

## SCHEDULES

### SCHEDULE 2

#### 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.
- (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 health authority 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 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) 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,

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*Status: This is the original version (as it was originally enacted).*

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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 Regional, District or Special Health Authority 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 Regional, District or Special Health Authority'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 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 Regional, District or Special Health Authority 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.