

Status: Point in time view as at 31/01/2004.

Changes to legislation: There are currently no known outstanding effects for the Health Act 1999, Cross Heading: The 1977 Act. (See end of Document for details)

SCHEDULES

SCHEDULE 4

AMENDMENTS OF ENACTMENTS

Modifications etc. (not altering text)

- C1** Sch. 4: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1** (as inserted (30.6.1999) by 1999 c. 8, ss. **66(4)(5)(c)**, 67(4))

The 1977 Act

- 4 The 1977 Act is amended as follows.

Commencement Information

- II** Sch. 4 para. 4 partly in force; Sch. 4 para. 4 not in force at Royal Assent see s. 67(1); Sch. 4 para. 4 in force for certain purposes (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), **Sch. 1**; Sch. 4 para. 4 in force for certain purposes (E.) at 1.11.1999 by S.I. 1999/2793, art. 2(1)(a), **Sch. 1**; Sch. 4 para. 4 in force for certain purposes (W.) at 1.11.1999 by S.I. 1999/3184 (W. 42), art. 2(1), Sch. 1; Sch. 4 para. 4 in force for certain purposes (W.) at 1.12.1999 by S.I. 1999/3184 (W. 42), art. 2(2), Sch. 2; Sch. 4 para. 4 in force for certain purposes (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), **Sch. 2**; Sch. 4 para. 4 in force for certain purposes (E.) at 4.1.2000 by S.I. 1999/2540, art. 2(2); Sch. 4 para. 4 in force for certain purposes (E.W.) at 1.4.2000 by S.I. 1999/2342, art. 2(4)(a), **Sch. 3**; Sch. 4 para. 4 in force for certain purposes (E.W.) at 1.4.2000 by S.I. 1999/2793, art. 2(3)(a), **Sch. 3**; Sch. 4 para. 4 in force for certain purposes (E.) at 1.4.2000 by S.I. 1999/2793, art. 2(3)(c)(i); Sch. 4 para. 4 in force for certain purposes (W.) at 1.4.2000 by S.I. 2000/1026, art. 2(1), **Sch. 1**; Sch. 4 para. 4 in force for certain purposes (W.) at 1.12.2000 by S.I. 2000/2991, art. 2(1), **Sch. 1**; Sch. 4 para. 4 in force for certain purposes (W.) at 1.1.2001 by S.I. 2000/2991, art. 2(2), **Sch. 2**; Sch. 4 para. 4 in force for certain purposes for E. at 1.8.2004 by S.I. 2004/1859, art. 4

^{F15}

Textual Amendments

- F1** Sch. 4 para. 5 repealed (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 37, 42(3)(4), **Sch. 8 para. 31**, **Sch. 9 Pt. 3**; S.I. 2002/2478, art. 3(1)(e)(f) (subject to arts. 2(2), 3(3) and with transitional provisions in art. 4); S.I. 2002/2532, art. 2, **Sch.**

- 6 In section 11 (Special Health Authorities), for subsection (1) there is substituted—

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“(1) The Secretary of State may by order establish special bodies for the purpose of exercising any functions which may be conferred on them by or under this Act.”

Commencement Information

I2 Sch. 4 para. 6 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 6 in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), **Sch. 1**; Sch. 4 para. 6 in force (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), **Sch. 2**

7 In section 12 (supplementary provisions for sections 8 and 11), subsection (1) is omitted.

Commencement Information

I3 Sch. 4 para. 7 wholly in force; Sch. 4 para. 7 not in force at Royal Assent see s. 67(1); Sch. 4 para. 7 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 7 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

8 In section 15 (duty of Health Authority in relation to family health services), subsections (1B) to (1D) are omitted.

Commencement Information

I4 Sch. 4 para. 8 wholly in force; Sch. 4 para. 8 not in force at Royal Assent see s. 67(1); Sch. 4 para. 8 in force (E.) at 1.10.1999 by S.I. 1999/2540, art. 2(1)(a), Sch. 1; Sch. 4 para. 8 in force for certain purposes (W.) at 1.4.2000 by S.I. 2000/1026, art. 2(1), Sch.; Sch. 4 para. 8 in force for E. at 1.8.2004 as far as not already in force by S.I. 2004/1859, art. 4; Sch. 4 para. 8 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

9 For section 16 (exercise of functions) there is substituted—

“16 Exercise of functions by Health Authorities and Special Health Authorities.

- (1) This subsection applies to functions which are exercisable by a Health Authority under or by virtue of this Act (including this section), the ^{M1}National Health Service and Community Care Act 1990 or any prescribed provision of any other Act.
- (2) Regulations may provide for any functions to which subsection (1) above applies to be exercised—
 - (a) by another Health Authority,

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- (b) by a Special Health Authority, or
 - (c) jointly with any one or more of the following: Primary Care Trusts and other Health Authorities.
- (3) Regulations may provide for any functions which are exercisable by a Special Health Authority under section 16D below to be exercised—
- (a) by another Special Health Authority, or
 - (b) jointly with one or more other Special Health Authorities.
- (4) Regulations may provide—
- (a) for any functions to which subsection (1) above applies to be exercised, on behalf of the Health Authority by whom they are exercisable, by a committee, sub-committee or officer of the Health Authority,
 - (b) for any functions which, under section 16D below or this section, are exercisable by a Special Health Authority to be exercised, on behalf of that authority, by a committee, sub-committee or officer of the authority,
 - (c) for any functions exercisable jointly under subsection (2)(c) or (3) (b) above to be exercised, on behalf of the health service bodies in question, by a joint committee or joint sub-committee.”

Commencement Information

I5 Sch. 4 para. 9 wholly in force; Sch. 4 para. 9 not in force at Royal Assent see s. 67(1); Sch. 4 para. 9 in force for certain purposes (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 9 in force for certain purposes (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 9 in force (E.) insofar as not already in force at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 9 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 6(b)

Marginal Citations

M1 1990 c.19.

10 After section 16B there is inserted—

“16C Advice for Health Authorities and Primary Care Trusts.

- (1) Every Health Authority shall make arrangements with a view to securing that they receive advice appropriate for enabling them effectively to exercise the functions exercisable by them from persons with professional expertise relating to the physical or mental health of individuals.
- (2) This section applies to Primary Care Trusts as it applies to Health Authorities.”

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- I6** Sch. 4 para. 10 wholly in force; Sch. 4 para. 10 not in force at Royal Assent see s. 67(1); Sch. 4 para. 10 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 10 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 11 In section 26 (supply of goods and services by Secretary of State)—
- (a) in subsection (1)(b), after “by him” there is inserted “ or by a Primary Care Trust ” and for “or Special Health Authority” there is substituted “ Special Health Authority or Primary Care Trust ”,
 - (b) in subsection (3), for “or Special Health Authority” (in both places) there is substituted “ Special Health Authority or Primary Care Trust ”,
 - (c) in subsection (4)(b), for “or Special Health Authorities” there is substituted “ Special Health Authorities or Primary Care Trusts ”.

Commencement Information

- I7** Sch. 4 para. 11 wholly in force; Sch. 4 para. 11 not in force at Royal Assent see s. 67(1); Sch. 4 para. 11 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 11 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 12 (1) Section 27 (conditions of supply under section 26) is amended as follows.
- (2) In subsection (1), for “or Special Health Authority” (in both places) there is substituted “ Special Health Authority or Primary Care Trust ”.
- (3) In subsection (3)—
- (a) for “and Special Health Authorities”, in the first place where the words appear, there is substituted “ Special Health Authorities and Primary Care Trusts ”,
 - (b) the words from “and it shall” to the end are omitted.

Commencement Information

- I8** Sch. 4 para. 12 wholly in force; Sch. 4 para. 12 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 12(1) in force for certain purposes (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 12(3)(b) in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 12 in force (E.) at 4.1.2000 insofar as not already in force by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 12(1) in force for certain purposes (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 12(3)(b) in force (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 12 in force so far as not already in force immediately before the National Health Service Act 2006 c. 41 (which Act came into force on 1.3.2007

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in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act)) by The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 13 In section 28 (supply of goods and services by local authorities)—
- (a) in subsection (1), for “and any Special Health Authority” there is substituted “Special Health Authority or Primary Care Trust”,
 - (b) in subsection (3), after “Special Health Authorities” (in both places) there is inserted “Primary Care Trusts”.

Commencement Information

- I9** Sch. 4 para. 13 wholly in force; Sch. 4 para. 13 not in force at Royal Assent see s. 67(1); Sch. 4 para. 13 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 13 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 14 (1) Section 28A (power to make payments towards expenditure on community services) is amended as follows.
- (2) In subsection (2), for “An authority to whom” there is substituted “A body to which”.
- (3) Subsections (4) and (8)(a) are omitted.
- (4) In subsection (9)—
- (a) for “expenditure which has been recommended by a joint consultative committee for a payment under this section” there is substituted “the expenditure in respect of which a payment under this section is proposed to be made”,
 - (b) in paragraph (a), for “authority” there is substituted “body”,
 - (c) in paragraph (a), after “subsection (2)” there is inserted “or (2A)”,
 - (d) in paragraph (b), after “subsection (2) above” there is inserted “, or in subsection (2A) above”,
 - (e) for sub-paragraphs (i) and (ii) there is substituted “which conform with the conditions prescribed for payments of that description under subsection (5) above”.

Commencement Information

- I10** Sch. 4 para. 14 wholly in force; Sch. 4 para. 14 not in force at Royal Assent see, s. 67(1); Sch. 4 para. 14(1)(3)(4)(a)(e) in force for certain purposes (E.) at 1.11.1999 by S.I. 1999/2793, art. 2(1)(a), Sch. 1; Sch. 4 para. 14(2)(4)(b) in force (E.) at 1.11.1999 by S.I. 1999/2793, art. 2(1)(a), Sch. 1; Sch. 4 para. 14 in force (E.) at 1.4.2000 insofar as not already in force by S.I. 1999/2793, art. 2(3)(c)(i); Sch. 4 para. 14(2)(4)(b) in force (W.) and Sch. 4 para. 14(1)(3)(4)(a)(e) in force for certain purposes (W.) at 1.12.2000 by S.I. 2000/2991, art. 2(1), Sch. 1; Sch. 4 para. 14 in force (W.) at 1.1.2001 insofar as not already in force by S.I. 2000/2991, art. 2(2), Sch. 2; Sch. 4 para. 14 in force so far as not already in force immediately before the National Health Service Act 2006 c. 41 (which Act came into force on 1.3.2007 in accordance

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with s. 227(1) (subject to s. 277(2)-(5) of that Act)) by The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 15 In section 28C(4) (personal medical or dental services), for “13” there is substituted “16D”.

Commencement Information

- I11** Sch. 4 para. 15 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 15 in force (E.) at 1.10.1999 by S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; Sch. 4 para. 15 in force (W.) at 1.12.1999 by S.I.1999/3184, art. 2(2), **Sch. 2**

- 16 In section 28D (persons who may provide personal medical or personal dental services)—
- (a) in subsection (1), after paragraph (e) there is inserted—
 - “(f) a Primary Care Trust”,
 - (b) in subsection (2), in paragraph (a) of the definition of “qualifying body”, for “paragraphs (a) to (d)” there is substituted “ paragraph (a), (b), (c), (d) or (f) ”.

Commencement Information

- I12** Sch. 4 para. 16 wholly in force; Sch. 4 para. 16 not in force at Royal Assent see s. 67(1); Sch. 4 para. 16 in force (E.) at 4.1.2000 by S.I. 1999/2540, art. 2(2); Sch. 4 para. 16 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- [^{F2}17 In section 29A(3)(b) of the 1977 Act (medical lists), for the words from first “disqualified” to “46” there is substituted “ disqualified for inclusion in the list by, or by virtue of a direction of, the NHS Tribunal ”.]

Textual Amendments

- F2** Sch. 4 para. 17 repealed (*prosp.*) by 2001 c. 15, ss. 67, 70(2), **Sch. 6 Pt. 1** (with ss. 64(a), 65(4))

- 17 In section 29A(3)(b) of the 1977 Act (medical lists), for the words from first “disqualified” to “46” there is substituted “ disqualified for inclusion in the list by, or by virtue of a direction of, the NHS Tribunal ”.
- 18 In section 48 (disqualification provisions in Scotland or Northern Ireland)—
- (a) in paragraph (a), for the words from “services” to “above” there is substituted “ any of the services mentioned in any of the paragraphs of section 46(8) above ”,

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- (b) in paragraph (b), at the beginning there is inserted “in relation to the services in question” and for the words from “a list” to the end there is substituted “ any list and (if also the subject of a declaration under those provisions corresponding to a declaration of unfitness) be treated as if a declaration of unfitness had been made in respect of him. ”
- (2) Where under the conditional disqualification provisions in Scotland or Northern Ireland—
- (a) any conditions are imposed in relation to the provision by any person of any services mentioned in section 46(8) above, or
- (b) any conditions so imposed are varied,
- the Secretary of State may, by a notice in writing given to each Health Authority and to the person in question, impose those conditions in relation to the provision by that person of those services under this Part of this Act.
- (3) A notice under subsection (2) above may make such modifications of the conditions as the Secretary of State considers necessary for them to have the like effect in relation to England and Wales as they have in relation to Scotland or (as the case may be) Northern Ireland, but only if the Secretary of State has previously given the person concerned written notice of the proposed modifications and an opportunity (in accordance with such requirements, if any, as may be prescribed) to make representations about them.
- (4) Conditions imposed by a notice under subsection (2) above shall cease to have effect if the Secretary of State withdraws the notice by giving written notice to the person concerned.
- (5) In this section, “the conditional disqualification provisions in Scotland or Northern Ireland” means any provisions in force in Scotland or Northern Ireland corresponding to sections 46C and (so far as relating to conditional disqualifications) 47 above
- 19 In section 49 (regulations as to sections 46 to 48)—
- (a) in paragraph (c), after “disqualifications” there is inserted “ or conditions ”,
- (b) at the end of that section there is inserted—
- “(2) Regulations under subsection (1)(a) above may in particular provide that, where (apart from the regulations) it would be the duty of the Tribunal to inquire into both an efficiency case and a fraud case in respect of the same person, they may inquire into one case before inquiring into the other and, after proceedings in the first case are finally disposed of, may if they think it appropriate adjourn the other case indefinitely.”
- 20 In section 49A (application for interim suspension)—
- (a) after subsection (1) there is inserted—
- “(1A) A Health Authority may, if they have requested a review of a conditional disqualification on the ground mentioned in section 47(3)(b) or (c) above, at any time before the review is concluded apply to the Tribunal for a direction to be made under subsection (2) below in relation to the person to whom the review relates.”,

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- (b) in subsection (2), for the words from “it” to “patients” there is substituted “ either of the conditions for doing so is satisfied ” and after “in question” there is inserted “ or the case to which the review in question, ”,
- (c) after that subsection there is inserted—
 - “(2A) The conditions for giving such a direction are—
 - (a) that it is necessary to do so in order to protect persons who are, or may be, provided with services under this Part of this Act to which the case in question, or the case to which the review in question, relates,
 - (b) in, or in the case of a review relating to, a fraud case, that unless they do so there is a significant risk that—
 - (i) an act or omission within section 46(7)(a) above will occur, or
 - (ii) the investigation of the case or the review will be prejudiced.”,
- (d) in subsection (3)(c), for the words from “under” to “engaged in” there is substituted “ of unfitness in relation to ”,
- (e) in subsection (4), after “case” there is inserted “ or review ”,
- (f) subsection (5) is omitted,
- (g) in subsection (6)(a), “prepared under this Part of this Act” is omitted.

21 In section 49B (continuation of suspension pending appeal)—

- (a) for subsection (1) and the preceding sidenote there is substituted—

“49B Suspension pending appeal.

- (1) Where, on disposing of a case under section 46B above, the Tribunal make a national disqualification, they may, if they consider that either of the conditions mentioned in section 49A(2A) above is satisfied, direct that section 49A(3) above shall apply or, if a direction has been given under section 49A(2) above, shall continue to apply to him as respects services of the kind to which the disqualification relates.”,
- (b) in subsection (2), in paragraph (a), for “direction under section 46(2)(b) above” there is substituted “ national disqualification ” and, in paragraph (b), for “that direction” there is substituted “ the disqualification ”,
- (c) in subsection (3), for the words from “direction” to “section 46(2)(c) above” there is substituted “ disqualification which is not coupled with a declaration of unfitness ”,
- (d) subsection (4) is omitted.

22 In section 49D (suspension provisions in Scotland or Northern Ireland), for “46(1)” there is substituted “ 46(8) ”.

23 In section 51 (university clinical teaching and research)—

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- (a) in subsection (2), for “or Special Health Authority” in both places there is substituted “Special Health Authority or Primary Care Trust”,
- (b) in subsection (3), after “Special Health Authorities” there is inserted—
“(bb) Primary Care Trusts”.

Commencement Information

I13 Sch. 4 para. 23 wholly in force; Sch. 4 para. 23 not in force at Royal Assent see s. 67(1); Sch. 4 para. 23 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 23 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 6(b)

- 24 Section 65(3) (accommodation and services for private patients: directions) is omitted.

Commencement Information

I14 Sch. 4 para. 24 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 24 in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 24 in force (W.) at 1.4.2000 by S.I. 2000/1026, art. 2(1), Sch.

- 25 In section 85 (default powers), after subsection (1)(b) there is inserted—
“(bb) a Primary Care Trust”.

Commencement Information

I15 Sch. 4 para. 25 wholly in force; Sch. 4 para. 25 not in force at Royal Assent see s. 67(1); Sch. 4 para. 25 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 25 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 6(b)

- 26 In section 86 (emergency powers), in paragraph (b), the words from “and it shall” to the end are omitted.

Commencement Information

I16 Sch. 4 para. 26 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 26 in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 26 in force (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2

- 27 In section 91 (private trusts for hospitals)—
(a) in subsection (3), for paragraphs (aa) to (b) there is substituted—

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- “(b) where the hospital is managed by, and trustees have been appointed for, an NHS trust or Primary Care Trust, the trustees,
 - (c) where the hospital is managed by an NHS trust or Primary Care Trust and neither paragraph (a) nor paragraph (b) applies, the NHS trust or (as the case may be) Primary Care Trust,
 - (d) in any other case, the Health Authority or Special Health Authority exercising functions of the Secretary of State in respect of the hospital”,
- (b) in subsection (4), “to a trust for a special hospital, or” is omitted.

Commencement Information

I17 Sch. 4 para. 27 partly in force; Sch. 4 para. 27 not in force at Royal Assent see s. 67(1); Sch. 4 para. 27(a) in force for certain purposes (E.) at 1.10.1999 by S.I. 1999/2540, art. 2(1)(a), Sch. 1; Sch. 4 para. 27(a) in force for certain purposes (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 27(b) in force (E.W.) at 1.4.2000 by S.I. 1999/2793, art. 2(3)(a), Sch. 3; Sch. 4 para. 27(a) in force for certain purposes (W.) by S.I. 2000/1026, art. 2(1), Sch.; Sch. 4 para. 27 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 6(b)

- 28 In section 92 (further transfers of trust property)—
- (a) in subsection (1A), after “NHS trust” (in both places) there is inserted “ or a Primary Care Trust ”,
 - (b) after subsection (6) there is inserted—
- “(7) Subsection (6) above applies in relation to a Primary Care Trust as it applies in relation to an NHS trust.”

Commencement Information

I18 Sch. 4 para. 28 wholly in force; Sch. 4 para. 28 not in force at Royal Assent see s. 67(1); Sch. 4 para. 28 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 28 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 6(b)

- 29 In section 96 (trusts: supplementary provisions), after “90 to 95 above” (in both places) there is inserted “ and 96B below ”.

Commencement Information

I19 Sch. 4 para. 29 wholly in force; Sch. 4 para. 29 not in force at Royal Assent see s. 67(1), Sch. 4 para. 29 in force (E.) at 4.1.2000 by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 29 in force so far as not already in force immediately before the National Health Service Act 2006 c. 41 (which Act came into

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force on 1.3.2007 in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act)) by The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 30 (1) Section 96A (power of health authorities etc. to raise money) is amended as follows.
- (2) In subsection (5)(b), “on behalf” is omitted.
- (3) After subsection (5A) there is inserted—
- “(5B) Where property—
- (a) is given in pursuance of this section on trust for any purposes of a Primary Care Trust for which trustees have been appointed under section 96B below, and
- (b) those trustees and the Primary Care Trust agree,
- the property may be held, administered and applied by those trustees instead of by the Primary Care Trust.”
- (4) After subsection (10) there is inserted—
- “(11) This section (apart from subsection (5A)) has effect in relation to a Primary Care Trust as it has effect in relation to an NHS trust.”

Commencement Information

I20 Sch. 4 para. 30 wholly in force; Sch. 4 para. 30 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 30(1) in force for certain purposes (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 30(2) in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 30 in force (E.) at 4.1.2000 insofar as not already in force by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 30(1) in force for certain purposes (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 30(2) in force (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 30 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 31 (1) Section 97 (public funding of Health Authorities and Special Health Authorities) is amended as follows.
- (2) [F3]In subsection (6), after paragraph (b) there is inserted—
- “(bb) the application of sums received by them under section 97C(4) below; or”,
- and accordingly the “or” after paragraph (b) is omitted.]
- (3) Subsection (7) is omitted.
- (4) In subsection (9), after “paid” there is inserted “ to Health Authorities or Special Health Authorities ”.

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Textual Amendments

- F3** Sch. 4 para. 31(2) repealed (1.10.2002 for E., 10.10.2002 for W.) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 37, 42(3)(4), [Sch. 8 para. 31](#), [Sch. 9 Pt. 3](#); S.I. 2002/2478, [art. 3\(1\)\(e\)\(f\)](#) (subject to [arts. 2\(2\)](#), [3\(3\)](#) and with transitional provisions in [art. 4](#)); S.I. 2002/2532, [art. 2](#), [Sch.](#)

Commencement Information

- I21** Sch. 4 para. 31 wholly in force; Sch. 4 para. 31 not in force at Royal Assent, see [s. 67\(1\)](#); Sch. 4 para. 31(1) in force for certain purposes (E.) at 1.9.1999 by S.I. 1999/2342, [art. 2\(1\)](#), [Sch. 1](#); Sch. 4 para. 31(3) in force (E.) at 1.9.1999 by S.I. 1999/2342, [art. 2\(1\)](#), [Sch. 1](#); Sch. 4 para. 31 in force (E.) at 1.4.2000 insofar as not already in force by S.I. 1999/2342, [art. 2\(4\)\(a\)](#), [Sch. 3](#); Sch. 4 para. 31(1) in force for certain purposes (W.) and Sch. 4 para. 31(3) in force (W.) at 1.12.1999 by S.I. 1999/3184, [art. 2\(2\)](#), [Sch. 2](#); Sch. 4 para. 31 in force so far as not already 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 [The National Health Service \(Pre-consolidation Amendments\) Order 2006 \(S.I. 2006/1407\)](#), [arts. 1\(1\)](#), [2](#), [Sch. 1 Pt. 2 para. 6\(b\)](#)

- 32 Section 97A(5) (duty to comply with directions) is omitted.

Commencement Information

- I22** Sch. 4 para. 32 not in force at Royal Assent, see [s. 67\(1\)](#); Sch. 4 para. 32 in force (E.) at 1.9.1999 by S.I. 1999/2342, [art. 2\(1\)](#), [Sch. 1](#); Sch. 4 para. 32 in force (W.) at 1.12.1999 by S.I. 1999/3184, [art. 2\(2\)](#), [Sch. 2](#)

- 33 (1) Section 98 (accounts and audit) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (b) there is inserted—
- “(bb) every Primary Care Trust”,
- (b) in paragraph (dd), after “1990” there is inserted—
- “(ddd) any trustees for a Primary Care Trust appointed in pursuance of section 96B above”.
- (3) Before subsection (2A) there is inserted—
- “(2AA) Every Primary Care Trust shall send a copy of any accounts it has prepared under subsection (2) above to the Health Authority within whose area the trust’s area falls.”

Commencement Information

- I23** Sch. 4 para. 33 partly in force; Sch. 4 para. 33 not in force at Royal Assent see [s. 67\(1\)](#); Sch. 4 para. 33 in force for certain purposes for E. at 1.4.2000 by S.I. 1999/2342, [art. 2\(4\)\(a\)](#), [Sch. 3](#)

- 34 In section 99 (regulation of financial arrangements)—
- (a) in subsection (1), after paragraph (b) there is inserted—
- “(ba) Primary Care Trusts”,

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- (b) in subsection (3), the words from “and shall be complied with” to the end are omitted.

Commencement Information

I24 Sch. 4 para. 34 partly in force; Sch. 4 para. 34 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 34(b) in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 34 in force (E.) at 4.1.2000 insofar as not already in force by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 34(b) in force (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2

35 F4

Textual Amendments

F4 Sch. 4 para. 35 repealed (1.10.2002 for E., 10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 37, 42(3)(4), Sch. 8 para. 31, Sch. 9 Pt. 3; S.I. 2002/2478, art. 3(1)(e)(f) (subject to arts. 2(2), 3(3) and with transitional provisions in art. 4); S.I. 2002/2532, art. 2, Sch.

36 In section 122(2) (recovery of charges), “as a simple contract debt” is omitted.

Commencement Information

I25 Sch. 4 para. 36 wholly in force; Sch. 4 para. 36 not in force at Royal Assent see s. 67(1); Sch. 4 para. 36 in force (E.) at 1.11.1999 by S.I. 1999/2793, art. 2(1)(a), Sch. 1; Sch. 4 para. 36 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, Sch. 1 Pt. 2 para. 6(b)

- 37 (1) Section 126 (orders, regulations and directions) is amended as follows.
- (2) In subsection (1)—
- (a) after “virtue of this Act shall” there is inserted “, unless it is a PCT order,”,
- (b) in paragraph (b), after “apply to” there is inserted “ an order made under section 28EE(2) above, paragraph 20, 21 or 23 of Schedule 5A to this Act or to ”.
- (3) In subsection (3A), after “Secretary of State” there is inserted “ or by a Health Authority ”.
- (4) In subsection (3B), for “11 to 17” there is substituted “ 16D to 17B ”.
- (5) After subsection (3B) there is inserted—
- “(3C) Any person or body to whom directions are given in pursuance of any provision of this Act or Part I of the ^{M2}National Health Service and Community Care Act 1990 shall comply with the directions.”

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- (6) In subsection (4), for “incidental or supplemental” there is substituted “supplementary, incidental, consequential, transitory, transitional or saving”.

Commencement Information

I26 Sch. 4 para. 37 wholly in force; Sch. 4 para. 37 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 37(1)(4) in force for certain purposes (E.) and Sch. 4 para. 37(5)(6) in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 37 in force (E.) at 4.1.2000 insofar as not already in force by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 37(1) in force for certain purposes (W.) and Sch. 4 para. 37(5)(6) in force (W.) at 1.11.1999 by S.I. 1999/3184, art. 2(1), Sch. 1; Sch. 37(4) in force for certain purposes (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 37 in force so far as not already 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 The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

Marginal Citations

M2 S.I. 1990 c.19.

- 38 (1) Section 128 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “health service hospital”, after “or vested in” there is inserted “ a Primary Care Trust or ”,
 - (b) after that definition there is inserted—

““high security psychiatric services” has the meaning given by section 4 above”,
 - (c) after the definition of “prescribed” there is inserted—

““PCT order” has the meaning given by section 16A above”,
 - (d) the definition of “special hospital” is omitted.
- (3) After that subsection there is inserted—
- “(1A) So far as is necessary or expedient in consequence of a direction under section 16D or 17A above providing for the exercise by a Health Authority, Special Health Authority or Primary Care Trust of a function exercisable by another person, any reference in any enactment, instrument or other document to that other person is to be read as a reference to the Health Authority, Special Health Authority or Primary Care Trust.”

Commencement Information

I27 Sch. 4 para. 38 wholly in force; Sch. 4 para. 38 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 38(1)(3) in force for certain purposes (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), Sch. 1; Sch. 4 para. 38(1)(2)(a)(c)(3) in force (E.) at 4.1.2000 insofar as not already in force by S.I. 1999/2342, art. 2(3)(a), Sch. 2; Sch. 4 para. 38(1)(3) in force for certain purposes (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), Sch. 2; Sch. 4 para. 38(1) in force for certain purposes (E.W.) and Sch. 4 para. 38(2)(b)(d) in force (E.W.) at 1.4.2000 by S.I. 1999/2793, art. 2(3)(a), Sch. 3; Sch. 4 para. 38 in force so far as not already in force immediately before the National Health Service Act 2006 c. 41 (which Act came into force on 1.3.2007

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in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act)) by The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 6(b)**

- 39 (1) Schedule 5 (Health Authorities and Special Health Authorities) is amended as follows.
- (2) In paragraph 9 (pay and allowances), in sub-paragraph (4), after “sub-committee of” there is inserted “, or joint committee or joint sub-committee including,”.
 - (3) In paragraph 10 (staff), in sub-paragraph (3), the words from “and it shall” to the end are omitted.
 - (4) In paragraph 12 (miscellaneous)—
 - (a) in paragraph (a), after “sub-committee of” there is inserted “, or joint committee or joint sub-committee including,”,
 - (b) in paragraph (b), for “of an authority” to “and committees and sub-committees” there is substituted “ (and joint committees and joint sub-committees) of (or including) an authority (including any such committees”.
 - (5) For sub-paragraph (1) of paragraph 15 (acting as principal), there is substituted—

“15 (1) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by an authority of any function exercisable by them by virtue of section 16 or 16D above are enforceable by or (as the case may be) against that authority (and no other health service body).

(1A) This paragraph does not apply in relation to the joint exercise of any functions by an authority with another body under section 16(2)(c) or (3) (b) above.”

Commencement Information

I28 Sch. 4 para. 39 not in force at Royal Assent, see s. 67(1); Sch. 4 para. 39 in force (E.) at 1.9.1999 by S.I. 1999/2342, art. 2(1), **Sch. 1**; Sch. 4 para. 39 in force (W.) at 1.12.1999 by S.I. 1999/3184, art. 2(2), **Sch. 2**

40

F5

Textual Amendments

F5 Sch. 4 para. 40 repealed (20.10.2003 for W. and otherwise prosp.) by Health (Wales) Act 2003 (c. 40, ss. 7(2), 10(2), {Sch. 4}; S.I. 2003/2660, art. 2(1)(iii)

- 41 In Schedule 9 (NHS Tribunal), in paragraph 5A—
- (a) in sub-paragraph (2)(a), for “section 46” there is substituted “ sections 46 to 46C ”,
 - (b) in sub-paragraph (2)(b), after “disqualification” there is inserted “ conditional disqualification or declaration of unfitness ”,

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- (c) in sub-paragraph (2)(d), for the words from “the application” to the end there is substituted “ section 49A(3) may be made to apply or continue to apply ”.

Status:

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Changes to legislation:

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