



# National Health Service and Community Care Act 1990

## CHAPTER 19

### NATIONAL HEALTH SERVICE AND COMMUNITY CARE ACT 1990

#### PART I

##### THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

###### *Local management*

- 1 Regional and District Health Authorities.
- 2 Family Health Services Authorities.
- 3 Primary and other functions of health authorities etc. and exercise of functions.
- 4 NHS contracts.
- 4A Provision of certain services under NHS contracts.

###### *National Health Service trusts*

- 5 NHS trusts.
- 6 Transfer of staff to NHS trusts.
- 7 Supplementary provisions as to transfer of staff.
- 8 Transfer of property, rights and liabilities to NHS trust.
- 9 Originating capital debt of, and other financial provisions relating to NHS trusts.
- 10 Financial obligations of NHS trusts.
- 11 Trust funds and trustees for NHS trusts.

*Status: Point in time view as at 01/04/2006.*

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### *Family Health Services Authorities*

- 12 Functions of Family Health Services Authorities.
- 13 Financial duties in relation to Family Health Services Authorities.

### *Fund-holding practices*

- 14 Recognition of fund-holding practices of doctors.
- 15 Payments to recognised fund-holding practices.
- 16 Renunciation and removal of recognition as a fund-holding practice and withholding of funds.
- 17 Transfer of functions relating to recognised fund-holding practices.

### *Indicative amounts*

- 18 Indicative amounts for doctors' practices.

### *Funding, audit and liabilities*

- 19 Amendments relating to funding of health authorities etc.
- 20 Extension of functions etc. of Audit Commission to cover the health service.
- 21 Schemes for meeting losses and liabilities etc. of certain health service bodies.

### *Further amendments of the principal Act*

- 22 The Medical Practices Committee.
- 23 Distribution of general medical services.
- 24 Limitations on right to be included on list of dental practitioners.
- 25 Transfer to DHA of certain functions relating to private patients.

### *Interpretation*

- 26 Interpretation of Part I.

## **PART II**

### **THE NATIONAL HEALTH SERVICE: SCOTLAND**

### *Health Boards and other bodies*

- 27 Health Boards, the Common Services Agency and state hospitals.
- 28 Special Health Boards.
- 29 Scottish advisory bodies.
- 30 NHS contracts.

### *National Health Service trusts*

- 31 National Health Service trusts.
- 32 Further provision relating to NHS trusts.
- 33 Trust property of NHS trusts.

### *Fund-holding practices*

- 34 Fund-holding practices.

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#### *Indicative amounts*

- 35 Indicative amounts for doctors' practices.

#### *Audit*

- 36 Accounts and audit of NHS trusts and fund-holding practices.

#### *Miscellaneous*

- 37 Relationship of Health Boards and medical practitioners.  
38 Scottish Medical Practices Committee.  
39 Distribution of general medical services.  
40 Limitations on right to be included on list of dental practitioners.  
41 Schemes for meeting losses and liabilities etc. of certain health service bodies.

### **PART III**

#### COMMUNITY CARE: ENGLAND AND WALES

##### *Provision of accommodation and welfare services*

- 42 Provision of accommodation and welfare services: agency arrangements.  
43 Exclusion of powers to provide accommodation in certain cases.  
44 Charges for accommodation provided by local authorities.  
45 Recovery of charges due to local authorities for accommodation.

##### *General provisions concerning community care services*

- 46 Local authority plans for community care services.  
47 Assessment of needs for community care services.  
48 Inspection of premises used for provision of community care services.  
49 Transfer of staff from health service to local authorities.  
50 Powers of the Secretary of State as respects social services functions of local authorities.

### **PART IV**

#### COMMUNITY CARE: SCOTLAND

- 51 Power of Secretary of State to give directions.  
52 Local authority plans for, and complaints in relation to, community care services in Scotland.  
53 Inspection of premises providing accommodation.  
54 Inquiries.  
55 Duty of local authority to make assessment of needs.  
56 Residential accommodation with nursing and provision of care and after-care.  
57 Exclusion of powers to provide accommodation in certain cases.  
58 Power of Secretary of State to make grants.

### **PART V**

#### MISCELLANEOUS AND GENERAL

- 59 Parliamentary disqualification.

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- 60 Removal of Crown immunities.
- 61 Health service bodies: taxation.
- 61A Health service bodies: stamp duty land tax
- 62 Clinical Standards Advisory Group.
- 63 Repeal of remaining provisions of Health Services Act 1976.
- 64 Financial provisions.
- 65 Regulations, orders and directions.
- 66 Amendments and repeals.
- 67 Short title, commencement and extent.

## SCHEDULES

### SCHEDULE 1 — Health Authorities and Family Health Services Authorities Part I

#### *Regional health authorities*

- 1 (1) A Regional Health Authority shall consist of—

#### *District health authorities*

- 2 (1) A District Health Authority for a district in England...
- 3 (1) A District Health Authority for a district in Wales...

#### Part II

- 4 (1) A Family Health Services Authority in England shall consist...
- 5 (1) A Family Health Services Authority in Wales shall consist...

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

- 6 .....
- 7 (1) In paragraph 9 of that Schedule (pay and allowances),...
- 8 In paragraph 10 of that Schedule (staff) at the end...
- 9 In paragraph 12 of that Schedule (regulations as to tenure...
- 10 After paragraph 12 of that Schedule there shall be inserted...

### SCHEDULE 2 — National Health Service Trusts

#### Part I — ORDERS UNDER SECTION 5(1)

- 1 (1) Any reference in this Part of this Schedule to...
- 2 The provisions made by an order shall be in conformity...
- 3 (1) Without prejudice to any amendment made by a subsequent...
- 4 (1) An order may require a Strategic Health Authority, Health  
Authority,...
- 5 (1) An order may provide for the establishment of an...

#### Part II — DUTIES, POWERS AND STATUS

#### *Specific duties*

- 6 (1) An NHS trust shall carry out effectively, efficiently and...
- 7 (1) For each accounting year an NHS trust shall prepare...
- 8 An NHS trust shall furnish to the Secretary of State...
- 9 (1) An NHS trust shall be liable to pay—

#### *Specific powers*

- 10 In addition to carrying out its other functions, an NHS...

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- 11 An NHS trust may undertake and commission research and make...
- 12 An NHS trust may— (a) provide training for persons employed...
- 13 An NHS trust may enter into arrangements for the carrying...
- 14 According to the nature of its functions, an NHS trust...
- 15 For the purpose of making additional income available in order...
- 15A An NHS Trust may arrange for the provision of accommodation...

*General powers*

- 16 (1) Subject to Schedule 3 to this Act, an NHS...
- 17 (1) Without prejudice to the generality of paragraph 16 above,...

*Status*

- 18 An NHS trust shall not be regarded as the servant...
- Part III — SUPPLEMENTARY PROVISIONS

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

- 19 (1) In any case where an NHS trust provides goods...
- 20 .....

*Supply of goods and services by local authorities*

- 21 In section 28 of the principal Act (supply of goods...

*Making of charges*

- 22 In each of sections 81 (charges for more expensive supplies)...

*Power to raise money by appeals etc.*

- 23 (1) In section 96A of the principal Act (power ....

*Accounts and audit*

- 24 (1) In section 98 of the principal Act (accounts and...

*Protection of members and officers*

- 25 In section 125 of the principal Act (protection of members...

*Compulsory acquisition*

- 26 (1) An NHS trust may be authorised to purchase land...

*Use and development of consecrated land and burial grounds*

- 27 Section 128 of the Town and Country Planning Act 1971...

*Instruments etc.*

- 28 (1) The fixing of the seal of an NHS trust...
- Part IV — DISSOLUTION
- 29 (1) The Secretary of State may by order made by...
  - 30 (1) If an NHS trust is dissolved under this Part...
  - 31 Without prejudice to the generality of paragraph 30 above, if...
  - 32 An NHS trust may not be dissolved or wound up...

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### SCHEDULE 3 — Financial Provisions Relating to NHS Trusts

#### *Borrowing*

- 1 (1) Subject to any direction given by the Secretary of...

#### *Guarantees of borrowing*

- 2 (1) The Secretary of State may guarantee, in such manner...

#### *Limits on indebtedness*

- 3 (1) The aggregate of all sums borrowed by NHS trusts...  
4 Any power to make an order under paragraph 3 above...

#### *Additional public dividend capital*

- 5 (1) If the Secretary of State, with the consent of...  
5A *Supplementary payments*

#### *Surplus funds*

- 6 If it appears to the Secretary of State that any...

#### *Investment*

- 7 An NHS trust shall have power to invest money held...  
8 Any direction under section 17 of the principal Act with...

### SCHEDULE 4 —

- 1 (1) In section 11 (establishment of Audit Commission), in subsection...  
2 (1) In section 12 (accounts subject to audit), in subsection...  
3 (1) In section 13 (appointment of auditors), in each of...  
4 (1) In section 14 (code of audit practice), at the...  
5 In section 15 (general duties of auditors), in subsection (1)(a)...  
6 In section 16 (auditor's rights to obtain documents and information)...  
7 In section 17 (public inspection of accounts and right of...  
8 In section 18 (auditor's reports), in subsection (4) after the...  
9 In section 19 (declaration that item of account is unlawful),...  
10 In section 20 (recovery of amount not accounted for etc.),...  
11 In section 21 (fees for audit), after subsection (2) there...  
12 (1) In section 22 (extraordinary audit), at the beginning of...  
13 In section 23 (regulations as to accounts), in subsection (1)...  
14 In section 24 (right of local government elector to inspect...  
15 At the end of section 25 (audit of accounts of...  
16 In section 25A (power of auditor to issue prohibition order),...  
17 In section 25D (power of auditor to apply for judicial...  
18 (1) In section 26 (studies for improving economy etc. in...  
19 (1) In section 27 (reports on impact of statutory provisions...  
20 (1) In section 29 (miscellaneous functions of Commission), at the...  
21 In section 30 (restriction on disclosure of information), in subsection...  
22 (1) In section 33 (commencement and transitional provisions) after subsection...  
23 In section 36 (interpretation), in subsection (1),—  
24 (1) In Schedule 3 (provisions as to the Commission), in...

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## SCHEDULE 5 — Health Boards, the Common Services Agency and State Hospitals

### *Health Boards*

- 1 Schedule 1 to the 1978 Act shall be amended in...
- 2 After paragraph 2 of that Schedule (membership of Health Boards)...
- 3 In paragraph 4 of that Schedule (remuneration), after the words...
- 4 At the end of paragraph 5A of that Schedule there...
- 5 After paragraph 7 of that Schedule there shall be inserted...
- 6 After paragraph 8 of that Schedule there shall be inserted...
- 7 In paragraph 11(b) of that Schedule (delegation to committees etc),...

### *Common Services Agency*

- 8 Schedule 5 to the 1978 Act shall be amended in...
- 9 In paragraph 3 of that Schedule (appointment of chairman and...
- 10 In paragraph 3A of that Schedule (remuneration), after the words...
- 11 After paragraph 7A of that Schedule there shall be inserted...
- 12 After paragraph 8 of that Schedule there shall be inserted...

### *State hospitals*

- 13 In Schedule 1 to the Mental Health (Scotland) Act 1984...

## SCHEDULE 6 — Schedules to be inserted after Schedule 7 to the National Health Service (Scotland) Act 1978

## SCHEDULE 7 — Amendments relating to Audit of Accounts of Scottish Health Service Bodies

### *The Local Government (Scotland) Act 1973*

- 1 Part VII of the Local Government (Scotland) Act 1973 (finance)...
- 2 .....
- 3 (1) Section 97 (establishment of Commission for Local Authority  
Accounts...
- 4 .....
- 5 .....
- 6 .....
- 7 (1) Section 100 (auditor's right of access to documents) shall...
- 8 .....
- 9 .....
- 10 .....
- 11 .....
- 12 .....
- 13 In Schedule 8 (provisions as to the Commission), for the...

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

- 14 (1) Section 86 of the National Health Service (Scotland) Act...

### *General amendment*

- 15 Without prejudice to any express amendment made by this Act,...

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SCHEDULE 8 — Provisions arising out of removal of Crown Immunities from  
Health Service Bodies

Part I — AMENDMENTS CONTINUING CERTAIN STATUTORY EXEMPTIONS

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

1 In section 3 of the Employers' Liability (Compulsory Insurance) Act...

*The Vehicles (Excise) Act 1971*

2 .....

*The Copyright, Designs and Patents Act 1988*

3 At the end of section 48 of the Copyright, Designs...

*The Road Traffic Act 1988*

4 In section 144 of the Road Traffic Act 1988 (exceptions...

Part II — CONSEQUENTIAL AMENDMENTS

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

5 In the First Schedule to the Acquisition of Land (Authorisation...

*The Town and Country Planning Act 1971*

6 In section 128 of the Town and Country Planning Act...

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

7 .....

*The Acquisition of Land Act 1981*

8 (1) At the end of section 16 of the Acquisition...

*The Value Added Tax Act 1983*

9 .....

*The Housing Act 1988*

10 In Schedule 2 to the Housing Act 1988 (grounds for...

*The Housing (Scotland) Act 1988*

11 In Schedule 5 to the Housing (Scotland) Act 1988 (grounds...

PART III — TRANSITIONAL PROVISIONS

12 In this Part of this Schedule— (a) “the appointed day”...

*The Building (Scotland) Act 1959*

13 (1) Notwithstanding section 60(1) of this Act, where, on or...

*The Medicines Act 1968*

14 (1) In any case where— (a) before the appointed day,...



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*The Fire Precautions Act 1971*

- 15 (1) Without prejudice to the continuing validity on and after...

*The Town and Country Planning Act 1971*

- 16 (1) This paragraph applies if— (a) before the appointed day,...

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

- 17 (1) This paragraph applies if— (a) before the appointed day,...

*The Building Act 1984*

- 18 (1) If, immediately before the appointed day, approved work is...

*The Housing Act 1988 and the Rent Act 1977*

- 19 (1) This paragraph applies to a tenancy—

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

- 20 (1) This paragraph applies to a tenancy—

SCHEDULE 9 — Minor and Consequential Amendments

*The Public Health (Scotland) Act 1897*

- 1 (1) In section 54 of the Public Health (Scotland) Act...

*The Voluntary Hospitals (Paying Patients) Act 1936*

- 2 In section 1 of the Voluntary Hospitals (Paying Patients) Act...

*The Nursing Homes Registration (Scotland) Act 1938*

- 3 In section 10(3)(a) (interpretation) of the Nursing Homes Registration (Scotland)...

*The Public Health (Scotland) Act 1945*

- 4 In section 1(3) of the Public Health (Scotland) Act 1945...

*The National Assistance Act 1948*

- 5 (1) At the beginning of subsection (4) of section 21...

*The Public Records Act 1958*

- 6 In Schedule 1 to the Public Records Act 1958 (definition...

*The Human Tissue Act 1961*

- 7 In section 1 of the Human Tissue Act 1961 (removal...

*The Abortion Act 1967*

- 8 In section 1 of the Abortion Act 1967 (medical termination...

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*The Leasehold Reform Act 1967*

9 In section 28 of the Leasehold Reform Act 1967 (retention...

*The Social Work (Scotland) Act 1968*

10 (1) The Social Work (Scotland) Act 1968 shall be amended...

*The Local Authority Social Services Act 1970*

11 In Schedule 1 to the Local Authority Social Services Act...

*The Chronically Sick and Disabled Persons Act 1970*

12 In section 2(1) of the Chronically Sick and Disabled Persons...

*The Local Government Act 1972*

13 In section 113 of the Local Government Act 1972 (placing...

*The Criminal Procedure (Scotland) Act 1975*

14 In section 462 (interpretation) of the Criminal Procedure (Scotland) Act...

*The Child Benefit Act 1975*

15 .....

*The Children Act 1975*

16 In section 99(1)(b) of the Children Act 1975 (inquiries in...

*The Adoption Act 1976*

17 In section 2 of the Adoption Act 1976 (local authorities' ...

*The National Health Service Act 1977*

18 (1) In section 41 of the National Health Service Act...

*The National Health Service (Scotland) Act 1978*

19 (1) In section 2 of the National Health Service (Scotland)...

*The Employment Protection (Consolidation) Act 1978*

20 .....

*The Overseas Development and Co-operation Act 1980*

21 .....

*The Education Act 1981*

22 .....

*The Acquisition of Land Act 1981*

23 In the Acquisition of Land Act 1981, in section 17...

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*The Mental Health Act 1983*

24 (1) In section 12 of the Mental Health Act 1983...

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

25 (1) In section 17 of the Health and Social Services...

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

26 (1) In section 13 of the Public Health (Control of...

*The Registered Homes Act 1984*

27 In section 21 of the Registered Homes Act 1984 (meaning...

*The Mental Health (Scotland) Act 1984*

28 (1) In subsection (2)(e) of section 3 (functions and duties...

*The Hospital Complaints Procedure Act 1985*

29 .....

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

30 (1) In section 2 of the Disabled Persons (Services, Consultation...

*The Education (No. 2) Act 1986*

31 .....

*The AIDS (Control) Act 1987*

32 (1) Section 1 of the AIDS (Control) Act 1987 (periodical...

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

33 In section 1 of the Community Health Councils (Access to...

*The Health and Medicines Act 1988*

34 In section 7 of the Health and Medicines Act 1988...

*The Road Traffic Act 1988*

35 In section 161 of the Road Traffic Act 1988 (interpretation)...

*The Children Act 1989*

36 (1) In section 21 of the Children Act 1989 (provision...

*The Opticians Act 1989*

37 In section 27 of the Opticians Act 1989 (sale and...

SCHEDULE 10 — Enactments Repealed

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