



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART I

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

#### *Funding, audit and liabilities*

**F1**19 .....

#### Textual Amendments

**F1** S. 19 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 paras. 6, 16)

#### **20 Extension of functions etc. of Audit Commission to cover the health service.**

**F2**(1) .....

(2) In section 98 of the principal Act (accounts and audit),—

(a) in subsection (1), in the words following paragraph (e) for the words from “appointed” to “Comptroller” there shall be substituted “appointed by the Audit Commission for Local Authorities and the National Health Service in England and Wales and the Comptroller”;

**F3**(b) .....

**F4**(c) .....

**F4**(d) .....

**F2**(3) .....

**F2**(4) .....

*Status: Point in time view as at 11/11/2004.*

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- F<sup>2</sup>(5) .....
- F<sup>2</sup>(6) .....
- F<sup>2</sup>(7) .....
- F<sup>2</sup>(8) .....

#### Textual Amendments

- F2** S. 20(1)(3)-(8) repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**
- F3** S. 20(2)(b) repealed (1.10.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, ss. 65(2), Sch. 4 para. 83(6), **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1041, art. 2(d), **Sch.**
- F4** S. 20(2)(c)(d) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)

## 21 Schemes for meeting losses and liabilities etc. of certain health service bodies.

- (1) The Secretary of State may by regulations made with the consent of the Treasury establish a scheme whereby any of the bodies specified in subsection (2) below may make provision to meet—
- (a) expenses arising from any loss of or damage to their property; and
  - (b) liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies concerned.
- (2) The bodies referred to in subsection (1) above are—
- [<sup>F5</sup>(za) Strategic Health Authorities;]
  - [<sup>F6</sup>(a) Health Authorities;
  - (aa) Special Health Authorities;]
  - [<sup>F7</sup>(aaa) Primary Care Trusts;]
  - [<sup>F8</sup>(aab) Local Health Boards;]
  - (b) NHS trusts;
  - [<sup>F9</sup>(ba) NHS foundation trusts;]
  - [<sup>F10</sup>(bb) the [<sup>F11</sup>Commission for Healthcare Audit and Inspection]]; and
  - (c) the Public Health Laboratory Service Board;
- but a scheme under this section may limit the class or description of bodies which are eligible to participate in it.
- (3) Without prejudice to the generality of the power conferred by subsection (1) above, a scheme under this section may—
- (a) provide for the scheme to be administered by the Secretary of State or by a [<sup>F12</sup>Strategic Health Authority,][<sup>F13</sup>Health Authority, Special Health Authority,][<sup>F14</sup>Primary Care Trust][<sup>F15</sup>, NHS trust or NHS foundation trust] specified in the scheme;
  - (b) require any body which participates in the scheme to make payments in accordance with the scheme; and
  - (c) provide for the making of payments for the purposes of the scheme by the Secretary of State.
- (4) Without prejudice to any other power of direction conferred on the Secretary of State,

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- (a) if the Secretary of State so directs, a body which is eligible to participate in a scheme shall do so; and
- (b) where a scheme provides for it to be administered by the Secretary of State, a <sup>F12</sup>Strategic Health Authority, <sup>F13</sup>Health Authority, Special Health Authority, <sup>F14</sup>Primary Care Trust<sup>F15</sup>, NHS trust or NHS foundation trust] shall carry out such functions in connection with the administration of the scheme by the Secretary of State as he may direct.

<sup>F16</sup>but the Secretary of State may not make a direction under paragraph (a) above in relation to an NHS foundation trust]

<sup>F17F18</sup>(5) A person or body administering a scheme under this section does not require permission under any provision of the Financial Services and Markets Act 2000 as respects activities carried out under the scheme.]

#### Textual Amendments

- F5** S. 21(2)(za) inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 43(a)**; S.I. 2002/2478, **art. 3(1)(d)** (with **art. 3(3)** and transitional provision in **art. 4**)
- F6** S. 21(2)(a)(aa) substituted (1.4.1996 subject to s. 8 of the amending Act) for s. 21(2)(a) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 79(a)** (with **Sch. 2 paras. 6, 16**)
- F7** S. 21(2)(aaa) inserted (4.1.2000 for E. and otherwise in force immediately before the National Health Service Act 2006 (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 the **Health Act 1999 (c. 8)**, ss. 65(1), 67(1), **Sch. 4 paras. 74, 81(1)(2)(a)**; S.I. 1999/2342, **art. 2(3)(a)**, **Sch. 2**; S.I. 2006/1407, **arts. 1(1)(2)**, **Sch. 1 Pt. 2 para. 6(b)**
- F8** S. 21(2)(aab) 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, ss. 6(2), 42(3), **Sch. 5 para. 33**; S.I. 2002/2532, **art. 2, Sch.**; S.I. 2006/1407, **arts. 1(1), 2, Sch. 1 Pt. 2** {para. 12(c)}
- F9** S. 21(2)(ba) inserted (1.4.2004) by **Health and Social Care (Community Health and Standards) Act 2003 (c. 43)**, ss. 34, 199(1), **Sch. 4 para. 84(a)**; S.I. 2004/759, **art. 2**
- F10** S. 21(2)(bb) inserted (1.11.1999) by 1999 c. 8, s. 65, **Sch. 4 paras. 74, 81(1)(2)(b)**; S.I. 1999/2793, **art. 2(1)(b), Sch 2**
- F11** Words in s. 21(2)(bb) substituted (11.11.2004) by **The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004 (S.I. 2004/2987)**, **art. 2(1)(c)**
- F12** Words in s. 21(3)(4) inserted (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 43(b)**; S.I. 2002/2478, **art. 3(1)(d)** (with **art. 3(3)** and transitional provision in **art. 4**)
- F13** Words in s. 21(3)(a)(4)(b)(5) 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. 79(b)** (with **Sch. 2 paras. 6, 16**)
- F14** Words in s. 21(3)-(5) inserted (4.1.2000 for E. and otherwise in force immediately before the National Health Service Act 2006 (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 the **Health Act 1999 (c. 8)**, ss. 65(1), 67(1), **Sch. 4 paras. 74, 81(1)(3)**; S.I. 1999/2342, **art. 2(3)(a)**, **Sch. 2**; S.I. 2006/1407, **arts. 1(1)(2)**, **Sch. 1 Pt. 2** {para. 6(b)}
- F15** Words in s. 21(3)(a)(4)(b) substituted (1.4.2004) by **Health and Social Care (Community Health and Standards) Act 2003 (c. 43)**, ss. 34, 199(1), **Sch. 4 para. 84(b)**; S.I. 2004/759, **art. 2**
- F16** Words in s. 21(4) substituted (1.4.2004) by **Health and Social Care (Community Health and Standards) Act 2003 (c. 43)**, ss. 34, 199(1), **Sch. 4 para. 84(c)**; S.I. 2004/759, **art. 2**
- F17** S. 21(5) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 319**
- F18** By **Health and Social Care (Community Health and Standards) Act 2003 (c. 43)**, ss. 34, 199(1), **Sch. 4 para. 84(d)**; S.I. 2004/759, **art. 2** it is provided that the words ", NHS trust or NHS foundation trust" be substituted in s. 21(5) for the words "or NHS trust" (the latter words were superseded

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(1.12.2001) by reason of the substitution of s. 21(5) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), art. 319)

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