; and the suspension takes effect on receipt by the person of the notice.
- (3) The notice may be—
  - (a) delivered in person (in which case the person is taken to receive it when it is delivered), or
  - (b) sent by first class post to the person's last known address (in which case, the person is taken to receive it on the third day after the day on which it is posted).
- (4) The initial period of suspension must not exceed six months.
- (5) The Secretary of State may at any time review the suspension.
- (6) The Secretary of State—
  - (a) must review the suspension if requested in writing by the person to do so, but
  - (b) need not review the suspension less than three months after the beginning of the initial period of suspension.
- (7) Following a review during a period of suspension, the Secretary of State may—
  - (a) revoke the suspension, or

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- (b) suspend the person for another period of not more than six months from the expiry of the current period.
- (8) The Secretary of State must revoke the suspension if the Secretary of State —
- (a) decides that there are no grounds to remove the person from office under paragraph 4(3), or
  - (b) decides that there are grounds to do so but does not remove the person from office under that provision.
- 6 (1) Where a person is suspended from office as the chair under paragraph 4(4), the Secretary of State may appoint a non-executive member as interim chair to exercise the chair's functions.
- (2) Appointment as interim chair is for a term not exceeding the shorter of—
- (a) the period ending with either—
    - (i) the appointment of a new chair, or
    - (ii) the revocation or expiry of the existing chair's suspension, and
  - (b) the remainder of the interim chair's term as a non-executive member.
- (3) A person who ceases to be the interim chair is eligible for re-appointment.

#### *Payment of non-executive members*

- 7 (1) [F<sup>2</sup>NHS England] must pay to its non-executive members such remuneration as the Secretary of State may determine.
- (2) [F<sup>2</sup>NHS England] must pay or make provision for the payment of such pensions, allowances or gratuities as the Secretary of State may determine to or in respect of any person who is or has been a non-executive member of [F<sup>2</sup>NHS England].
- (3) If a person ceases to be a non-executive member and the Secretary of State decides that there are exceptional circumstances which mean that the person should be compensated, [F<sup>2</sup>NHS England] must pay compensation to the person of such amount as the Secretary of State may, with the approval of the Treasury, determine.

#### *Staff*

- 8 [F<sup>2</sup>NHS England] may appoint such persons to be employees of [F<sup>2</sup>NHS England] as it considers appropriate.
- 9 (1) Employees of [F<sup>2</sup>NHS England] are to be paid such remuneration and allowances as [F<sup>2</sup>NHS England] may determine.
- (2) Employees of [F<sup>2</sup>NHS England] are to be appointed on such other terms and conditions as [F<sup>2</sup>NHS England] may determine.
- (3) [F<sup>2</sup>NHS England] may pay or make provision for the payment of such pensions, allowances or gratuities as it may determine to or in respect of any person who is or has been an employee of [F<sup>2</sup>NHS England].
- (4) Before making a determination as to remuneration, pensions, allowances or gratuities for the purposes of this paragraph, [F<sup>2</sup>NHS England] must obtain the approval of the Secretary of State to its policy on the matter.

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- [<sup>F3</sup>9A (1) NHS England may make arrangements for a person to be seconded to NHS England to serve as a member of NHS England’s staff.
- (2) A period of secondment to NHS England does not affect the continuity of a person’s employment with the employer from whose service the person is seconded.
- (3) In paragraphs 9, 10, and 13 a reference to an employee of NHS England includes a person seconded to NHS England.
- (4) In paragraph 3(3) the reference to an employee of NHS England includes any of the following seconded to NHS England—
- (a) a person employed in the civil service of the State, or
  - (b) a person employed by—
    - (i) an integrated care board,
    - (ii) an NHS trust established under section 25,
    - (iii) an NHS foundation trust,
    - (iv) a Special Health Authority performing functions only or mainly in respect of England,
    - (v) the Care Quality Commission,
    - <sup>F4</sup>(vi) . . . . .
    - (vii) the Health Services Safety Investigations Body,
    - (viii) the Human Tissue Authority,
    - (ix) the Human Fertilisation and Embryology Authority, or
    - (x) NICE.
- (5) The Secretary of State may by regulations amend this paragraph so as to provide that other references in this Act to an employee of NHS England include persons, or persons of a prescribed description, seconded to NHS England.]

#### Textual Amendments

- F3** Sch. A1 para. 9A inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 17(3), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Sch. A1 para. 9A(4)(b)(vi) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), Sch. para. 10(11) (with reg. 3)

#### Textual Amendments

- F3** Sch. A1 para. 9A inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 17(3), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Sch. A1 para. 9A(4)(b)(vi) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), Sch. para. 10(11) (with reg. 3)

#### Committees

- 10 (1) [<sup>F2</sup>NHS England] may appoint such committees and sub-committees as it considers appropriate.

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- (2) A committee or sub-committee may consist of or include persons who are not members or employees of [F2NHS England].
- (3) [F2NHS England] may pay such remuneration and allowances as it determines to any person who—
- (a) is a member of a committee or a sub-committee, but
  - (b) is not an employee of [F2NHS England],
- whether or not that person is a non-executive member of [F2NHS England].

### *Trust funds and trustees*

F511 .....

#### **Textual Amendments**

**F5** Sch. A1 para. 11 omitted (17.6.2021) by virtue of [NHS \(Charitable Trusts Etc\) Act 2016 \(c. 10\)](#), **ss. 1(1)(c), 5(1)**; S.I. 2021/712, reg. 3(a)

### *Procedure*

- 12 (1) [F2NHS England] may regulate its own procedure.
- (2) The validity of any act of [F2NHS England] is not affected by any vacancy among the members or by any defect in the appointment of any member.

### *Exercise of functions*

- 13 [F2NHS England] may arrange for the exercise of any of its functions on its behalf by—
- (a) any non-executive member,
  - (b) any employee (including any executive member), or
  - (c) a committee or sub-committee.

F6 ...

F614 .....

#### **Textual Amendments**

**F6** Sch. A1 para. 14 and cross-heading omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 45(4), 186(6)**; S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

### *Accounts*

- 15 (1) [F2NHS England] must keep proper accounts and proper records in relation to the accounts.
- (2) The Secretary of State may, with the approval of the Treasury, give directions to [F2NHS England] as to—

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- (a) the content and form of its accounts, and
  - (b) the methods and principles to be applied in the preparation of its accounts.
- (3) In sub-paragraph (2) the reference to accounts includes a reference to [F<sup>2</sup>NHS England's] consolidated annual accounts prepared under paragraph 16 and any interim accounts prepared by virtue of paragraph 17.
- (4) The chief executive of [F<sup>2</sup>NHS England] is to be its accounting officer.

#### *Annual accounts*

- 16 (1) [F<sup>2</sup>NHS England] must prepare consolidated annual accounts in respect of each financial year.
- (2) The consolidated annual accounts must contain—
- (a) [F<sup>2</sup>NHS England's] annual accounts, and
  - (b) a consolidation of [F<sup>2</sup>NHS England's] annual accounts and the annual accounts of each [F<sup>7</sup>integrated care board].
- (3) [F<sup>2</sup>NHS England] must send copies of the consolidated annual accounts to—
- (a) the Secretary of State, and
  - (b) the Comptroller and Auditor General,
- within such period after the end of the financial year to which the accounts relate as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the consolidated annual accounts, and
  - (b) lay copies of the accounts and the report on them before Parliament.
- (5) In this paragraph, “financial year” includes the period which begins with the day on which [F<sup>2</sup>NHS England] is established and ends on the following 31 March.

#### **Textual Amendments**

- F7** Words in [Sch. A1 para. 16\(2\)\(b\)](#) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 4 para. 134\(2\)](#); [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 26, 29, 30](#))

#### *Interim Accounts*

- 17 (1) The Secretary of State may, with the approval of the Treasury, direct [F<sup>2</sup>NHS England] to prepare accounts in respect of such period or periods as may be specified in the direction (“interim accounts”).
- (2) The interim accounts in respect of any period must contain—
- (a) [F<sup>2</sup>NHS England's] accounts in respect of that period, and
  - (b) a consolidation of [F<sup>2</sup>NHS England's] accounts in respect of that period and any accounts of [F<sup>8</sup>integrated care boards] in respect of that period which are prepared by virtue of [F<sup>9</sup>paragraph 22(3) of Schedule 1B].
- (3) [F<sup>2</sup>NHS England] must send copies of any interim accounts to—

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- (a) the Secretary of State, and
  - (b) if the Secretary of State so directs, the Comptroller and Auditor General, within such period as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on any interim accounts sent by virtue of subparagraph (3)(b),
  - (b) if the Secretary of State so directs, send a copy of the report on the accounts to the Secretary of State, and
  - (c) if the Secretary of State so directs, lay copies of the accounts and the report on them before Parliament.

#### Textual Amendments

- F8** Words in Sch. A1 para. 17(2)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 4 para. 134(3)(a); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 27, 29, 30)
- F9** Words in Sch. A1 para. 17(2)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 4 para. 134(3)(b); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 27, 29, 30)

#### Seal and evidence

- 18 (1) The application of [<sup>F2</sup>NHS England's] seal must be authenticated by the signature of any member of [<sup>F2</sup>NHS England] or any other person who has been authorised (generally or specially) for that purpose.
- (2) A document purporting to be duly executed under [<sup>F2</sup>NHS England's] seal or to be signed on its behalf must be received in evidence and, unless the contrary is proved, taken to be so executed or signed.]

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)