

*Status: Point in time view as at 11/09/1998.*

*Changes to legislation: National Health Service and Community Care Act 1990, Part III is up to date with all changes known to be in force on or before 11 August 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 2

#### NATIONAL HEALTH SERVICE TRUSTS

#### 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 or services for the benefit of an individual and—
- (a) the provision of those goods or services is not pursuant to an NHS contract, and
  - (b) the condition of the individual is such that he needs those goods or services and, having regard to his condition, it is not practicable before providing them to enter into an NHS contract for their provision, and
  - (c) the provision of those goods or services is within the primary functions of a [<sup>F1</sup>Health Authority] or is a function of a health board,
- the trust shall be remunerated by that [<sup>F1</sup>Health Authority] or health board in respect of the provision of the goods or services in question.
- [<sup>F2</sup>(1A) The reference in sub-paragraph (1) above to a function of a health board shall, in relation to a Health and Social Services Board constituted under the Health and Personal Social Services (Northern Ireland) Order 1972, be construed as a reference to a primary function of such a Board within the meaning of Article 9 of the Health and Personal Social Services (Northern Ireland) Order 1991.]
- (2) The rate of any remuneration payable by virtue of sub-paragraph (1) above shall be calculated in such manner or on such basis as may be determined by the Secretary of State.

#### Textual Amendments

- F1** Words in Sch. 2 para. 19(1) 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. 85(f) (with Sch. 2 paras. 6, 16)
- F2** Sch. 2 para. 19(1A) inserted by S.I. 1991/195, art. 7(9)

- 20 In any case where an NHS trust provides goods or services for the benefit of an individual and—

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- (a) the provision of those goods or services is not pursuant to an NHS contract, and
- (b) the individual is resident outside the United Kingdom and is of a description (being a description associating the individual with another country) specified for the purposes of this paragraph by a direction made by the Secretary of State,

the trust shall be remunerated by the Secretary of State in respect of the provision of the goods or services in question at such rate or rates as he considers appropriate.

*Supply of goods and services by local authorities*

- 21 In section 28 of the principal Act (supply of goods and services by local authorities) in subsection (3) after the words “health authorities”, in each place where they occur, there shall be inserted “and NHS trusts”, and at the end there shall be added “and the National Health Service and Community Care Act 1990”.

*Making of charges*

- 22 In each of sections 81 (charges for more expensive supplies) and 82 (charges for repairs and replacement necessitated by an act or omission of the person supplied etc.) of the principal Act, in paragraph (a)—
  - (a) after the words “Secretary of State” there shall be inserted “or an NHS trust”; and
  - (b) after the word “him” there shall be inserted “or, as the case may be, by the trust”.

*Power to raise money by appeals etc.*

- 23 (1) In section 96A of the principal Act (power <sup>F3</sup> . . . to raise money etc. by appeals, collections etc.) in subsection (1), after the word “authority”, in each place where it occurs, there shall be inserted “or NHS trust”.

<sup>F4</sup>(2) . . . . .

- (3) In subsection (5), of that section, for the words from “Area or District” onwards there shall be substituted “body responsible for the hospital if that body and the special trustees agree; and in this subsection the body responsible for a hospital is,—
  - (a) in the case of a hospital vested in a NHS trust, that trust; and
  - (b) in any other case, the District Health Authority exercising functions on behalf of the Secretary of State in respect of the hospital”.

- (4) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) Where property is given in pursuance of this section on trust for any purposes of an NHS trust for which trustees have been appointed under section 11(1) of the National Health Service and Community Care Act 1990, then, if those trustees and the NHS trust agree, the property may be held, administered and applied by those trustees instead of by the NHS trust.”

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<sup>F4</sup>(5) .....

**Textual Amendments**

- F3** Words in Sch. 2 Pt. III para. 23(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)  
**F4** Sch. 2 Pt. III para. 23(2) and (5) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

*Accounts and audit*

24 <sup>F5</sup>(1) .....

(2) After subsection (2A) of that section there shall be inserted—

“(2B) in preparing its annual accounts in pursuance of subsection (2) above, an NHS trust shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—

- (a) the methods and principles according to which the accounts are to be prepared; and
- (b) the information to be given in the accounts.”

**Textual Amendments**

- F5** Sch. 2 para. 24(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

*Protection of members and officers*

25 In section 125 of the principal Act (protection of members and officers of health authorities etc.)—

<sup>F6</sup>(a) .....

(b) at the end there shall be added “and the National Health Service and Community Care Act 1990”.

**Textual Amendments**

- F6** Sch. 2 para. 25(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

*Compulsory acquisition*

26 (1) An NHS trust may be authorised to purchase land compulsorily for the purposes of its functions by means of an order made by the trust and confirmed by the Secretary of State.

(2) Subject to sub-paragraph (3) below, the <sup>M1</sup>Acquisition of Land Act 1981 shall apply to the compulsory purchase of land under this paragraph.

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- (3) No order shall be made by an NHS trust under Part II of the Acquisition of Land Act 1981 with respect to any land unless the proposal to acquire the land compulsorily—
- (a) has been submitted to the Secretary of State in such form and together with such information as he may require; and
  - (b) has been approved by him.

**Marginal Citations**

M1 1981 c. 67.

*Use and development of consecrated land and burial grounds*

- 27 Section 128 of the <sup>M2</sup>Town and Country Planning Act 1971 (use and development of consecrated land and burial grounds) applies to consecrated land and land comprised in a burial ground, within the meaning of that section, which an NHS trust holds for any of its purposes as if—
- (a) that land had been acquired by the trust as mentioned in subsection (1) of that section; and
  - (b) the trust were a statutory undertaker, within the meaning of that Act.

**Marginal Citations**

M2 1971 c. 78.

*Instruments etc.*

- 28 (1) The fixing of the seal of an NHS trust shall be authenticated by the signature of the chairman or of some other person authorised either generally or specially by the trust for that purpose and of one other director.
- (2) Any document purporting to be a document duly executed under the seal of an NHS trust shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- (3) A document purporting to be signed on behalf of an NHS trust shall be received in evidence and shall, unless the contrary is proved, be deemed to be so signed.

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