

*Status: Point in time view as at 01/06/2004.*

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## SCHEDULES

### SCHEDULE 1

Section 1

#### CONSTITUTION OF PUBLIC BENEFIT CORPORATIONS

##### *Requirement for a constitution*

- 1 (1) A public benefit corporation is to have a constitution.
- (2) As well as any provision authorised or required to be made by this Schedule, the constitution may make further provision (other than provision as to the powers of the corporation) consistent with this Schedule.
- 2 The constitution is to name the corporation and, if the corporation is an NHS foundation trust, its name must include the words “NHS foundation trust”.

##### *Eligibility for membership*

- 3 (1) The persons who may become or continue as members of a public benefit corporation are—
  - (a) individuals who live in any area specified in the constitution as the area for a public constituency,
  - (b) individuals employed by the corporation under a contract of employment and, if the constitution so provides, individuals who exercise functions for the purposes of the corporation otherwise than under a contract of employment with the corporation,
  - (c) if the constitution so provides, individuals who have attended any of the corporation’s hospitals as either a patient or the carer of a patient within a period specified in the constitution.
- (2) The constitution may specify one or more areas as areas for public constituencies, each of which must be an electoral area for the purposes of local government elections in England and Wales or an area consisting of two or more such electoral areas.
- (3) A person may become or continue as a member of the corporation by virtue of sub-paragraph (1)(b) only if—
  - (a) he is employed by the corporation under a contract of employment which has no fixed term or has a fixed term of at least 12 months, or
  - (b) he has been continuously employed by the corporation for at least 12 months or, where he exercises functions for the purposes of the corporation as mentioned in that sub-paragraph, he has done so continuously for such a period.

Chapter 1 of Part 14 of the Employment Rights Act 1996 (c. 18) applies for the purpose of determining whether an individual has been continuously employed by the corporation, or has continuously exercised functions for the purposes of the corporation, as it applies for the purposes of that Act.

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- (4) The constitution may divide those who come within sub-paragraph (1)(b) into two or more descriptions of individuals.
- (5) An individual providing care in pursuance of a contract (including a contract of employment), or as a volunteer for a voluntary organisation, does not come within sub-paragraph (1)(c).

A voluntary organisation is a body, other than a public or local authority, the activities of which are not carried on for profit.

- (6) The constitution may divide those who come within sub-paragraph (1)(c) into three or more descriptions of individuals, one of which is to comprise the carers of patients.
- (7) The constitution may make further provision as to the circumstances in which a person may not become or continue as a member.

#### *Constituencies*

- 4 (1) Members of a public benefit corporation are referred to as follows.
- (2) Those who live in an area specified in the constitution as an area for any public constituency are referred to collectively as a public constituency.
- (3) Those who come within paragraph 3(1)(b) are referred to collectively as the staff constituency and, if the power in paragraph 3(4) is exercised, each description of members is referred to as a class within that constituency.
- (4) Those who come, within paragraph 3(1)(c) are referred to collectively as the patients' constituency and, if the power in paragraph 3(6) is exercised, each description of members is referred to as a class within that constituency.
- (5) A person who is a member of a constituency, or of a class within a constituency, may not while that membership continues be a member of any other constituency or class.
- (6) A person who comes within paragraph 3(1)(b) may not become or continue as a member of any constituency other than the staff constituency.
- 5 The constitution is to require a minimum number of members of each constituency or, where there are classes within the constituency, of each class.

#### **Commencement Information**

**II** Sch. 1 para. 5 in force at 1.4.2004 by S.I. 2004/759, art. 2

#### *Becoming a member*

- 6 (1) An individual who is eligible to become a member of a public benefit corporation may do so on an application made to the corporation.
- (2) The constitution may provide for any individual who is—
- eligible to become a member of the staff constituency, and
  - invited by the corporation to become a member of that constituency (and, where there are classes within the constituency, a member of the appropriate class),

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to become a member of the corporation as a member of that constituency (and class) without an application being made, unless he informs the corporation that he does not wish to do so.

- (3) The constitution may provide for any individual who is—
- (a) eligible to become a member of the patients' constituency (otherwise than as the carer of a patient), and
  - (b) invited by the corporation to become a member of a specified constituency (and where there are classes within the constituency, a member of the specified class),

to become a member of the corporation as a member of that constituency (and class) without an application being made, unless he informs the corporation that he does not wish to do so.

- (4) The constituency and, where applicable, class to be specified—
- (a) if he is eligible to be a member of any public constituency, is that constituency,
  - (b) otherwise, is the patients' constituency and, where applicable, the class of which he is eligible to become a member.

#### *Board of Governors*

- 7 (1) A public benefit corporation is to have a board of governors.
- (2) Only members of the corporation and persons appointed under the following provisions may become or continue as members of the board.
- (3) The members of the board other than the appointed members are to be chosen by election.
- (4) Members of a constituency or, where there are classes within it, members of each class may elect any of their number to be a member of the board.
- 8 (1) The following may not become or continue as members of the board of governors—
- (a) a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged,
  - (b) a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it,
  - (c) a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
- (2) The constitution may make further provision as to the circumstances in which a person may not become or continue as a member of the board.
- 9 (1) More than half of the members of the board of governors are to be elected by members of the corporation other than those who come within paragraph 3(1)(b).
- (2) At least three members of the board are to be elected by the staff constituency or, where there are classes within it, at least one member of the board is to be elected by each class and at least three members are to be elected altogether.
- (3) At least one member of the board is to be appointed by a Primary Care Trust for which the corporation provides goods or services.

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- (4) At least one member of the board is to be appointed by one or more qualifying local authorities.
- A qualifying local authority is a local authority for an area which includes the whole or part of an area specified in the constitution as the area for a public constituency.
- (5) If any of the corporation's hospitals includes a medical or dental school provided by a university, at least one member of the board is to be appointed by that university.
- (6) An organisation specified in the constitution as a partnership organisation may appoint a member of the board.
- 10 (1) An elected member of the board of governors may hold office for a period of three years.
- (2) Such a member is to be eligible for re-election at the end of that period.
- (3) But such a member ceases to hold office if he ceases to be a member of the corporation.
- 11 The corporation may pay travelling and other expenses to members of the board of governors at rates decided by the corporation.
- 12 The constitution is to provide for the chairman of the corporation or (in his absence) another person to preside at meetings of the board of governors.
- 13 (1) The constitution is to provide for meetings of the board of governors to be open to members of the public.
- (2) But the constitution may provide for members of the public to be excluded from a meeting for special reasons.
- 14 (1) The constitution is to make provision as to—
- (a) the conduct of elections for membership of the board,
  - (b) the appointment of persons to membership,
  - (c) the practice and procedure of the board,
  - (d) the removal of a member from office.
- (2) The constitution may make further provision about the board.

#### *Directors*

- 15 (1) A public benefit corporation is to have a board of directors.
- (2) The constitution is to provide for all the powers of the corporation to be exercisable by the board of directors on its behalf.
- (3) But the constitution may provide for any of those powers to be delegated to a committee of directors or to an executive director.
- 16 (1) The board is to consist of—
- (a) executive directors, one of whom is to be the chief executive (and accounting officer) and another the finance director,
  - (b) non-executive directors, one of whom is to be the chairman.

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- (2) One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984 (c. 24)); and another is to be a registered nurse or a registered midwife.
  - (3) A person may not be appointed as an executive director if he is within paragraph 8(1).
  - (4) A person may be appointed as a non-executive director only if—
    - (a) he is a member of a public constituency or the patients' constituency, or
    - (b) where any of the corporation's hospitals includes a medical or dental school provided by a university, he exercises functions for the purposes of that university,and he is not within paragraph 8(1).
- 17 (1) It is for the board of governors at a general meeting to appoint or remove the chairman and the other non-executive directors.
- Removal of a non-executive director under this sub-paragraph requires the approval of three-quarters of the members of the board.
- (2) It is for the non-executive directors to appoint or remove the chief executive.
  - (3) It is for a committee consisting of the chairman, the chief executive and the other non-executive directors to appoint or remove the executive directors.
  - (4) The appointment of a chief executive requires the approval of the board of governors.
- 18 (1) It is for the board of governors at a general meeting to decide the remuneration and allowances, and the other terms and conditions of office, of the non-executive directors.
- (2) The corporation is to establish a committee of non-executive directors to decide the remuneration and allowances, and the other terms and conditions of office, of the executive directors; but the constitution may make provision for those matters to be decided pending the establishment of such a committee.

*Initial directors of former NHS trusts*

- 19 (1) This paragraph applies, where the application for authorisation is made under section 4, to the exercise of the powers mentioned in paragraph 17 to appoint the initial non-executive directors and the initial chief executive.
- (2) The power to appoint the initial chairman of the corporation is to be exercised by appointing the chairman of the NHS trust, if he wishes to be appointed.
  - (3) The power to appoint the other initial non-executive directors of the corporation is to be exercised, so far as possible, by appointing any of the non-executive directors of the NHS trust (other than the chairman) who wish to be appointed.
  - (4) A person appointed in accordance with sub-paragraph (2) or (3) is to be appointed for the unexpired period of his term of office as chairman or (as the case may be) non-executive director of the NHS trust; but if, on any such appointment, that period is less than 12 months, he is to be appointed for 12 months.
  - (5) The power to appoint the initial chief executive of the corporation is to be exercised by appointing the chief officer of the NHS trust, if he wishes to be appointed.

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- (6) Sub-paragraphs (a) and (b) of paragraph 16(4) do not apply to the appointment of any initial non-executive director in pursuance of this paragraph; and paragraph 17(4) does not apply to the appointment of the initial chief executive of the corporation in pursuance of sub-paragraph (5).

*Register of members etc.*

- 20 (1) A public benefit corporation is to have—
- (a) a register of members showing, in respect of each member, the constituency to which he belongs and, where there are classes within it, the class to which he belongs,
  - (b) a register of members of the board of governors,
  - (c) a register of interests of the members of the board of governors,
  - (d) a register of directors,
  - (e) a register of interests of the directors.
- (2) The constitution may make further provision about the registers including, in particular, admission to, and removal from, the registers.
- 21 The constitution is to make provision for dealing with conflicts of interest of members of the board of governors and of the directors.
- 22 (1) A public benefit corporation is to make the following documents available for inspection by members of the public free of charge at all reasonable times—
- (a) a copy of the current constitution,
  - (b) a copy of the current authorisation,
  - (c) a copy of the latest annual accounts and of any report of the auditor on them,
  - (d) a copy of the latest annual report,
  - (e) a copy of the latest information as to its forward planning,
  - (f) a copy of any notice given under section 23.
- (2) Any person who requests it is to be provided with a copy of or extract from any of the above documents.
- (3) The corporation is also to make the registers mentioned in paragraph 20 available for inspection by members of the public, except in circumstances prescribed by regulations; and, so far as the registers are required to be available—
- (a) they are to be available free of charge at all reasonable times,
  - (b) a person who requests it is to be provided with a copy of or extract from them.
- (4) If the person requesting a copy or extract under this paragraph is not a member of the corporation, the corporation may impose a reasonable charge for doing so.

*Auditor*

- 23 (1) A public benefit corporation is to have an auditor.
- (2) It is for the board of governors to appoint or remove the auditor at a general meeting of the board.
- (3) An officer of the Audit Commission may be the auditor if he is appointed by the board with the agreement of the Commission.

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- (4) But a person may not be appointed as auditor unless he (or, in the case of a firm, each of its members) is a member of one or more of the following bodies—
  - (a) the bodies mentioned in section 3(7)(a) to (e) of the Audit Commission Act 1998 (c. 18),
  - (b) any other body of accountants established in the United Kingdom and for the time being approved by the regulator for the purposes of this paragraph.
- (5) Where an officer of the Audit Commission is appointed as auditor, the Commission is to charge the public benefit corporation such fees for his services as will cover the full cost of providing them.
- (6) The corporation is to establish a committee of non-executive directors as an audit committee to perform such monitoring, reviewing and other functions as are appropriate.
- (7) In this paragraph “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales.

#### *Accounts*

- 24 (1) A public benefit corporation is to keep accounts in such form as the regulator may with the approval of the Treasury direct.
- (2) The accounts are to be audited by the corporation’s auditor.
- (3) But the Comptroller and Auditor General may examine—
  - (a) the accounts,
  - (b) any records relating to them, and
  - (c) any report of the auditor on them.
- (4) If trustees are appointed under section 22, the Comptroller and Auditor General may also examine—
  - (a) the accounts kept by the trustees,
  - (b) any records relating to them, and
  - (c) any report of an auditor on them.
- (5) In auditing the accounts the auditor is to comply with any directions given by the regulator as to the standards, procedures and techniques to be adopted.
- 25 (1) A public benefit corporation is to prepare in respect of each financial year annual accounts in such form as the regulator may with the approval of the Treasury direct.
- (2) In preparing its annual accounts, the corporation is to comply with any directions given by the regulator with the approval of the Treasury as to—
  - (a) the methods and principles according to which the accounts are to be prepared,
  - (b) the information to be given in the accounts.
- (3) In determining the form and content of the annual accounts the regulator is to aim to ensure that the accounts present a true and fair view.
- (4) The corporation must—
  - (a) lay a copy of the annual accounts, and any report of the auditor on them, before Parliament, and

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- (b) once it has done so, send copies of those documents to the regulator.
- (5) The constitution is to provide for the functions of the corporation under this paragraph to be delegated to the accounting officer.
- (6) In this paragraph and paragraph 27 “financial year” means—
  - (a) the period beginning with the date on which the corporation is authorised under section 6 and ending with the next 31st March, and
  - (b) each successive period of twelve months beginning with 1st April.

*Annual reports and forward plans*

- 26 (1) A public benefit corporation is to prepare annual reports and send them to the regulator.
- (2) The reports are to give—
  - (a) information on any steps taken by the corporation to secure that (taken as a whole) the actual membership of any public constituency and (if there is one) of the patients' constituency is representative of those eligible for such membership,
  - (b) any other information the regulator requires.
- (3) It is for the regulator to decide—
  - (a) the form of the reports,
  - (b) when the reports are to be sent to it,
  - (c) the periods to which the reports are to relate.
- 27 (1) A public benefit corporation is to give information as to its forward planning in respect of each financial year to the regulator.
- (2) The document containing the information is to be prepared by the directors.
- (3) In preparing the document the directors must have regard to the views of the board of governors.

*Meeting of board of governors to consider annual accounts and reports*

- 28 The following documents are to be presented to the board of governors of a public benefit corporation at a general meeting—
  - (a) the annual accounts,
  - (b) any report of the auditor on them,
  - (c) the annual report.

*Instruments etc.*

- 29 (1) The constitution is to make provision for the authentication of the fixing of the corporation's seal.
- (2) A document purporting to be duly executed under the corporation's seal or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.



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## SCHEDULE 2

Section 2

### INDEPENDENT REGULATOR OF NHS FOUNDATION TRUSTS

#### *Membership*

- 1 (1) The regulator is to consist of a number of members (but not more than 5) appointed by the Secretary of State.
- (2) One of the members is to be appointed as chairman and another as deputy chairman.
- (3) The deputy chairman need not be appointed before the end of the period of six months beginning with the establishment of the regulator.

#### **Commencement Information**

**I2** Sch. 2 para. 1 in force at 1.1.2004 by S.I. 2003/3346, art. 2

#### *Tenure of office*

- 2 (1) A person is to hold and vacate office as a member in accordance with the terms of his appointment.
- (2) But—
  - (a) he may at any time resign his office by giving notice to the Secretary of State,
  - (b) the Secretary of State may at any time remove him from office on the ground of incapacity or misbehaviour.
- (3) A person is not to be appointed as a member for a period of more than four years.
- (4) A person who ceases to be a member is eligible for re-appointment.

#### **Commencement Information**

**I3** Sch. 2 para. 2 in force at 1.1.2004 by S.I. 2003/3346, art. 2

#### *Remuneration and pensions*

- 3 (1) The regulator is to pay to the chairman—
  - (a) such remuneration, and
  - (b) such travelling and other allowances,as the Secretary of State may determine.
- (2) The regulator is to pay to the members (other than the chairman) such travelling and other allowances as the Secretary of State may determine.
- (3) In the case of any such person who holds or has held office as chairman as the Secretary of State may determine, the regulator is to pay—
  - (a) such pension, allowance or gratuity to or in respect of him, or
  - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,as the Secretary of State may determine.

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**Commencement Information**

**I4** Sch. 2 para. 3 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Staff*

- 4 The regulator may, after consulting the Minister for the Civil Service as to numbers and terms and conditions of service, employ such staff as the regulator may determine.

**Commencement Information**

**I5** Sch. 2 para. 4 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Superannuation*

- 5 (1) Sub-paragraph (2) applies where—
- (a) a person is an active or deferred member of a scheme under section 1 of the Superannuation Act 1972 (c. 11), and
  - (b) he is appointed as chairman.
- (2) In such a case the Minister for the Civil Service may determine that the person's term of office as chairman is to be treated for the purposes of the scheme as service in the employment by reference to which he is a member (whether or not any benefits are payable by virtue of paragraph 3(3)).
- (3) Employment with the regulator is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply; and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed), at the end of the list of Other Bodies there is inserted— “ The Independent Regulator of NHS Foundation Trusts ”.
- (4) The regulator must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (2) or (3) in the sums payable out of money provided by Parliament under the Superannuation Act 1972 (c. 11).

**Commencement Information**

**I6** Sch. 2 para. 5 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Procedure*

- 6 (1) The regulator may regulate its own procedure and make any arrangements it considers appropriate for the discharge of its functions.
- (2) The validity of any act of the regulator is not affected by any vacancy among the members or by any defect in the appointment of any member.

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**Commencement Information**

**I7** Sch. 2 para. 6 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Delegation of functions*

- 7 Anything which the regulator is authorised or required to do may be done by—
- (a) the chairman or deputy chairman or any committee,
  - (b) any member of the staff,
- if authorised by the regulator (generally or specifically) for that purpose.

**Commencement Information**

**I8** Sch. 2 para. 7 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*General powers*

- 8 (1) The regulator may do anything which appears to it to be necessary or desirable for the purposes of or in connection with the exercise of its functions.
- (2) That includes in particular—
- (a) acquiring and disposing of property,
  - (b) entering into contracts,
  - (c) accepting gifts of property,
- and co-operating with other public authorities.

**Commencement Information**

**I9** Sch. 2 para. 8 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Specific powers*

- 9 (1) The regulator may with the consent of the Secretary of State borrow money temporarily by way of overdraft, but may not otherwise borrow money.
- (2) The regulator may conduct, commission or assist the conduct of research.

**Commencement Information**

**I10** Sch. 2 para. 9 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Finance*

- 10 The Secretary of State may make contributions towards the regulator's expenses.

**Commencement Information**

**I11** Sch. 2 para. 10 in force at 1.1.2004 by S.I. 2003/3346, art. 2

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### *Reports and other information*

- 11 (1) As soon as possible after the end of each financial year, the regulator must prepare an annual report on how it has exercised its functions during the year.
- (2) The regulator must—
- (a) lay a copy of the report before Parliament, and
  - (b) once it has done so, send a copy of it to the Secretary of State.
- (3) The regulator must in respect of each financial year prepare a report which provides an overall summary of the accounts of NHS foundation trusts.
- (4) The report must be prepared as soon as possible after the regulator has received the accounts of all NHS foundation trusts for the relevant financial year.
- (5) The regulator must—
- (a) lay a copy of the report before Parliament, and
  - (b) once it has done so, send a copy of it to the Secretary of State.
- (6) The regulator must provide the Secretary of State with such other reports and information relating to the exercise of the regulator’s functions as he may require.

#### **Commencement Information**

**I12** Sch. 2 para. 11 in force at 1.1.2004 by S.I. 2003/3346, art. 2

- 12 (1) The regulator must keep accounts in such form as the Secretary of State may direct.
- (2) The regulator must prepare in respect of each financial year annual accounts in such form as the Secretary of State may direct.
- (3) The regulator must send copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of them and of his report before Parliament.
- (5) In paragraph 11 and this paragraph, “financial year” means—
- (a) the period beginning with the establishment of the regulator and ending with the next 31st March, and
  - (b) each successive period of twelve months beginning with 1st April.

#### **Commencement Information**

**I13** Sch. 2 para. 12 in force at 1.1.2004 by S.I. 2003/3346, art. 2

- 13 The regulator must respond in writing to any recommendation which—
- (a) is made by a Committee of either House of Parliament, or a Committee of both Houses, and
  - (b) relates to the exercise by the regulator of its functions.

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**Commencement Information**

**I14** Sch. 2 para. 13 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Seal and evidence*

- 14 The application of the regulator’s seal is to be authenticated by the signature of the chairman or deputy chairman or of any member of the staff who has been authorised by the regulator (whether generally or specifically) for that purpose.

**Commencement Information**

**I15** Sch. 2 para. 14 in force at 1.1.2004 by S.I. 2003/3346, art. 2

- 15 A document purporting to be duly executed under the regulator’s seal or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

**Commencement Information**

**I16** Sch. 2 para. 15 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*General*

- 16 (1) The regulator is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The regulator’s property is not to be regarded as property of, or property held on behalf of, the Crown.
- (3) The regulator must exercise its functions effectively, efficiently and economically.

**Commencement Information**

**I17** Sch. 2 para. 16 in force at 1.1.2004 by S.I. 2003/3346, art. 2

*Amendments*

- 17 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation), there is inserted at the appropriate place—  
“ The Independent Regulator of NHS Foundation Trusts. ”

**Commencement Information**

**I18** Sch. 2 para. 17 in force at 1.1.2004 by S.I. 2003/3346, art. 2

- 18 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices), there is inserted at the appropriate place—  
“ Chairman or other member of the Independent Regulator of NHS Foundation Trusts. ”

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I19** Sch. 2 para. 18 in force at 1.1.2004 by [S.I. 2003/3346](#), **art. 2**

- 19 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (disqualifying offices), there is inserted at the appropriate place—  
 “ Chairman or other member of the Independent Regulator of NHS Foundation Trusts. ”

**Commencement Information**

**I20** Sch. 2 para. 19 in force at 1.1.2004 by [S.I. 2003/3346](#), **art. 2**

SCHEDULE 3

Section 25

TRANSFER OF STAFF

- 1 An order under section 25(3) may provide for the transfer of employees of an NHS foundation trust to a person mentioned in that subsection.

**Commencement Information**

**I21** [Sch. 3 para. 1](#) partly in force; [Sch. 3 para. 1](#) in force at Royal Assent for certain purposes, see [s. 199\(1\)\(4\)](#)  
**I22** [Sch. 3 para. 1](#) in force at 1.4.2004 in so far as not already in force by [S.I. 2004/759](#), **art. 2**

- 2 The contract of employment of an employee transferred under such an order—  
 (a) is not terminated by the transfer,  
 (b) has effect from the date of transfer as if originally made between the employee and the transferee.

**Commencement Information**

**I23** [Sch. 3 para. 2](#) in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

- 3 Where an employee is so transferred—  
 (a) all the rights, powers, duties and liabilities of the trust under or in connection with the contract of employment are by virtue of this paragraph transferred to the transferee on the date of transfer, and  
 (b) anything done before that date by or in relation to the trust in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This paragraph does not prejudice the generality of paragraph 2.

**Commencement Information**

**I24** [Sch. 3 para. 3](#) in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- 4 But if the employee informs the trust or the proposed transferee that he objects to the transfer—
- (a) paragraphs 2 and 3 do not apply, and
  - (b) the contract of employment is terminated immediately before the date of transfer but the employee is not to be treated, for any purpose, as having been dismissed by the trust.

**Commencement Information**

**I25** Sch. 3 para. 4 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 5 This Schedule does not prejudice any right of an employee to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

**Commencement Information**

**I26** Sch. 3 para. 5 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 6 In this Schedule, “date of transfer” means the date decided under the order for the transfer of the employee.

**Commencement Information**

**I27** Sch. 3 para. 6 in force at 1.4.2004 by S.I. 2004/759, art. 2

SCHEDULE 4

Section 34

AMENDMENTS RELATING TO NHS FOUNDATION TRUSTS

*The Voluntary Hospitals (Paying Patients) Act 1936 (c. 17)*

- 1 The Voluntary Hospitals (Paying Patients) Act 1936 is amended as follows.

**Commencement Information**

**I28** Sch. 4 para. 1 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 2 In section 1 (definitions), in the definition of “voluntary hospital”, after “NHS trust” there is inserted “, an NHS foundation trust”.

**Commencement Information**

**I29** Sch. 4 para. 2 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The National Assistance Act 1948 (c. 29)*

- 3 The National Assistance Act 1948 is amended as follows.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I30** Sch. 4 para. 3 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

- 4 In section 24 (authority liable for provision of accommodation), in subsection (6), for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”.

**Commencement Information**

**I31** Sch. 4 para. 4 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Public Records Act 1958 (c. 51)*

- 5 The Public Records Act 1958 is amended as follows.

**Commencement Information**

**I32** Sch. 4 para. 5 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

- 6 In Schedule 1 (definition of public records), in the Table in Part 1, in the entry relating to the Department of Health, in the second column, for “and National Health Service trusts” there is substituted “, National Health Service trusts and NHS foundation trusts”.

**Commencement Information**

**I33** Sch. 4 para. 6 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Human Tissue Act 1961 (c. 54)*

- 7 The Human Tissue Act 1961 is amended as follows.

**Commencement Information**

**I34** Sch. 4 para. 7 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

- 8 In section 1 (removal of parts of bodies for medical purposes), in subsection (4A) (b), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

**Commencement Information**

**I35** Sch. 4 para. 8 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Abortion Act 1967 (c. 87)*

- 9 The Abortion Act 1967 is amended as follows.



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I36** Sch. 4 para. 9 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 10 In section 1 (medical termination of pregnancy), in subsection (3), after “National Health Service trust” there is inserted “ or an NHS foundation trust ”.

**Commencement Information**

**I37** Sch. 4 para. 10 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Leasehold Reform Act 1967 (c. 88)*

- 11 The Leasehold Reform Act 1967 is amended as follows.

**Commencement Information**

**I38** Sch. 4 para. 11 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 12 In section 28 (retention or assumption of land required for public purposes)—
- (a) in subsection (5), for “and any National Health Service trust” there is substituted “ , any National Health Service trust and any NHS foundation trust ”,
  - (b) in subsection (6)(c), for “or National Health Service trust” there is substituted “ , National Health Service trust or NHS foundation trust ”.

**Commencement Information**

**I39** Sch. 4 para. 12 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Health Services and Public Health Act 1968 (c. 46)*

- 13 The Health Services and Public Health Act 1968 is amended as follows.

**Commencement Information**

**I40** Sch. 4 para. 13 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 14 In section 63 (provisions of instruction for officers of hospital authorities etc. employed, or contemplating employment, in certain activities connected with health or welfare), in subsection (5B), the “and” at the end of paragraph (bbb) is omitted and after paragraph (c) there is inserted—
- “(d) NHS foundation trusts”.

**Commencement Information**

**I41** Sch. 4 para. 14 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

*The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57)*

15 The Employers' Liability (Compulsory Insurance) Act 1969 is amended as follows.

**Commencement Information**

**I42** Sch. 4 para. 15 in force at 1.4.2004 by [S.I. 2004/759, art. 2](#)

16 In section 3 (employers exempted from insurance), in subsection (2)(a), after “1978,” there is inserted “an NHS foundation trust,”.

**Commencement Information**

**I43** Sch. 4 para. 16 in force at 1.4.2004 by [S.I. 2004/759, art. 2](#)

*The Local Government Act 1972 (c. 70)*

17 The Local Government Act 1972 is amended as follows.

**Commencement Information**

**I44** Sch. 4 para. 17 in force at 1.4.2004 by [S.I. 2004/759, art. 2](#)

18 In section 113 (placing of staff of local authorities at disposal of other local authorities), in subsection (1A), for “or NHS trust” (in each place) there is substituted “, NHS trust or NHS foundation trust”.

**Commencement Information**

**I45** Sch. 4 para. 18 in force at 1.4.2004 by [S.I. 2004/759, art. 2](#)

*The House of Commons Disqualification Act 1975 (c. 24)*

19 The House of Commons Disqualification Act 1975 is amended as follows.

**Commencement Information**

**I46** Sch. 4 para. 19 in force at 1.4.2004 by [S.I. 2004/759, art. 2](#)

20 In Part 3 of Schedule 1 (disqualifying offices), there is inserted at the appropriate place— “Chairman or other non-executive director of an NHS foundation trust.”

**Commencement Information**

**I47** Sch. 4 para. 20 in force at 1.4.2004 by [S.I. 2004/759, art. 2](#)

*The Race Relations Act 1976 (c. 74)*

21 The Race Relations Act 1976 is amended as follows.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I48** Sch. 4 para. 21 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 22 In Schedule 1A (bodies and other persons subject to general statutory duty), after paragraph 8 there is inserted—
- “8A An NHS foundation trust.”

**Commencement Information**

**I49** Sch. 4 para. 22 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The National Health Service Act 1977 (c. 49)*

- 23 The 1977 Act is amended as follows.

**Commencement Information**

**I50** Sch. 4 para. 23 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 24 In section 18A (provision of services etc. by PCTs), in subsection (6)(a), after “NHS contracts” there is inserted “ or under agreements or arrangements made with NHS foundation trusts ”.

**Commencement Information**

**I51** Sch. 4 para. 24 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 25 In section 22 (co-operation between health authorities and local authorities), in subsection (1A), the “or” at the end of paragraph (cc) is omitted and after paragraph (d) there is inserted—
- “(e) an NHS foundation trust”.

**Commencement Information**

**I52** Sch. 4 para. 25 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 26 In section 28 (supply of goods and services by local authorities), in subsection (3)—
- (a) for “and NHS trusts” (in both places) there is substituted “ , NHS trusts and NHS foundation trusts ”,
- (b) for “and the National Health Service and Community Care Act 1990” there is substituted “ , the National Health Service and Community Care Act 1990 and Part 1 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

**Commencement Information**

**I53** Sch. 4 para. 26 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- 27 In section 28A (power to make payments towards expenditure on community services), in subsection (2B), for “or NHS trust” there is substituted “ , NHS trust or NHS foundation trust ”.

**Commencement Information**

**I54** Sch. 4 para. 27 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 28 In section 63 (hospital accommodation on part payment), in subsection (1C), at the end there is inserted “ or an NHS foundation trust ”.

**Commencement Information**

**I55** Sch. 4 para. 28 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 29 In section 65 (accommodation and services for private patients), in subsection (4), at the end there is inserted “ or an NHS foundation trust ”.

**Commencement Information**

**I56** Sch. 4 para. 29 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 30 In section 81 (charges for more expensive supplies), in paragraph (a), for “or an NHS trust” there is substituted “ , an NHS trust or an NHS foundation trust ”.

**Commencement Information**

**I57** Sch. 4 para. 30 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 31 In section 82 (charges for repairs and replacements in certain cases), in paragraph (a), for “or an NHS trust” there is substituted “ , an NHS trust or an NHS foundation trust ”.

**Commencement Information**

**I58** Sch. 4 para. 31 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 32 In section 83A (remission and repayment of charges and payment of travelling expenses), in subsection (1)—
- (a) in paragraph (b), for “or an NHS trust” there is substituted “ , an NHS trust or an NHS foundation trust ”,
  - (b) in paragraph (c), after “NHS trust” there is inserted “ or an NHS foundation trust ”.

**Commencement Information**

**I59** Sch. 4 para. 32 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 33 In section 84 (inquiries), in subsection (1), at the end there is inserted “ or Part 1 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I60** Sch. 4 para. 33 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 34 In section 91 (private trusts for hospitals), in subsection (3), after “NHS trust” (in each place) there is inserted “ NHS foundation trust ”.

**Commencement Information**

**I61** Sch. 4 para. 34 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 35 In section 92 (further transfers of trust property)—
- (a) in subsection (1A), after “NHS trust” (in both places) there is inserted “ NHS foundation trust ”,
  - (b) in subsection (7), before “a Primary Care Trust” there is inserted “ an NHS foundation trust and ”.

**Commencement Information**

**I62** Sch. 4 para. 35 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 36 In section 96 (trusts: supplementary provisions), any reference to sections 90 to 95 of the 1977 Act includes section 22(1) to (3) of this Act.

**Commencement Information**

**I63** Sch. 4 para. 36 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 37 In section 96A (powers of health bodies to raise money by appeals etc.), after subsection (11) there is inserted—
- “(12) This section has effect in relation to an NHS foundation trust as it has effect in relation to an NHS trust, but as if the reference in subsection (5A) to section 11(1) of the National Health Service and Community Care Act 1990 included a reference to section 22 of the Health and Social Care (Community Health and Standards) Act 2003.”

**Commencement Information**

**I64** Sch. 4 para. 37 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 38 In section 103 (special arrangement as to payment of remuneration), in subsection (3)(a), after “NHS trust” there is inserted “ or an NHS foundation trust ”.

**Commencement Information**

**I65** Sch. 4 para. 38 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 39 In section 105 (payments for certain medical examinations), in subsection (2)(b), after “NHS trust,” there is inserted “ NHS foundation trust, ”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

#### Commencement Information

**I66** Sch. 4 para. 39 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 40 In section 122 (recovery of charges), in subsection (1), after “1990” there is inserted “ or Part 1 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

#### Commencement Information

**I67** Sch. 4 para. 40 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 41 In section 125 (protection of members and officers of authorities)—
- (a) after paragraph (c) there is inserted—
    - “(d) an NHS foundation trust,”
  - (b) for the words following “this Act” there is substituted “ , the National Health Service and Community Care Act 1990 and Part 1 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

#### Commencement Information

**I68** Sch. 4 para. 41 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 42 In section 128 (interpretation and construction), in subsection (1), in the definition of “health service hospital”, for “or an NHS trust” there is substituted “ , an NHS trust or an NHS foundation trust ”.

#### Commencement Information

**I69** Sch. 4 para. 42 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 43 In Schedule 5A (Primary Care Trusts), in paragraph 20(1), after “NHS trust” there is inserted “ , an NHS foundation trust ”.

#### Commencement Information

**I70** Sch. 4 para. 43 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 44 In Schedule 8A (local pharmaceutical services schemes), in paragraph 1(8), after “NHS trust” there is inserted “ , an NHS foundation trust ”.

#### Commencement Information

**I71** Sch. 4 para. 44 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 45 In Schedule 12A (expenditure of Health Authorities and Primary Care Trusts), in paragraph 7(3), after “NHS trust” there is inserted “ or an NHS foundation trust ”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I72** Sch. 4 para. 45 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The Acquisition of Land Act 1981 (c. 67)*

- 46 (1) An NHS foundation trust may be authorised to purchase land compulsorily for the purposes of its functions by means of an order—
- (a) made by the trust, and
  - (b) confirmed by the Secretary of State.
- (2) The Acquisition of Land Act 1981 is to apply to the compulsory purchase of land under this paragraph.
- (3) But no order is to be made by an NHS foundation trust under Part 2 of that Act with respect to any land unless the proposal to acquire it compulsorily—
- (a) is submitted to the Secretary of State in such form, and together with such information, as he may require, and
  - (b) is approved by him.

**Commencement Information**

**I73** Sch. 4 para. 46 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 47 The Acquisition of Land Act 1981 is amended as follows.

**Commencement Information**

**I74** Sch. 4 para. 47 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 48 In section 16 (statutory undertakers' land excluded from compulsory purchase), in subsection (3), after paragraph (b) there is inserted—
- “(ba) an NHS foundation trust;”.

**Commencement Information**

**I75** Sch. 4 para. 48 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 49 In section 17 (local authority and statutory undertakers' land), in subsection (4), in the definition of “statutory undertakers”, after paragraph (aa) there is inserted—
- “(aab) an NHS foundation trust;”.

**Commencement Information**

**I76** Sch. 4 para. 49 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The Mental Health Act 1983 (c. 20)*

- 50 The Mental Health Act 1983 is amended as follows.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

#### Commencement Information

**I77** Sch. 4 para. 50 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 51 In section 12 (general provisions as to medical recommendation), in subsection (3), at the end there is inserted “ or otherwise to be accommodated, by virtue of an undertaking to pay in respect of the accommodation, in a hospital vested in an NHS foundation trust ”.

#### Commencement Information

**I78** Sch. 4 para. 51 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 52 In section 19 (regulations as to transfer of patients), in subsection (3), after “National Health Service trust” (in both places) there is inserted “ , NHS foundation trust ”.

#### Commencement Information

**I79** Sch. 4 para. 52 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 53 In section 23 (discharge of patients)—
- (a) in subsection (3), after “National Health Service trust,” (in both places) there is inserted “ NHS foundation trust, ”,
  - (b) in subsection (4), after “trust” (in the first place it occurs) there is inserted “ (other than an NHS foundation trust) ”,
  - (c) after subsection (5), there is inserted—
 

“(6) The powers conferred by this section on any NHS foundation trust may be exercised by any three or more non-executive directors of the board of the trust authorised by the board in that behalf.”

#### Commencement Information

**I80** Sch. 4 para. 53 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 54 In section 24 (visiting and examination by patients), in subsection (3), for “or National Health Service trust” (in both places) there is substituted “ , National Health Service trust or NHS foundation trust ”.

#### Commencement Information

**I81** Sch. 4 para. 54 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 55 In section 32 (regulations for purposes of Part 2), in subsection (3), for “or National Health Service trusts” there is substituted “ , National Health Service trusts or NHS foundation trusts ”.



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I82** Sch. 4 para. 55 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

56 In section 139 (protection for acts done in pursuance of this Act), in subsection (4), at the end there is inserted “ or NHS foundation trust ”.

**Commencement Information**

**I83** Sch. 4 para. 56 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

57 In section 145 (interpretation), in subsection (1), after paragraph (bb) of the definition of “the managers” there is inserted—  
“(bc) in relation to a hospital vested in an NHS foundation trust, the trust;”.

**Commencement Information**

**I84** Sch. 4 para. 57 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The National Audit Act 1983 (c. 44)*

58 The National Audit Act 1983 is amended as follows.

**Commencement Information**

**I85** Sch. 4 para. 58 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

59 In section 6 (public departments etc.), in subsection (3)(b), at the end there is inserted “ and any NHS foundation trust ”.

**Commencement Information**

**I86** Sch. 4 para. 59 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Public Health (Control of Disease) Act 1984 (c. 22)*

60 The Public Health (Control of Disease) Act 1984 is amended as follows.

**Commencement Information**

**I87** Sch. 4 para. 60 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

61 In section 13 (regulations for control of certain diseases), in subsection (4)(a), for “or National Health Service trusts” there is substituted “, National Health Service trusts or NHS foundation trusts ”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I88** Sch. 4 para. 61 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 62 In section 37 (removal to hospital of person with notifiable disease), in subsection (1)(c), after “NHS trust,” there is inserted “ NHS foundation trust, ”.

**Commencement Information**

**I89** Sch. 4 para. 62 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 63 In section 41 (removal to hospital of inmate of common lodging-house with notifiable disease), in subsection (1)(c), after “NHS trust,” there is inserted “ NHS foundation trust, ”.

**Commencement Information**

**I90** Sch. 4 para. 63 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 64 The Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.

**Commencement Information**

**I91** Sch. 4 para. 64 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 65 In section 2 (rights of authorised representatives of disabled persons), in subsection (5)(a), after “1990” there is inserted “ or by an NHS foundation trust ”.

**Commencement Information**

**I92** Sch. 4 para. 65 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 66 In section 7 (persons discharged from hospital), in subsection (9), in the definition of “the managers”—
- (a) in paragraph (a)(i), after “National Health Service trust” there is inserted “ , an NHS foundation trust ”,
  - (b) in paragraph (cc), after “that trust;” there is inserted—
    - “(cd) in relation to a hospital vested in an NHS foundation trust, means the board of directors of that trust;”.

**Commencement Information**

**I93** Sch. 4 para. 66 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

*The Company Directors Disqualification Act 1986 (c. 46)*

67 The Company Directors Disqualification Act 1986 is amended as follows.

**Commencement Information**

**I94** Sch. 4 para. 67 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

68 After section 22B there is inserted—

**“22C Application of Act to NHS foundation trusts**

- (1) This Act applies to NHS foundation trusts as it applies to companies within the meaning of this Act.
- (2) References in this Act to a company, or to a director or officer of a company, include, respectively, references to an NHS foundation trust or to a director or officer of the trust; but references to shadow directors are omitted.
- (3) In the application of Schedule 1 to the directors of an NHS foundation trust, references to the provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of Part 1 of the Health and Social Care (Community Health and Standards) Act 2003.”

**Commencement Information**

**I95** Sch. 4 para. 68 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The AIDS (Control) Act 1987 (c. 33)*

69 The AIDS (Control) Act 1987 is amended as follows.

**Commencement Information**

**I96** Sch. 4 para. 69 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 70 In section 1 (periodical reports on matters relating to AIDS and HIV)—
- (a) in subsection (1)(b)(iv), after “NHS trust” there is inserted—  
“(iva) each NHS foundation trust;”,
  - (b) in subsection (2)(b), after “NHS Trust” there is inserted “, NHS foundation trust”.

**Commencement Information**

**I97** Sch. 4 para. 70 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Copyright, Designs and Patents Act 1988 (c. 48)*

71 The Copyright, Designs and Patents Act 1988 is amended as follows.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I98** Sch. 4 para. 71 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 72 In section 48 (material communicated to the Crown in the course of public business), in subsection (6), after “1978” there is inserted “ and an NHS foundation trust ”.

**Commencement Information**

**I99** Sch. 4 para. 72 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Road Traffic Act 1988 (c. 52)*

- 73 The Road Traffic Act 1988 is amended as follows.

**Commencement Information**

**I100** Sch. 4 para. 73 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 74 In section 144 (exceptions from requirement of third-party insurance), in subsection (2), after paragraph (db) there is inserted—  
“(dc) to an ambulance owned by an NHS foundation trust, at a time when the vehicle is being driven under the owner’s control.”.

**Commencement Information**

**I101** Sch. 4 para. 74 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Children Act 1989 (c. 41)*

- 75 The Children Act 1989 is amended as follows.

**Commencement Information**

**I102** Sch. 4 para. 75 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 76 In section 24 (persons qualifying for advice and assistance), in subsection (2)(d)(ii), after “trust” there is inserted “ or an NHS foundation trust ”.

**Commencement Information**

**I103** Sch. 4 para. 76 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 77 In section 24C (information), in subsection (2)(c), after “trust” there is inserted “ or an NHS foundation trust ”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I104** Sch. 4 para. 77 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 78 In section 27 (co-operation between authorities), in subsection (3)(d), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”.

**Commencement Information**

**I105** Sch. 4 para. 78 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 79 In section 47 (local authority’s duty to investigate), in subsection (11)(d), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”.

**Commencement Information**

**I106** Sch. 4 para. 79 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 80 In section 80 (inspection of children’s homes etc. by persons authorised by Secretary of State)—
- (a) in subsection (1)(d), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”,
  - (b) in subsection (5)(e), after “National Health Service trust” there is inserted “, NHS foundation trust”.

**Commencement Information**

**I107** Sch. 4 para. 80 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 81 In section 85 (children accommodated by health authorities and local education authorities), in subsection (1), after “National Health Service trust” there is inserted “, NHS foundation trust”.

**Commencement Information**

**I108** Sch. 4 para. 81 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 82 In Schedule 2 (local authority support for children and families), in paragraph 1A(3), after paragraph (b) there is inserted—
- “(ba) every NHS foundation trust which manages a hospital (within the meaning of the Health and Social Care (Community Health and Standards) Act 2003) in the authority’s area;”.

**Commencement Information**

**I109** Sch. 4 para. 82 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

*The National Health Service and Community Care Act 1990 (c. 19)*

83 The 1990 Act is amended as follows.

**Commencement Information**

**I110** Sch. 4 para. 83 in force at 1.4.2004 by S.I. 2004/759, art. 2

84 In section 21 (schemes for meeting losses and liabilities etc. of certain health service bodies)—

- (a) in subsection (2), after “NHS trusts;” there is inserted—  
     “(ba) NHS foundation trusts;”,
- (b) in subsections (3)(a) and (4)(b), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust ”,
- (c) in subsection (4), at the end there is inserted— “ but the Secretary of State may not make a direction under paragraph (a) above in relation to an NHS foundation trust ”,
- (d) in subsection (5), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust ”.

**Commencement Information**

**I111** Sch. 4 para. 84 in force at 1.4.2004 by S.I. 2004/759, art. 2

85 In Schedule 2 (NHS trusts)—

- (a) in the case of patients being provided with goods and services for the purposes of the health service, paragraph 14 is to have effect in relation to accommodation and further services made available to them by an NHS foundation trust as it does in relation to accommodation and services made available by NHS trusts,
- (b) in paragraph 30, in sub-paragraph (1), after paragraph (bbc) there is inserted—  
     “(bbd) an NHS foundation trust, or”,
- (c) in paragraph 32, at the end there is inserted “ or section 28 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

**Commencement Information**

**I112** Sch. 4 para. 85 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The Town and Country Planning Act 1990 (c. 8)*

86 Sections 238 to 240 of the Town and Country Planning Act 1990 (use and development of consecrated land and burial grounds) apply to consecrated land and land comprised in a burial ground which an NHS foundation trust holds for any of its purposes as if—

- (a) the trust were a statutory undertaker, and
- (b) that land had been the subject of a relevant acquisition by the trust.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I113** Sch. 4 para. 86 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Access to Health Records Act 1990 (c. 23)*

87 The Access to Health Records Act 1990 is amended as follows.

**Commencement Information**

**I114** Sch. 4 para. 87 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

88 In section 11 (interpretation), in the definition of “health service body”, the “or” before paragraph (d) is omitted and after that paragraph there is inserted—  
“(e) an NHS foundation trust”.

**Commencement Information**

**I115** Sch. 4 para. 88 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Water Industry Act 1991 (c. 56)*

89 The Water Industry Act 1991 is amended as follows.

**Commencement Information**

**I116** Sch. 4 para. 89 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

90 In Schedule 4A (premises that are not to be disconnected for non-payment of charges), in paragraph 16, at the end there is inserted “ or by an NHS foundation trust ”.

**Commencement Information**

**I117** Sch. 4 para. 90 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The London Local Authorities Act 1991 (c. xiii)*

91 The London Local Authorities Act 1991 is amended as follows.

**Commencement Information**

**I118** Sch. 4 para. 91 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

92 In section 4 (interpretation of Part 2), in paragraph (d) of the definition of “establishment for special treatment”, after “1990” there is inserted “ or by an NHS foundation trust ”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I119** Sch. 4 para. 92 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Health Service Commissioners Act 1993 (c. 46)*

93 The Health Service Commissioners Act 1993 is amended as follows.

**Commencement Information**

**I120** Sch. 4 para. 93 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

94 In section 2 (the bodies subject to investigation), in subsection (1), after paragraph (da) there is inserted—  
“(db) NHS foundation trusts”.

**Commencement Information**

**I121** Sch. 4 para. 94 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Vehicle Excise and Registration Act 1994 (c. 22)*

95 The Vehicle Excise and Registration Act 1994 is amended as follows.

**Commencement Information**

**I122** Sch. 4 para. 95 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

96 In Schedule 2 (exempt vehicles), in paragraph 7, after the “or” at the end of paragraph (b) there is inserted—  
“(ba) an NHS foundation trust, or”.

**Commencement Information**

**I123** Sch. 4 para. 96 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Value Added Tax Act 1994 (c. 23)*

97 The Value Added Tax Act 1994 is amended as follows.

**Commencement Information**

**I124** Sch. 4 para. 97 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

98 In Schedule 8 (zero-rating), in the Notes to Group 12, in paragraph (5H), after paragraph (e) there is inserted—  
“(eaa) an NHS foundation trust”.



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I125** Sch. 4 para. 98 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Employment Rights Act 1996 (c. 18)*

99 The Employment Rights Act 1996 is amended as follows.

**Commencement Information**

**I126** Sch. 4 para. 99 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

100 In section 50 (right to time off for public duties), in subsection (8), after paragraph (a) there is inserted—  
“(ab) an NHS foundation trust.”

**Commencement Information**

**I127** Sch. 4 para. 100 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

101 In section 218 (change of employer), in subsection (10), after paragraph (c) there is inserted—  
“(ca) NHS foundation trusts.”

**Commencement Information**

**I128** Sch. 4 para. 101 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Housing Grants, Construction and Regeneration Act 1996 (c. 53)*

102 The Housing Grants, Construction and Regeneration Act 1996 is amended as follows.

**Commencement Information**

**I129** Sch. 4 para. 102 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

103 In section 3 (ineligible applicants), in subsection (2)(f), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

**Commencement Information**

**I130** Sch. 4 para. 103 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 2**

*The Education Act 1996 (c. 56)*

104 The Education Act 1996 is amended as follows.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I131** Sch. 4 para. 104 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 105 In section 332 (duty of Health Authority, a Primary Care Trust or National Health Service trust to notify parent etc.), in subsection (1), for “or a National Health Service trust” there is substituted “, a National Health Service trust or an NHS foundation trust”.

**Commencement Information**

**I132** Sch. 4 para. 105 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Data Protection Act 1998 (c. 29)*

- 106 The Data Protection Act 1998 is amended as follows.

**Commencement Information**

**I133** Sch. 4 para. 106 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 107 In section 69 (meaning of “health professional”), in subsection (3), after paragraph (f) there is inserted—  
“(fa) an NHS foundation trust;”.

**Commencement Information**

**I134** Sch. 4 para. 107 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Health Act 1999 (c. 8)*

- 108 The Health Act 1999 is amended as follows.

**Commencement Information**

**I135** Sch. 4 para. 108 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 109 In section 31 (arrangements between NHS bodies and local authorities), in subsection (8), in the definition of “NHS body”, for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

**Commencement Information**

**I136** Sch. 4 para. 109 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Care Standards Act 2000 (c. 14)*

- 110 The Care Standards Act 2000 is amended as follows.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I137** Sch. 4 para. 110 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 111 In section 42 (power to extend the application of Part 2), in subsection (2)(b)(ii), after “NHS trusts” there is inserted “, NHS foundation trusts”.

**Commencement Information**

**I138** Sch. 4 para. 111 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 112 In section 121 (general interpretation), in subsection (1), in the definition of “National Health Service body”, after “National Health Service trust,” there is inserted “ an NHS foundation trust, ”.

**Commencement Information**

**I139** Sch. 4 para. 112 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Freedom of Information Act 2000 (c. 36)*

- 113 The Freedom of Information Act 2000 is amended as follows.

**Commencement Information**

**I140** Sch. 4 para. 113 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 114 In Part 3 of Schedule 1 (National Health Service), after paragraph 40 there is inserted—  
“40A An NHS foundation trust.”

**Commencement Information**

**I141** Sch. 4 para. 114 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Health and Social Care Act 2001 (c. 15)*

- 115 The Health and Social Care Act 2001 is amended as follows.

**Commencement Information**

**I142** Sch. 4 para. 115 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

- 116 In section 7 (functions of overview and scrutiny committees)—  
(a) in subsection (3)(b), at the end there is inserted “ or to the Independent Regulator of NHS Foundation Trusts (“the regulator”) ”,  
(b) in subsection (3)(c), at the end there is inserted “ (including provision as to circumstances in which the relevant authority or the regulator may require consultation on those matters in accordance with the regulations) ”,

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (c) in subsection (4), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

**Commencement Information**

**I143** Sch. 4 para. 116 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 117 In section 28 (pilot schemes: local pharmaceutical services), in subsection (7), after “NHS trust” there is inserted “, an NHS foundation trust”.

**Commencement Information**

**I144** Sch. 4 para. 117 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 118 In section 33 (NHS contracts), in subsection (1), after “body corporate” there is inserted “ (other than an NHS foundation trust) ”.

**Commencement Information**

**I145** Sch. 4 para. 118 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The Anti-terrorism, Crime and Security Act 2001 (c. 24)*

- 119 The Anti-terrorism, Crime and Security Act 2001 is amended as follows.

**Commencement Information**

**I146** Sch. 4 para. 119 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 120 In Schedule 4 (extension of existing disclosure powers), at the end of Part 1 there is inserted—
- “53A Paragraph 8(1) of Schedule 5 to the Health and Social Care (Community Health and Standards) Act 2003.”

**Commencement Information**

**I147** Sch. 4 para. 120 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The International Development Act 2002 (c. 1)*

- 121 The International Development Act 2002 is amended as follows.

**Commencement Information**

**I148** Sch. 4 para. 121 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 122 In Schedule 1 (statutory bodies to which section 9 applies), there is inserted at the appropriate place— “ An NHS foundation trust ”.

*Status: Point in time view as at 01/06/2004.*

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)

**Commencement Information**

**I149** Sch. 4 para. 122 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The National Health Service Reform and Health Care Professions Act 2002 (c. 17)*

123 The National Health Service Reform and Health Care Professions Act 2002 is amended as follows.

**Commencement Information**

**I150** Sch. 4 para. 123 in force at 1.4.2004 by S.I. 2004/759, art. 2

124 In section 23 (joint working with the prison service), in subsection (5), in the definition of “NHS bodies”, after “NHS trusts,” there is inserted “NHS foundation trusts,”.

**Commencement Information**

**I151** Sch. 4 para. 124 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The Adoption and Children Act 2002 (c. 38)*

125 The Adoption and Children Act 2002 is amended as follows.

**Commencement Information**

**I152** Sch. 4 para. 125 in force at 1.4.2004 by S.I. 2004/759, art. 2

126 In section 8 (adoption support agencies), in subsection (2)(d), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

**Commencement Information**

**I153** Sch. 4 para. 126 in force at 1.4.2004 by S.I. 2004/759, art. 2

*The Nationality, Immigration and Asylum Act 2002 (c. 41)*

127 The Nationality, Immigration and Asylum Act 2002 is amended as follows.

**Commencement Information**

**I154** Sch. 4 para. 127 in force at 1.4.2004 by S.I. 2004/759, art. 2

128 In section 133 (medical inspectors), in subsection (4)(a), after sub-paragraph (ii) there is inserted—  
“(ia) an NHS foundation trust.”

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I155** Sch. 4 para. 128 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*The Community Care (Delayed Discharges etc.) Act 2003 (c. 5)*

129 The Community Care (Delayed Discharges etc.) Act 2003 is amended as follows.

**Commencement Information**

**I156** Sch. 4 para. 129 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

130 In section 1 (meaning of “NHS body” and “qualifying hospital patient”), in subsection (1), in paragraph (a) of the definition of “NHS body”, after “trust;” there is inserted—

“(ab) an NHS foundation trust;”.

**Commencement Information**

**I157** Sch. 4 para. 130 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

SCHEDULE 5

Section 38

AUDIT OF ACCOUNTS OF NHS FOUNDATION TRUSTS

*General duty*

- 1 In auditing the accounts of any NHS foundation trust an auditor must by examination of the accounts and otherwise satisfy himself—
- (a) that they are prepared in accordance with directions under paragraph 25 of Schedule 1,
  - (b) that they comply with the requirements of all other provisions contained in, or having effect under, any enactment which are applicable to the accounts,
  - (c) that proper practices have been observed in the compilation of the accounts, and
  - (d) that the trust has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

**Commencement Information**

**I158** Sch. 5 para. 1 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 2](#)

*Right to documents and information*

- 2 (1) An auditor of an NHS foundation trust has a right of access at all reasonable times to every document relating to the trust which appears to him necessary for the purposes of his functions under Part 1.

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- (2) The auditor may—
- (a) require a person holding or accountable for any such document to give him such information and explanation as he thinks necessary for the purposes of his functions under Part 1,
  - (b) if he thinks it necessary, require the person to attend before him in person to give the information or explanation or to produce the document.
- (3) The auditor may also—
- (a) require any director or officer of the trust to give him such information or explanation as he thinks necessary for the purposes of his functions under Part 1,
  - (b) if he thinks it necessary, require the director or officer to attend before him in person to give the information or explanation.
- (4) The trust must provide the auditor with every facility and all information which he may reasonably require for the purposes of his functions under Part 1.
- This sub-paragraph does not affect the generality of sub-paragraphs (1) to (3).
- (5) A person who without reasonable excuse fails to comply with any requirement of an auditor of an NHS foundation trust under any of sub-paragraphs (1) to (3) is guilty of an offence.
- (6) A person guilty of an offence under sub-paragraph (5) is liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale, and
  - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for the offence.
- (7) Any expenses incurred by an auditor of an NHS foundation trust in connection with proceedings for an offence under sub-paragraph (6) alleged to have been committed in relation to the audit of the accounts of the trust, so far as not recovered from any other source, are recoverable from the trust.

**Commencement Information**

**I159** Sch. 5 para. 2 in force at 1.4.2004 by S.I. 2004/759, art. 2

*Reports*

- 3 In auditing the accounts of an NHS foundation trust, the auditor must consider—
- (a) whether, in the public interest, he should make a report on any matter coming to his notice in the course of the audit, in order for it to be considered by the trust or brought to the attention of the public, and
  - (b) whether the public interest requires any such matter to be made the subject of an immediate report rather than of a report to be made at the conclusion of the audit.

**Commencement Information**

**I160** Sch. 5 para. 3 in force at 1.4.2004 by S.I. 2004/759, art. 2

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- 4 (1) When an auditor of an NHS foundation trust has concluded his audit of the trust's accounts, he must enter on the accounts—
- (a) a certificate that he has completed the audit in accordance with Part 1, and
  - (b) his opinion on the accounts.
- (2) But where the auditor makes a report to the board of governors and board of directors of the trust under paragraph 3 at the conclusion of the audit, he may instead include the certificate and his opinion in that report.

**Commencement Information**

**I161** Sch. 5 para. 4 in force at 1.4.2004 by S.I. 2004/759, art. 2

- 5 (1) Any report under paragraph 3 must be sent by the auditor to the board of governors and board of directors of the trust and to the regulator—
- (a) at once if it is an immediate report,
  - (b) otherwise not later than 14 days after conclusion of the audit.
- (2) The directors must take the report into consideration as soon as practicable after receiving it.

**Commencement Information**

**I162** Sch. 5 para. 5 in force at 1.4.2004 by S.I. 2004/759, art. 2

*Referral to regulator*

- 6 If the auditor of an NHS foundation trust has reason to believe that the trust or a director or officer of the trust—
- (a) is about to make, or has made, a decision which involves or would involve the incurring of expenditure which is unlawful, or
  - (b) is about to take, or has taken, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,
- he must refer the matter at once to the regulator.

**Commencement Information**

**I163** Sch. 5 para. 6 in force at 1.4.2004 by S.I. 2004/759, art. 2

*Audit of accounts of directors or officers*

- 7 (1) Where a director or officer of an NHS foundation trust receives money or other property—
- (a) on behalf of the trust, or
  - (b) for which he ought to account to the trust,
- the accounts of the director or officer are to be audited by the auditor of the accounts of the trust.
- (2) The accounts of the director or officer are to be made up to 31st March.



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (3) Paragraph 25(5) of Schedule 1 and paragraphs 1 to 5 of this Schedule apply with the necessary modifications to the audit under this paragraph.

**Commencement Information**

**I164** Sch. 5 para. 7 in force at 1.4.2004 by S.I. 2004/759, art. 2

*Restriction on disclosure of information*

- 8 (1) No information relating to an NHS foundation trust or other person and obtained by an auditor (or by a person acting on the auditor's behalf) under Part 1 or in the course of an audit under that Part is to be disclosed except—
- (a) with the consent of the person to whom the information relates,
  - (b) for the purposes of any functions of an auditor of an NHS foundation trust,
  - (c) for the purposes of the functions of the regulator,
  - (d) for the purposes of the functions of the Comptroller and Auditor General under Part 1,
  - (e) for the purposes of the functions of the Commission for Healthcare Audit and Inspection under Part 2,
  - (f) for the purposes of any criminal proceedings.
- (2) A person who discloses information in contravention of sub-paragraph (1) is guilty of an offence.
- (3) A person guilty of an offence under sub-paragraph (2) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or to both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or to both).

**Commencement Information**

**I165** Sch. 5 para. 8 in force at 1.4.2004 by S.I. 2004/759, art. 2

SCHEDULE 6

Section 41(2)

CHAI: SUPPLEMENTARY

*Status*

- 1 (1) The CHAI is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The CHAI's property is not to be regarded as property of, or property held on behalf of, the Crown.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

#### Commencement Information

**I166** Sch. 6 para. 1 in force at 8.1.2004 by [S.I. 2003/3346](#), [art. 5\(a\)](#)

#### *General powers and duties*

- 2 (1) The CHAI may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) That includes, in particular—
- (a) co-operating with other public authorities in the United Kingdom,
  - (b) acquiring and disposing of land and other property,
  - (c) entering into contracts, and
  - (d) providing training.
- (3) It is the duty of the CHAI to carry out its functions effectively, efficiently and economically.

#### Commencement Information

**I167** Sch. 6 para. 2 in force at 8.1.2004 by [S.I. 2003/3346](#), [art. 5\(a\)](#)

#### *Chairman and other members*

- 3 (1) The CHAI is to consist of—
- (a) a person appointed as chairman by the relevant Special Health Authority,
  - (b) a member appointed by the relevant Special Health Authority who appears to that Authority to be suited to make the interests of Wales his special care, and
  - (c) other members appointed by the relevant Special Health Authority.
- (2) In paragraphs (a) and (c) of sub-paragraph (1), “relevant Special Health Authority” means the Special Health Authority which is directed by the Secretary of State to exercise the function of appointment under that paragraph.
- (3) In paragraph (b) of sub-paragraph (1), “relevant Special Health Authority” means the Special Health Authority which is directed by the Assembly to exercise the function of appointment under that paragraph.
- (4) The Secretary of State may in the prescribed manner remove from office any person appointed under sub-paragraph (1)(a) or (c) if (and only if) he is satisfied that one of the conditions specified in sub-paragraph (6) is satisfied in relation to that person.
- (5) The Assembly may in the prescribed manner remove from office the person appointed under sub-paragraph (1)(b) if (and only if) the Assembly is satisfied that one of the conditions specified in sub-paragraph (6) is satisfied in relation to that person.
- (6) The conditions referred to in sub-paragraphs (4) and (5) in relation to a person are that—
- (a) he is unable or unfit to carry out the duties of his office;
  - (b) he is failing to carry out the duties of his office;

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (c) he is disqualified from holding office (or was disqualified at the time of his appointment).
- (7) The Secretary of State may by regulations make provision as to—
  - (a) the appointment of the chairman and other members (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment), and
  - (b) subject to this paragraph, the tenure of office of the chairman and other members (including the circumstances in which they cease to hold office, are disqualified from holding office or may be suspended from office).
- (8) Regulations under sub-paragraph (7)(b) relating to the suspension of a person from office may only provide for suspension where it appears to the Secretary of State (or, in the case of a person appointed under sub-paragraph (1)(b), the Assembly) that one of the conditions referred to in sub-paragraph (6) is or may be satisfied in relation to that person.
- (9) The Secretary of State may direct the Special Health Authority referred to in sub-paragraph (2) to exercise so much of any function of his under sub-paragraph (4) or under regulations under sub-paragraph (7) as may be specified in the direction.
- (10) The Assembly may direct the Special Health Authority referred to in sub-paragraph (3) to exercise so much of any function of the Assembly under sub-paragraph (5) or under regulations under sub-paragraph (7) as may be specified in the direction.
- (11) The Special Health Authority referred to in sub-paragraph (2) must consult the Assembly before exercising the function of appointment under sub-paragraph (1) (a) or (c); and the Special Health Authority referred to in sub-paragraph (3) must consult the Secretary of State before exercising the function of appointment under sub-paragraph (1)(b).
- (12) The Secretary of State must consult the Assembly before exercising any of his functions under sub-paragraph (4) or (7).
- (13) The Assembly must consult the Secretary of State before exercising any of its functions under sub-paragraph (5) or (7).
- (14) Where directions are given under this paragraph to a Special Health Authority, the 1977 Act has effect as if—
  - (a) the directions were directions under section 16D of that Act for the exercise of functions relating to the health service and, accordingly,
  - (b) the functions were exercisable by the Special Health Authority under that section.
- (15) Subsections (4) and (5) of section 187 apply in relation to directions under this paragraph as they apply in relation to directions under subsection (2) of that section.

#### **Commencement Information**

**I168** Sch. 6 para. 3 partly in force; Sch. 6 para. 3 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I169** Sch. 6 para. 3 in force at 8.1.2004 in so far as not already in force by [S.I. 2003/3346](#), [art. 5\(a\)](#)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

### *Remuneration of chairman and other members*

- 4
- (1) The CHAI may pay to its chairman, or to any other member, such remuneration and allowances as the Secretary of State may determine.
  - (2) If the Secretary of State so determines, the CHAI must pay or make provision for the payment of such pension, allowance or gratuities as the Secretary of State may determine to or in respect of a person who is or has been the chairman or other member of the CHAI.
  - (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the CHAI to receive compensation, the CHAI must pay to him, or make provision for the payment to him of, such compensation as the Secretary of State may determine.
  - (4) The Secretary of State must consult the Assembly before exercising any of his functions under this paragraph.

#### **Commencement Information**

**I170** Sch. 6 para. 4 in force at 8.1.2004 by [S.I. 2003/3346](#), **art. 5(a)**

### *Employees*

- 5
- (1) The CHAI must appoint a chief executive (to be known as the “Chief Inspector of Healthcare”), who is to be an employee of the CHAI.
  - (2) The CHAI may appoint such other employees as it considers appropriate.
  - (3) Employees of the CHAI are to be appointed on such terms and conditions as it may determine.
  - (4) Without prejudice to its other powers, the CHAI may pay, or make provision for the payment of—
    - (a) pensions, allowances or gratuities, or
    - (b) compensation for loss of employment or reduction of remuneration, to or in respect of its employees.

#### **Commencement Information**

**I171** Sch. 6 para. 5 in force at 8.1.2004 by [S.I. 2003/3346](#), **art. 5(a)**

### *Procedure*

- 6
- (1) The CHAI may—
    - (a) appoint such committees and sub-committees (which may consist of or include persons who are not members of the CHAI) as it thinks fit;
    - (b) pay such remuneration and allowances to members of its committees and sub-committee as it thinks fit.
  - (2) The CHAI may in all other respects regulate its own procedure.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (3) The validity of the proceedings of the CHAI is not affected by any defect in the appointment of a member or any vacancy in membership.

**Commencement Information**

**I172** Sch. 6 para. 6 in force at 8.1.2004 by [S.I. 2003/3346](#), **art. 5(a)**

*Discharge of functions*

- 7 (1) The CHAI may arrange for—
- (a) any of its committees, sub-committees, members or employees, or
  - (b) any other person,
- to exercise any of its functions on its behalf.
- (2) If the CHAI arranges for the discharge of any function as mentioned in subparagraph (1)(b), the arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

**Commencement Information**

**I173** Sch. 6 para. 7 in force at 8.1.2004 by [S.I. 2003/3346](#), **art. 5(a)**

*Assistance*

- 8 (1) The CHAI may arrange for such persons as it thinks fit to assist it in the discharge of any of its functions in relation to a particular case or class of case.
- (2) Such arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

**Commencement Information**

**I174** Sch. 6 para. 8 in force at 8.1.2004 by [S.I. 2003/3346](#), **art. 5(a)**

*Payments and loans*

- 9 (1) The Secretary of State may make payments out of money provided by Parliament to the CHAI of such amounts, at such times and on such conditions (if any) as he considers appropriate.
- (2) The Assembly may make payments to the CHAI of such amounts, at such times and on such conditions (if any) as it considers appropriate.
- (3) The Secretary of State may, with the approval of the Treasury, make loans out of money provided by Parliament to the CHAI on such terms (including terms as to repayment and interest) as he may determine.
- (4) The Assembly may make loans to the CHAI on such terms (including terms as to repayment and interest) as it may determine.
- (5) Except as provided by this paragraph, the CHAI has no power to borrow money.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I175** Sch. 6 para. 9 in force at 8.1.2004 by [S.I. 2003/3346](#), [art. 5\(a\)](#)

*Accounts*

- 10 (1) The CHAI must keep its accounts in such form as the Secretary of State may determine.
- (2) The CHAI must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.
- (3) The CHAI must send copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.
- (4) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts and of his report before Parliament.

**Commencement Information**

**I176** Sch. 6 para. 10 in force at 8.1.2004 by [S.I. 2003/3346](#), [art. 5\(a\)](#)

*Seal and evidence*

- 11 The application of the seal of the CHAI must be authenticated by the signature—
- (a) of any member of the CHAI, or
- (b) of any other person who has been authorised by the CHAI (whether generally or specifically) for that purpose.

**Commencement Information**

**I177** Sch. 6 para. 11 in force at 8.1.2004 by [S.I. 2003/3346](#), [art. 5\(a\)](#)

- 12 A document purporting to be duly executed under the seal of the CHAI or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so signed or executed.

**Commencement Information**

**I178** Sch. 6 para. 12 in force at 8.1.2004 by [S.I. 2003/3346](#), [art. 5\(a\)](#)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

## SCHEDULE 7

Section 42(2)

### CSCI: SUPPLEMENTARY

#### *Status*

- 1 (1) The CSCI's property is not to be regarded as property of, or property held on behalf of, the Crown.
- (2) The CSCI is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

#### **Commencement Information**

**I179** Sch. 7 para. 1 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

#### *General powers and duties*

- 2 (1) The CSCI may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) That includes, in particular—
  - (a) co-operating with other public authorities in the United Kingdom,
  - (b) acquiring and disposing of land and other property,
  - (c) entering into contracts, and
  - (d) providing training.
- (3) It is the duty of the CSCI to carry out its functions effectively, efficiently and economically.

#### **Commencement Information**

**I180** Sch. 7 para. 2 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

#### *Chairman and other members*

- 3 (1) The CSCI is to consist of a chairman and other members appointed by the relevant Special Health Authority.
- (2) In sub-paragraph (1), “relevant Special Health Authority” means the Special Health Authority which is directed by the Secretary of State to exercise the function of appointment under that sub-paragraph.
- (3) The Secretary of State may in the prescribed manner remove the chairman or any other member from office if (and only if) the Secretary of State is satisfied that that person—
  - (a) is unable or unfit to carry out the duties of his office,
  - (b) is failing to carry out the duties of his office, or
  - (c) is disqualified from holding office (or was disqualified at the time of his appointment).
- (4) The Secretary of State may by regulations make provision as to—



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (a) the appointment of the chairman and other members (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment), and
  - (b) subject to this paragraph, the tenure of office of the chairman and other members (including the circumstances in which they cease to hold office, are disqualified from holding office or may be suspended from office).
- (5) Regulations under sub-paragraph (4)(b) relating to the suspension of a person from office may only provide for suspension where it appears to the Secretary of State that one of the conditions referred to in sub-paragraph (3) is or may be satisfied in relation to that person.
- (6) The Secretary of State may direct the Special Health Authority referred to in sub-paragraph (2) to exercise so much of any function of his under sub-paragraph (3) or under regulations under sub-paragraph (4) as may be specified in the direction.
- (7) Where directions are given under this paragraph to a Special Health Authority, the 1977 Act has effect as if—
- (a) the directions were directions under section 16D of that Act for the exercise of functions relating to the health service, and, accordingly,
  - (b) the functions were exercisable by the Special Health Authority under that section.
- (8) Subsections (4) and (5) of section 187 apply in relation to directions under this paragraph as they apply in relation to directions under subsection (2) of that section.

#### Commencement Information

**I181** Sch. 7 para. 3 partly in force; Sch. 7 para. 3 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I182** Sch. 7 para. 3 in force at 1.1.2004 for E. in so far as not already in force by S.I. 2003/3346, art. 3(a)

#### *Remuneration of chairman and other members*

- 4 (1) The CSCI may pay to its chairman, or to any other member, such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines, the CSCI must pay or make provision for the payment of such pension, allowance or gratuities as the Secretary of State may determine to or in respect of a person who is or has been the chairman or other member of the CSCI.
- (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the CSCI to receive compensation, the CSCI must pay to him, or make provision for the payment to him of, such compensation as the Secretary of State may determine.

#### Commencement Information

**I183** Sch. 7 para. 4 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

### *Employees*

- 5
- (1) The CSCI must appoint a chief executive (to be known as the “Chief Inspector of Social Care”), who is to be an employee of the CSCI.
  - (2) The CSCI must also appoint a Children’s Rights Director who is to be an employee of the CSCI and is to have such functions as may be prescribed.
  - (3) The CSCI may appoint such other employees as it considers appropriate.
  - (4) Employees of the CSCI are to be appointed on such terms and conditions as it may determine.
  - (5) Without prejudice to its other powers, the CSCI may pay, or make provision for the payment of—
    - (a) pensions, allowances or gratuities, or
    - (b) compensation for loss of employment or reduction of remuneration, to or in respect of its employees.

#### **Commencement Information**

**I184** Sch. 7 para. 5 in force at 1.1.2004 for E. by [S.I. 2003/3346](#), [art. 3\(a\)](#)

### *Procedure*

- 6
- (1) The CSCI may—
    - (a) appoint such committees and sub-committees (which may consist of or include persons who are not members of the CSCI) as it thinks fit;
    - (b) pay such remuneration and allowances to members of its committees and sub-committee as it thinks fit.
  - (2) The CSCI may in all other respects regulate its own procedure.
  - (3) The validity of the proceedings of the CSCI is not affected by any defect in the appointment of a member or any vacancy in membership.

#### **Commencement Information**

**I185** Sch. 7 para. 6 in force at 1.1.2004 for E. by [S.I. 2003/3346](#), [art. 3\(a\)](#)

### *Discharge of functions*

- 7
- (1) The CSCI may arrange for—
    - (a) any of its committees, sub-committees, members or employees, or
    - (b) any other person,to exercise any of its functions on its behalf.
  - (2) If the CSCI arranges for the discharge of any function as mentioned in subparagraph (1)(b), the arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I186** Sch. 7 para. 7 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

*Assistance*

- 8 (1) The CSCI may arrange for such persons as it thinks fit to assist it in the discharge of any of its functions in relation to a particular case or class of case.
- (2) Such arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

**Commencement Information**

**I187** Sch. 7 para. 8 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

*Payments and loans*

- 9 (1) The Secretary of State may make payments out of money provided by Parliament to the CSCI of such amounts, at such times and on such conditions (if any) as he considers appropriate.
- (2) The Secretary of State may, with the approval of the Treasury, make loans out of money provided by Parliament to the CSCI on such terms (including terms as to repayment and interest) as he may determine.
- (3) Except as provided by sub-paragraph (2), the CSCI has no power to borrow money.

**Commencement Information**

**I188** Sch. 7 para. 9 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

*Accounts*

- 10 (1) The CSCI must keep its accounts in such form as the Secretary of State may determine.
- (2) The CSCI must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.
- (3) The CSCI must send copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.
- (4) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts and of his report before Parliament.

**Commencement Information**

**I189** Sch. 7 para. 10 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

### *Seal and evidence*

- 11 The application of the seal of the CSCI must be authenticated by the signature—
- (a) of any member of the CSCI, or
  - (b) of any other person who has been authorised by the CSCI (whether generally or specifically) for that purpose.

#### **Commencement Information**

**I190** Sch. 7 para. 11 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

- 12 A document purporting to be duly executed under the seal of the CSCI or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so signed or executed.

#### **Commencement Information**

**I191** Sch. 7 para. 12 in force at 1.1.2004 for E. by S.I. 2003/3346, art. 3(a)

## SCHEDULE 8

Section 43

### CHAI AND CSCI: TRANSFERS OF PROPERTY AND STAFF, ETC

#### *Transfer schemes*

- 1 (1) The Secretary of State may make one or more schemes for—
- (a) the transfer of property, rights and liabilities of the National Care Standards Commission to the CHAI or the CSCI;
  - (b) the transfer of property, rights and liabilities of the Audit Commission to the CHAI or the CSCI;
  - (c) the transfer of property, rights and liabilities of the Commission for Health Improvement to the CHAI;
  - (d) the transfer of property, rights and liabilities of the Crown to the CHAI or the CSCI.
- (2) The property, rights and liabilities which may be the subject of a scheme include—
- (a) any that would otherwise be incapable of being transferred or assigned, and
  - (b) rights and liabilities under a contract of employment.
- (3) A scheme under this paragraph may define the property, rights and liabilities to be transferred by specifying or describing them (including describing them by reference to a specified part of the transferor's undertaking).
- (4) A scheme under this paragraph may contain provision for the payment of compensation by the Secretary of State to any person or body (other than one mentioned in sub-paragraph (1)) whose interests are adversely affected by the scheme.
- (5) A scheme under this paragraph may include supplementary, incidental, transitional and consequential provision.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

**Commencement Information**

**I192** Sch. 8 para. 1 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

*Transfer*

- 2 The property, rights and liabilities which are the subject of a scheme under paragraph 1 are, by virtue of this paragraph, transferred on the day appointed by the scheme in accordance with the provisions of the scheme.

**Commencement Information**

**I193** Sch. 8 para. 2 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

*Employment*

- 3 The transfer by paragraph 2 of the rights and liabilities relating to an individual's contract of employment does not break the continuity of his employment, and, accordingly—
- (a) he is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996 (c. 18) as having been dismissed by virtue of the transfer, and
  - (b) his period of employment with the transferor counts as a period of employment with the transferee for the purposes of that Act.

**Commencement Information**

**I194** Sch. 8 para. 3 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

- 4 (1) Paragraph 2 does not operate to transfer the rights and liabilities under an individual's contract of employment if, before the transfer takes effect, he informs the transferor or transferee that he objects to the transfer.
- (2) Where an individual does inform the transferor or transferee as specified in sub-paragraph (1), his contract of employment with the transferor is terminated immediately before the date on which the transfer would occur; but he shall not, for any purpose, be regarded as having been dismissed by the transferor.
- (3) This paragraph is without prejudice to any right of an individual employed by a transferor to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

**Commencement Information**

**I195** Sch. 8 para. 4 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

- 5 For the purposes of this Schedule, where a person holds any office or employment under the Crown on terms which do not constitute a contract of employment between that person and the Crown—

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- (a) he shall be regarded as employed by the Crown by virtue of a contract of employment;
- (b) the terms of his employment shall be regarded as constituting the terms of that contract; and
- (c) in relation to such a person, the reference in paragraph 4(2) to dismissal by the transferor is to termination of his employment by the Crown.

**Commencement Information**

**I196** Sch. 8 para. 5 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

*Transitional*

- 6 (1) Anything done by or in relation to the transferor for the purposes of or in connection with anything transferred by paragraph 2 which is in effect immediately before it is transferred shall be treated as if done by or in relation to the transferee.
- (2) There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything so transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
- (3) A reference to the transferor in any document relating to anything so transferred shall be taken (so far as necessary for the purposes of or in consequence of the transfer) as a reference to the transferee.
- (4) A transfer under paragraph 2 does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

**Commencement Information**

**I197** Sch. 8 para. 6 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

SCHEDULE 9

Section 147

PART 2: MINOR AND CONSEQUENTIAL AMENDMENTS

*Public Records Act 1958 (c. 52)*

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate places in Part 2 of the Table at the end of paragraph 3 insert the following entries— “ Commission for Healthcare Audit and Inspection ”; “ Commission for Social Care Inspection ”.

**Commencement Information**

**I198** Sch. 9 para. 1 in force at 1.1.2004 for specified purposes for E. by S.I. 2003/3346, art. 3(b)

**I199** Sch. 9 para. 1 in force at 8.1.2004 for specified purposes by S.I. 2003/3346, art. 5(b)

*Status: Point in time view as at 01/06/2004.*

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*Public Bodies (Admission to Meetings) Act 1960 (c. 67)*

- 2 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), after paragraph (bf) of paragraph 1 insert—
- “(bg) the Commission for Healthcare Audit and Inspection;  
 (bh) the Commission for Social Care Inspection;”.

**Commencement Information**

**I200** Sch. 9 para. 2 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

*Parliamentary Commissioner Act 1967 (c. 13)*

- 3 In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments subject to investigation), at the appropriate places insert the following entries— “Commission for Healthcare Audit and Inspection.”; “Commission for Social Care Inspection.”

**Commencement Information**

**I201** Sch. 9 para. 3 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I202** Sch. 9 para. 3 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

PROSPECTIVE

*Local Authority Social Services Act 1970 (c. 42)*

- 4 In the Local Authority Social Services Act 1970, in Schedule 1, insert at the end—
- 
- “Health and Social Care (Community Health and Standards) Act 2003
- 
- Section 114 Consideration of complaints.”
- 

*Superannuation Act 1972 (c. 11)*

- 5 In Schedule 1 to the Superannuation Act 1972 (kinds of employment in relation to which pension schemes may be made), at the appropriate places in the list of “Other Bodies” insert the following entries— “The Commission for Healthcare Audit and Inspection.”; “The Commission for Social Care Inspection.”

**Commencement Information**

**I203** Sch. 9 para. 5 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I204** Sch. 9 para. 5 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

- 6 The CHAI and the CSCI must each pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as he may determine in respect of any

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increase attributable to paragraph 5 in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

**Commencement Information**

**I205** Sch. 9 para. 6 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I206** Sch. 9 para. 6 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

*House of Commons Disqualification Act 1975 (c. 24)*

- 7 In the House of Commons Disqualification Act 1975, in Part 2 of Schedule 1 (bodies of which all members are disqualified), at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection. ”; “ Commission for Social Care Inspection. ”.

**Commencement Information**

**I207** Sch. 9 para. 7 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I208** Sch. 9 para. 7 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 8 In the Northern Ireland Assembly Disqualification Act 1975, in Part 2 of Schedule 1 (bodies of which all members are disqualified), at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection. ”; “ Commission for Social Care Inspection. ”.

**Commencement Information**

**I209** Sch. 9 para. 8 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I210** Sch. 9 para. 8 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

*National Health Service Act 1977 (c. 49)*

- 9 In section 19A(2) of the 1977 Act, after paragraph (a) insert—  
“(aa) a complaint under section 113(1) or (2) of the Health and Social Care (Community Health and Standards) Act 2003,”.

**Commencement Information**

**I211** Sch. 9 para. 9 in force at 1.6.2004 by [S.I. 2004/759](#), [art. 8](#)

*Children Act 1989 (c. 41)*

- 10 (1) The Children Act 1989 has effect subject to the following amendments.  
(2) In section 65(6)(a), for “the National Care Standards Commission” substitute “ the Commission for Social Care Inspection ”.  
(3) In section 87(10)—



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (a) in the definition of “appropriate authority”, in paragraph (a), for “the National Care Standards Commission” substitute “ the Commission for Social Care Inspection ”, and
  - (b) in the definition of “the Commission”, for “the National Care Standards Commission” substitute “ the Commission for Social Care Inspection ”.
- (4) In paragraph 20 of Schedule 2, at the end of paragraph (a) insert “ and the Commission for Social Care Inspection ”.

**Commencement Information**

**I212** Sch. 9 para. 10 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(b)

*Health Service Commissioners Act 1993 (c. 46)*

- 11 (1) The Health Service Commissioners Act 1993 has effect subject to the following amendments.
- (2) In section 4(4)(a), after “can be made” insert “ under section 113(1) or (2) of the Health and Social Care (Community Health and Standards) Act 2003 or ”.
- (3) In section 11, after subsection (1B) insert—
- “(1C) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under section 3(1E), he shall afford to the person or body whose maladministration is complained of an opportunity to comment on any allegations contained in the complaint.”
- (4) In section 12(1A), for “or (1C)” substitute “ (1C) or (1E) ”.
- (5) In section 14, after subsection (2D) insert—
- “(2E) In any case where the Health Service Commissioner for England conducts an investigation pursuant to a complaint under section 3(1E) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint;
  - (b) to any member of the House of Commons who to the Commissioner’s knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate);
  - (c) to the person or body whose maladministration is complained of;
  - (d) to any person or body whose action was complained of in the complaint made to the person or body whose maladministration is complained of;
  - (e) to the Secretary of State.
- (2F) In any case where the Health Service Commissioner for England decides not to conduct an investigation pursuant to a complaint under section 3(1E) he shall send a statement of his reasons—
- (a) to the person who made the complaint; or
  - (b) to any such member of the House of Commons as is mentioned in subsection (2E)(b).”



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

(6) In section 14A, at the end insert—

“(4) In any case where the Health Service Commissioner for Wales conducts an investigation pursuant to a complaint under section 3(1E) he shall send a report of the results of the investigation—

- (a) to the person who made the complaint;
- (b) to any Assembly member who to the Commissioner’s knowledge assisted in the making of the complaint (or if he is no longer an Assembly member to such other member as the Commissioner thinks appropriate);
- (c) to the person or body whose maladministration is complained of;
- (d) to any person or body whose action was complained of in the complaint made to the person or body whose maladministration is complained of;
- (e) to the Assembly First Secretary.

(5) In any case where the Health Service Commissioner for Wales decides not to conduct an investigation pursuant to a complaint under section 3(1E) he shall send a statement of his reasons—

- (a) to the person who made the complaint; or
- (b) to any such member of the Assembly as is mentioned in subsection (4)(b).”

(7) In section 14B—

- (a) for “14A(1)”, in each place, substitute “ 14A ”, and
- (b) in subsection (2), for “or (1C)” substitute “ (1C) or (1E) ”.

#### **Commencement Information**

**I213** Sch. 9 para. 11 in force at 1.6.2004 by [S.I. 2004/759](#), [art. 7](#)

#### *Audit Commission Act 1998 (c. 18)*

12 (1) The Audit Commission Act 1998 has effect subject to the following amendments.

(2) In section 4, in subsection (7)—

- (a) in paragraph (a), after “bodies,” insert “ the Commission for Healthcare Audit and Inspection and ”;
- (b) in paragraph (b), after “bodies,” insert “ the Commission for Social Care Inspection and ”; and
- (c) in paragraph (c), after “case,” insert “ the National Assembly for Wales and ”.

(3) At the end of that section insert—

“(8) The Commission must obtain the agreement of the Commission for Healthcare Audit and Inspection before preparing or altering provisions of a code which—

- (a) are applicable to accounts which are or include accounts of health service bodies; and
- (b) concern the function under section 5(1)(e).”

*Status: Point in time view as at 01/06/2004.*

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- (4) In section 7—
- (a) in subsection (2)(a), for “such organisations” substitute “ the Commission for Healthcare Audit and Inspection and such other organisations ”; and
  - (b) in subsection (9), after paragraph (a) insert—  
“aa) the Commission for Healthcare Audit and Inspection;”.
- (5) In section 33 (studies for improving economy etc in services), in subsection (6), at the end insert—
- (d) in the case of a study which has a connection with English local authority social services (within the meaning of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003), also consult the Commission for Social Care Inspection; and
  - (e) in the case of a study which has a connection with Welsh local authority social services (within the meaning of that Part of that Act), also consult the National Assembly for Wales;”.
- (6) In that section, after subsection (6) insert—
- “(7) The following provisions of this section do not apply in relation to the bodies specified in subsection (8)—
- (a) subsection (1)(a);
  - (b) subsection (1)(b), so far as relating to management other than financial management;
  - (c) subsection (4).
- (8) Those bodies are—
- (a) any Primary Care Trust;
  - (b) any Strategic Health Authority;
  - (c) any NHS trust (within the meaning of the National Health Service Act 1977) all or most of whose hospitals, establishments and facilities are situated in England.”

(7) In section 34(6), after paragraph (b) insert—

    - (ba) in the case of a study which has a connection with any English local authority social service (within the meaning of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003), the Commission for Social Care Inspection;
    - (bb) in the case of a study which has a connection with any Welsh local authority social service (within the meaning of that Part of that Act), the National Assembly for Wales;”.

(8) In section 35 (studies at request of bodies subject to audit), at the end insert—

“(4) This section does not apply in relation to the bodies specified in section 33(8).”

(9) For section 37 substitute—

**“37 Assistance to CHAI and CSCI**

- (1) The Audit Commission may provide assistance to the Commission for Healthcare Audit and Inspection or the Commission for Social Care Inspection in the discharge of any of their functions under Chapter 3 or 5

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of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003.

(2) Assistance under subsection (1) may be provided on such terms, including terms as to payment, as the Audit Commission and the Commission in question may agree.”

(10) In section 49(1)—

(a) after paragraph (b) insert—

“(ba) to the Commission for Social Care Inspection for the purposes of its functions under Chapter 5 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003;

(bb) to the National Assembly for Wales for the purposes of its functions under Chapter 4 of that Part of that Act;”

(b) in paragraph (c), at the end insert “or for the purposes of the functions of the Commission for Healthcare Audit and Inspection under Chapter 3 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003”.

#### Commencement Information

I214 Sch. 9 para. 12 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 9](#)

#### *Government of Wales Act 1998 (c. 38)*

13 In Schedule 5 to the Government of Wales Act 1998, for paragraph 12A substitute—  
“12A The Commission for Healthcare Audit and Inspection.”

#### Commencement Information

I215 Sch. 9 para. 13 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

#### *Protection of Children Act 1999 (c. 14)*

14 In section 2A of the Protection of Children Act 1999, in subsection (2), for paragraph (a) substitute—  
“(a) the Commission for Social Care Inspection;  
(aa) the Commission for Healthcare Audit and Inspection;”.

#### Commencement Information

I216 Sch. 9 para. 14 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

*Status: Point in time view as at 01/06/2004.*

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VALID FROM 15/01/2007

*Local Government Act 1999 (c. 27)*

- 15 In section 25(2) of the Local Government Act 1999, for paragraphs (e) to (g) substitute—  
“(e) the Commission for Social Care Inspection;”.

*Care Standards Act 2000 (c. 14)*

- 16 The Care Standards Act 2000 has effect subject to the following amendments.

**Commencement Information**

- I217** Sch. 9 para. 16 in force at 11.3.2004 for specified purposes by [S.I. 2004/759](#), **art. 5(1)(b)**  
**I218** Sch. 9 para. 16 in force at 11.3.2004 for E. by [S.I. 2004/759](#), **art. 4(1)(b)**  
**I219** Sch. 9 para. 16 in force at 1.4.2004 in so far as not already in force by [S.I. 2004/759](#), **art. 5(2)(b)**

- 17 In section 5, in paragraph (a), for “the National Care Standards Commission” substitute—  
“(i) the CHAI, in the case of independent hospitals, independent clinics and independent medical agencies;  
(ii) the CSCI, in the case of children’s homes, care homes, residential family centres, domiciliary care agencies, nurses agencies, fostering agencies, voluntary adoption agencies and adoption support agencies;”.

**Commencement Information**

- I220** Sch. 9 para. 17 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 5(2)(b)**

- 18 (1) Section 8 is amended as follows.  
(2) In subsection (3), for the words from “section 7” to “Commission” substitute “section 5A or 5B is exercisable by the CHAI or the CSCI ”.  
(3) At the end insert—  
“(6) In this section, “Part II services” means services of the kind provided by persons registered under Part II, other than the provision of—  
(a) medical or psychiatric treatment, or  
(b) listed services (as defined in section 2).”

**Commencement Information**

- I221** Sch. 9 para. 18 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 5(2)(b)**

- 19 In section 10—  
(a) subsection (1) is omitted; and

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- (b) in subsection (6)(b), for “by the Commission” substitute “ by the CHAI or the CSCI under this Act ”.

**Commencement Information**

**I222** Sch. 9 para. 19 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

- 20 In section 11(4), for “the Commission” substitute “ the CHAI or the CSCI ”.

**Commencement Information**

**I223** Sch. 9 para. 20 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

- 21 In section 23(4)(d), after the second “or” insert “ against a voluntary adoption agency or adoption support agency for an offence under ”.

**Commencement Information**

**I224** Sch. 9 para. 21 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(b\)](#)

- 22 In section 29(1)—
- (a) for “the Commission”, in the first place, substitute “ the CHAI or the CSCI (as appropriate) ”, and
  - (b) for “the Commission”, in the second place, substitute “ either the CHAI or the CSCI ”.

**Commencement Information**

**I225** Sch. 9 para. 22 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

- 23 In section 31—
- (a) in subsection (6), for “powers” substitute “ power ”; and
  - (b) in subsection (7), for “the Commission” substitute “ the CHAI or the CSCI ”.

**Commencement Information**

**I226** Sch. 9 para. 23(a) in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

**I227** Sch. 9 para. 23(b) in force at 11.3.2004 for specified purposes by [S.I. 2004/759](#), [art. 5\(1\)\(b\)](#)

- 24 In section 36A for “the Commission”, in all places, substitute “ the CSCI ”.

**Commencement Information**

**I228** Sch. 9 para. 24 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(b\)](#)

- 25 In section 42, at the end insert—

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“(5) Regulations under subsection (1) made by the Secretary of State may in particular specify whether, for the purposes of the application of this Part to any person, the registration authority is to be the CHAI or the CSCI.”

**Commencement Information**

**I229** Sch. 9 para. 25 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 5(2)(b)**

- 26 In section 45(4)—
- (a) omit “Subject to section 47(6)”;
  - (b) for “the Commission” substitute “ the CSCI ”; and
  - (c) at the end insert “ ; and an inspection under this section shall be regarded for all purposes as undertaken under section 80 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

**Commencement Information**

**I230** Sch. 9 para. 26 in force at 1.4.2004 for E. by [S.I. 2004/759](#), **art. 4(2)(b)**

- 27 In section 51(1), for the words from “in relation to” to “registration authority” substitute “ in England in relation to which powers conferred by section 80 of the Health and Social Care (Community Health and Standards) Act 2003 may be exercised to pay to the CSCI ”.

**Commencement Information**

**I231** Sch. 9 para. 27 in force at 11.3.2004 for E. by [S.I. 2004/759](#), **art. 4(1)(b)**

**I232** Sch. 9 para. 27 in force at 1.4.2004 for E. by [S.I. 2004/759](#), **art. 4(2)(b)**

- 28 In section 55(3)(e)—
- (a) for “the Commission” substitute “ the CSCI ”;
  - (b) for “section 31 or 46 of this Act” substitute “ section 31 of this Act or section 88 or 98 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

**Commencement Information**

**I233** Sch. 9 para. 28 in force at 1.4.2004 for E. by [S.I. 2004/759](#), **art. 4(2)(b)**

- 29 In section 113, after subsection (1) insert—
- “(1A) The powers conferred by this section are exercisable by the Secretary of State if he is satisfied that—
- (a) the CHAI or the CSCI has without reasonable excuse failed to discharge, or properly to discharge, any of its functions under this Act, or
  - (b) in discharging any of its functions under this Act the CHAI or the CSCI has without reasonable excuse failed to comply with any directions given by him in relation to those functions.”

*Status: Point in time view as at 01/06/2004.*

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**Commencement Information**

**I234** Sch. 9 para. 29 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 5(2)(b)**

- 30 In section 121, in the Table in subsection (13), insert the following entries at the appropriate places— “ CHAI Section 5A ”; and “ CSCI Section 5B ”.

**Commencement Information**

**I235** Sch. 9 para. 30 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 5(2)(b)**

*Freedom of Information Act 2000 (c. 36)*

- 31 In the Freedom of Information Act 2000, in Part 6 of Schedule 1, at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection, in respect of information held for purposes other than those of its functions exercisable by virtue of paragraph 5(a)(i) of the Care Standards Act 2000. ”; “ Commission for Social Care Inspection, in respect of information held for purposes other than those of its functions exercisable by virtue of paragraph 5(a)(ii) of the Care Standards Act 2000. ”.

**Commencement Information**

**I236** Sch. 9 para. 31 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**

**I237** Sch. 9 para. 31 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

*Adoption and Children Act 2002 (c. 38)*

- 32 In section 99 of the Adoption and Children Act 2002, for “the National Care Standards Commission” substitute “ the Commission for Social Care Inspection ”.

**Commencement Information**

**I238** Sch. 9 para. 32 in force at 1.4.2004 for E. by [S.I. 2004/759](#), **art. 4(2)(b)**

SCHEDULE 10

Section 150

RECOVERY OF NHS CHARGES: EXEMPTED PAYMENTS

VALID FROM 29/01/2007

- 1 Any payment made to or for the injured person under—
- (a) section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (compensation orders against convicted persons),
  - (b) section 249 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (corresponding provision in relation to Scotland), or

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (c) Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)) (corresponding provision in relation to Northern Ireland).

VALID FROM 29/01/2007

- 2 Any payment made in the exercise of a discretion out of property held subject to a trust in a case where no more than 50 per cent by value of the capital contributed to the trust was directly or indirectly provided by persons who are, or are alleged to be, liable in respect of—
- (a) the injury suffered by the injured person, or
  - (b) any connected injury suffered by another.

- 3 Any payment made out of property held for the purposes of a prescribed trust.

#### Commencement Information

**I239** Sch. 10 para. 3 partly in force; sch. 10 para. 3 in force at Royal Assent for certain purposes, see s. 199(1)(4)

VALID FROM 29/01/2007

- 4 (1) Any payment made to the injured person by an insurer under the terms of any contract of insurance entered into between the injured person and the insurer before the occurrence of the injury in question.
- (2) In sub-paragraph (1), “insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to effect or carry out contracts of insurance, or
  - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.
- (3) Sub-paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
  - (b) any relevant order under that section, and
  - (c) Schedule 2 to that Act.

VALID FROM 29/01/2007

- 5 Any payment which apart from this paragraph would be made by—
- (a) the responsible body of the health service hospital to whom the payment would subsequently be passed under section 162,
  - (b) the relevant ambulance trust to whom the payment would subsequently be passed under that section.



*Status: Point in time view as at 01/06/2004.*

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VALID FROM 29/01/2007

- 6 Any payment to the extent that it is made—
- (a) in consequence of an action under the Fatal Accidents Act 1976 (c. 30),
  - (b) in consequence of an action under the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18)), or
  - (c) in circumstances where, had an action been brought, it would have been brought under that Act or Order.

VALID FROM 29/01/2007

- 7 Any payment to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976 (c. 13).

- 8 Any payment of a prescribed description, either generally or in such circumstances as may be prescribed.

**Commencement Information**

**I240** Sch. 10 para. 8 partly in force; Sch. 10 para. 8 in force at Royal Assent for certain purposes, see s. 199(1)(4)

SCHEDULE 11

Section 184

PART 4: MINOR AND CONSEQUENTIAL AMENDMENTS

*National Health Service (Amendment) Act 1949 (c. 93)*

- 1 (1) The National Health Service (Amendment) Act 1949 (which is spent in relation to England and Wales) shall cease to have effect.
- (2) This paragraph extends to England and Wales only.

**Commencement Information**

**I241** Sch. 11 para. 1 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I242** Sch. 11 para. 1 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(a) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

*Health Services and Public Health Act 1968 (c. 46)*

- 2 The Health Services and Public Health Act 1968 has effect subject to the following amendments.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

#### Commencement Information

- I243** Sch. 11 para. 2 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 5(2)(b) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I244** Sch. 11 para. 2 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 4(2)(b) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

3 (1) Section 59 is amended as follows.

(2) In subsection (1)—

- (a) after “local pharmaceutical services,” insert “ primary medical services, ”;
- (b) after “personal medical services,” insert “ primary dental services, ”.

(3) In subsection (2), after “1977” insert “ (in the case of pharmaceutical services) ”.

(4) In subsection (2A), omit “section 28C of the 1977 Act.”.

(5) After subsection (2B) insert—

“(2C) In subsection (1), the references to primary medical services and primary dental services are references to primary medical services and primary dental services provided under Part 1 of the 1977 Act or any corresponding provisions of the law in force in Northern Ireland or the Isle of Man.”

#### Commencement Information

- I245** Sch. 11 para. 3(1) in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 5(2)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I246** Sch. 11 para. 3(1) in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 4(2)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I247** Sch. 11 para. 3(2)(a)(3)-(5) in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I248** Sch. 11 para. 3(2)(a)(3)-(5) in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

4 In section 63(2)—

(a) after paragraph (a) insert—

“(aa) the provision or performance of a primary medical service or primary dental service under Part 1 of the 1977 Act and an activity involved in or connected with the provision or performance of such a service;”;

(b) in paragraph (ba), omit “section 28C of the 1977 Act or”.

#### Commencement Information

- I249** Sch. 11 para. 4 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(d) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I250** Sch. 11 para. 4 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(d) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- 5 In section 64(3)(b), after “make arrangements” insert “ or any service which a Primary Care Trust or Local Health Board is under a duty to provide under section 16CA or 16CC of that Act ”.

**Commencement Information**

- I251** Sch. 11 para. 5 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(d) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I252** Sch. 11 para. 5 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(d) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

*Patents Act 1977 (c. 37)*

- 6 (1) Section 56(4)(a) of the Patents Act 1977 is amended as follows.
- (2) After “the provision of—” insert—
- “(ai) primary medical services or primary dental services under Part 1 of the National Health Service Act 1977, or any corresponding provisions of the law in force in Northern Ireland or the Isle of Man, or”.
- (3) In sub-paragraph (i), after “1977” insert “ (in the case of pharmaceutical services) ”.
- (4) In sub-paragraph (ii), omit “section 28C of the 1977 Act.”.

**Commencement Information**

- I253** Sch. 11 para. 6 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(d) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I254** Sch. 11 para. 6 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(d) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

*National Health Service Act 1977 (c. 49)*

- 7 The 1977 Act has effect subject to the following amendments.

**Commencement Information**

- I255** Sch. 11 para. 7 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 2(1)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I256** Sch. 11 para. 7 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 2(1)(b) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I257** Sch. 11 para. 7 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 3(1)(d) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I258** Sch. 11 para. 7 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(b) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I259** Sch. 11 para. 7 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I260** Sch. 11 para. 7 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(f) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I261** Sch. 11 para. 7 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 3(1)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

*Status: Point in time view as at 01/06/2004.*

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- I262** Sch. 11 para. 7 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 4(2)(b) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I263** Sch. 11 para. 7 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 2(2)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I264** Sch. 11 para. 7 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 5(2)(e) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I265** Sch. 11 para. 7 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 4(2)(e) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

8 In section 3, at the end insert—

“(4) For the purposes of the duty in subsection (1), services provided under—

(a) section 16CA(2) or 16CC(2) below, or

(b) a general medical services contract or a general dental services contract,

are to be regarded as provided by the Secretary of State.”

#### Commencement Information

- I266** Sch. 11 para. 8 in force at 28.2.2004 for W. by S.I. 2004/480, art. 2(1)(f) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I267** Sch. 11 para. 8 in force at 1.3.2004 for E. by S.I. 2004/288, art. 2(2)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

9 In section 15(1)(a), for “general medical services, general dental services” substitute “primary medical services, primary dental services”.

#### Commencement Information

- I268** Sch. 11 para. 9 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(f) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I269** Sch. 11 para. 9 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(f) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

10 In section 16BB(4), at the end insert “ (including functions under sections 16CA to 16CC below) ”.

#### Commencement Information

- I270** Sch. 11 para. 10 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(g) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

VALID FROM 01/04/2006

11 In section 16BC(1), at the end insert “ or sections 16CA to 16CC below ”.

12 In section 18A(3)—

(a) in paragraph (a), omit “general medical, general dental,”; and

(b) for paragraph (b) substitute—

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“(b) providing or performing primary medical services or primary dental services under this Part.”.

**Commencement Information**

**I271** Sch. 11 para. 12 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(g) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

- 13 (1) Section 26 is amended as follows.
- (2) In subsection (2) (as substituted by the National Health Service (Primary Care) Act 1997)—
- (a) in paragraph (a), omit “general medical services, general dental services”;
  - (b) for paragraph (b) substitute—
    - “(b) providing services under a general medical services contract or a general dental services contract or in accordance with section 28C arrangements.”.
- (3) In subsection (4)—
- (a) in paragraph (a), omit “general medical services, general dental services”;
  - (b) for paragraph (aa) substitute—
    - “(aa) persons performing services under a general medical services contract or a general dental services contract or in accordance with section 28C arrangements”.

**Commencement Information**

**I272** Sch. 11 para. 13 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(g) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I273** Sch. 11 para. 13 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(h) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

- 14 In section 28C(1)(a) and (b), (2)(a) and (b) and (4), for “personal”, in all places, substitute “ primary ”.

**Commencement Information**

**I274** Sch. 11 para. 14 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 4(2)(b) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

- 15 (1) Section 28D is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), at the end insert “ or NHS foundation trust ”;
  - (b) in paragraph (d), for “or a section 17C employee” substitute “, a section 17C employee or an Article 15B employee ”;
  - (c) in paragraph (f), at the end insert “ or Local Health Board ”.
- (3) In subsection (2), after the definition of “the 1978 Act” insert—

*Status: Point in time view as at 01/06/2004.*

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““Article 15B arrangements” means arrangements for the provision of services made under Article 15B of the Health and Personal Social Services (Northern Ireland) Order 1972 (1972 No. 1256 (N.I. 14));

“Article 15B employee” means an individual who, in connection with the provision of services in accordance with Article 15B arrangements, is employed by a person providing or performing those services;”.

- (4) In subsection (2), in the definition of “qualifying body”—
- (a) in paragraph (a), for “(c)” substitute “ (ba), (bb), (bc) ”;
  - (b) in paragraph (b), for “personal” substitute “ primary ”.

**Commencement Information**

**I275** Sch. 11 para. 15 in force at 1.3.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 4\(2\)\(b\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

- 16 In section 28EE(2), for “personal” substitute “ primary ”.

**Commencement Information**

**I276** Sch. 11 para. 16 in force at 1.3.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 4\(2\)\(b\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

- 17 In section 28I(a), for the words from “personal medical services” to “arrangements” substitute “ primary medical services or primary dental services under this Part ”.

**Commencement Information**

**I277** Sch. 11 para. 17 in force at 1.3.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 4\(2\)\(b\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

VALID FROM 01/04/2006

- 18 (1) Section 41(1) is amended as follows.
- (2) In paragraph (b), after “medicines” insert “ and listed appliances ”.
- (3) In paragraph (c)—
- (a) after “medicines” insert “ and listed appliances ”;
  - (b) for “general dental services” substitute “ primary dental services ”.

VALID FROM 01/04/2006

- 19 In section 43(1), for “general medical services or general dental services” substitute “ primary medical services or primary dental services under Part 1 above ”.

- 20 In section 43D(10)—

*Status: Point in time view as at 01/06/2004.*

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- (a) omit paragraphs (a) and (b);
- (b) for the words from “paragraphs” to “a services list prepared by” substitute “ paragraphs (c) to (e), a supplementary list, a list under section 28X or a list corresponding to a list under section 28X prepared by ”.

#### Commencement Information

- I278** Sch. 11 para. 20 in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), [art. 4\(2\)\(i\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I279** Sch. 11 para. 20 in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 5\(2\)\(h\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

- 21 (1) Section 44 is amended as follows.
- (2) In the side-note, for “local representative committees” substitute “ Local Optical Committees and Local Pharmaceutical Committees ”.
  - (3) Omit subsections (ZA1) to (B1).
  - (4) In subsection (1)—
    - (a) for the words from “a Health Authority” to “their area” substitute “ a Local Health Board is satisfied that a committee formed for its area, or for its area and that of one or more other Local Health Boards ”;
    - (b) for “the Health Authority” substitute “ the Local Health Board ”.
  - (5) Omit subsections (3)(a) to (d) and (5).

#### Commencement Information

- I280** Sch. 11 para. 21(1) in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 5\(2\)\(i\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))
- I281** Sch. 11 para. 21(1) in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), [art. 4\(2\)\(j\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I282** Sch. 11 para. 21(2)(4) in force at 1.4.2004 for W. by [S.I. 2004/480](#), [art. 4\(2\)\(j\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I283** Sch. 11 para. 21(3) in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), [art. 4\(2\)\(j\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I284** Sch. 11 para. 21(3) in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 5\(2\)\(i\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))
- I285** Sch. 11 para. 21(5) in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), [art. 4\(2\)\(j\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))

- 22 (1) Section 45 is amended as follows.
- (2) In the side-note, for “local representative committees” substitute “ Local Optical Committees and Local Pharmaceutical Committees ”.
  - (3) In subsection (1)—
    - (a) for “Health Authorities” substitute “ Local Health Boards ”;
    - (b) omit paragraph (b).
  - (4) In subsection (1ZA), omit paragraph (b) and the preceding “or”.
  - (5) In subsection (1A)—



*Status: Point in time view as at 01/06/2004.*

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- (a) omit “Strategic Health Authority”;
  - (b) for “Health Authority” substitute “ Local Health Board ”.
- (6) In subsection (1C), for the words from “an area” to the end substitute “ an area under subsection (B2)(b)(ii) of section 44 above shall, in respect of each year, determine the amount of its administrative expenses for that year attributable to the persons providing local pharmaceutical services in the Primary Care Trust’s area ”.
- (7) In subsection (2), for “Health Authority”, in both places, substitute “ Local Health Board ”.
- (8) In subsection (3)—
- (a) for “Health Authority”, in both places, substitute “ Local Health Board ”;
  - (b) omit “general medical services, general dental services,”.
- (9) In subsection (4), for the words from “deputy medical practitioners” to “as the case may be” substitute “ persons providing local pharmaceutical services ”.

#### Commencement Information

- I286** Sch. 11 para. 22(1) in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/288](#), **art. 5(2)(j)** (with arts. 7, 8) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))
- I287** Sch. 11 para. 22(1) in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), **art. 4(2)(l)** (with arts. 6, 7)
- I288** Sch. 11 para. 22(1) in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), **art. 4(2)(k)** (with arts. 6, 7) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I289** Sch. 11 para. 22(2)(3)(a)(5)(b)(7)-(9) in force at 1.4.2004 for W. by [S.I. 2004/480](#), **art. 4(2)(k)** (with arts. 6, 7) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I290** Sch. 11 para. 22(8)(b)(9) in force at 1.4.2004 for E. by [S.I. 2004/288](#), **art. 5(2)(j)** (with arts. 7, 8) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))
- I291** Sch. 11 para. 22(8)(b)(9) in force at 1.4.2004 for W. by [S.I. 2004/480](#), **art. 4(2)(l)** (with arts. 6, 7)

23           After section 45 insert—

#### “45A Local Medical Committees

- (1) A Primary Care Trust may recognise a committee formed for its area, or for its area and that of one or more other Primary Care Trusts, which it is satisfied is representative of—
- (a) the persons to whom subsection (3) applies; and
  - (b) the persons to whom subsection (4) applies.
- (2) A Local Health Board may recognise a committee formed for its area, or for its area and that of one or more other Local Health Boards, which it is satisfied is representative of—
- (a) the persons to whom subsection (3) applies; and
  - (b) the persons to whom subsection (4) applies.
- (3) This subsection applies to—
- (a) every medical practitioner who, under a general medical services contract entered into by him, is providing primary medical services in the area for which the committee is formed; and



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- (b) every medical practitioner who is providing general ophthalmic services in that area.
- (4) This subsection applies to every other medical practitioner—
  - (a) who is performing primary medical services in the area for which the committee is formed—
    - (i) pursuant to section 16CC(2)(a) above;
    - (ii) in accordance with section 28C arrangements; or
    - (iii) under a general medical services contract; and
  - (b) who has notified the Primary Care Trust or Local Health Board that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).
- (5) A committee recognised under this section shall be called the Local Medical Committee for the area for which it is formed.
- (6) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.
- (7) Regulations may require a Primary Care Trust or Local Health Board, in the exercise of its functions relating to primary medical services, to consult any committee recognised by it under this section on such occasions and to such extent as may be prescribed.
- (8) Regulations may require a Strategic Health Authority, in the exercise of any of its functions which relate to section 28C arrangements for the provision of primary medical services, to consult, on such occasions and to such extent as may be prescribed, any committee—
  - (a) which is recognised by a Primary Care Trust under this section for the area where the services are (or are to be) provided under those arrangements; and
  - (b) which is representative of persons providing or performing those services under those arrangements.
- (9) A committee recognised under this section shall have such other functions as may be prescribed.
- (10) A committee recognised under this section shall in respect of each year determine—
  - (a) the amount of its administrative expenses for that year attributable to persons of whom it is representative under subsection (1)(a) or (2)(a); and
  - (b) the amount of its administrative expenses for that year attributable to persons of whom it is representative under subsection (1)(b) or (2)(b).
- (11) A Primary Care Trust or Local Health Board may—
  - (a) on the request of a committee recognised by it, allot to that committee such sums for defraying the expenses referred to in subsection (10)(a) as it may determine; and
  - (b) deduct the amount of such sums from the remuneration of persons of whom it is representative under subsection (1)(a) or (2)(a) under the

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general medical services contracts, or arrangements under section 38 above, entered into by them with the Trust or Board.

- (12) A committee recognised under this section shall apportion the amount determined by it under subsection (10)(b) among the persons of whom it is representative under subsection (1)(b) or (2)(b); and each such person shall pay in accordance with the committee's directions the amount so apportioned to him.
- (13) References in this section to the administrative expenses of a committee include the travelling and subsistence allowances payable to its members.

#### **45B Local Dental Committees**

- (1) A Primary Care Trust may recognise a committee formed for its area, or for its area and that of one or more other Primary Care Trusts, which it is satisfied is representative of—
- (a) the persons to whom subsection (3) applies; and
  - (b) the persons to whom subsection (4) applies.
- (2) A Local Health Board may recognise a committee formed for its area, or for its area and that of one or more other Local Health Boards, which it is satisfied is representative of—
- (a) the persons to whom subsection (3) applies; and
  - (b) the persons to whom subsection (4) applies.
- (3) This subsection applies to every dental practitioner who, under a general dental services contract entered into by him, is providing primary dental services in the area for which the committee is formed.
- (4) This subsection applies to every other dental practitioner—
- (a) who is performing primary dental services in the area for which the committee is formed—
    - (i) under section 16CA(2) above;
    - (ii) in accordance with section 28C arrangements; or
    - (iii) under a general dental services contract; and
  - (b) who has notified the Primary Care Trust that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).
- (5) A committee recognised under this section shall be called the Local Dental Committee for the area for which it is formed.
- (6) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.
- (7) Regulations may require a Primary Care Trust or Local Health Board, in the exercise of its functions relating to primary dental services, to consult any committee recognised by it under this section on such occasions and to such extent as may be prescribed.
- (8) Regulations may require a Strategic Health Authority, in the exercise of any of its functions which relate to section 28C arrangements for the provision

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- of primary dental services, to consult, on such occasions and to such extent as may be prescribed, any committee—
- (a) which is recognised by a Primary Care Trust under this section for the area where the services are (or are to be) provided under those arrangements; and
  - (b) which is representative of persons providing or performing those services under those arrangements.
- (9) A committee recognised under this section shall have such other functions as may be prescribed.
- (10) A committee recognised under this section shall in respect of each year determine—
- (a) the amount of its administrative expenses for that year attributable to persons of whom it is representative under subsection (1)(a) or (2)(a); and
  - (b) the amount of its administrative expenses for that year attributable to persons of whom it is representative under subsection (1)(b) or (2)(b).
- (11) A Primary Care Trust or Local Health Board may—
- (a) on the request of a committee recognised by it, allot to that committee such sums for defraying the expenses referred to in subsection (10)(a) as it may determine; and
  - (b) deduct the amount of such sums from the remuneration of persons of whom it is representative under subsection (1)(a) or (2)(a) under the general dental services contracts entered into by them with the Trust or Board.
- (12) A committee recognised under this section shall apportion the amount determined by it under subsection (10)(b) among the persons of whom it is representative under subsection (1)(b) or (2)(b); and each such person shall pay in accordance with the committee’s directions the amount so apportioned to him.
- (13) References in this section to the administrative expenses of a committee include the travelling and subsistence allowances payable to its members.”

#### **Commencement Information**

- I292** Sch. 11 para. 23 partly in force; Sch. 11 para. 23 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I293** Sch. 11 para. 23 in force at 3.2.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 2\(1\)\(b\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))
- I294** Sch. 11 para. 23 in force at 28.2.2004 for specified purposes for W. by [S.I. 2004/480](#), [art. 2\(1\)\(b\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- I295** Sch. 11 para. 23 in force at 1.4.2004 for specified purposes for E. by [S.I. 2004/288](#), [art. 5\(2\)\(k\)](#) (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))
- I296** Sch. 11 para. 23 in force at 1.4.2004 for specified purposes for W. by [S.I. 2004/480](#), [art. 4\(2\)\(m\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))

- (a) in paragraph (a), for “49F(1)(a) to (e)” substitute “ 49F(1) ”;

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- (b) in paragraph (c), for the words from the beginning to “a services list” substitute “ all lists under section 28X above, or any list corresponding to a list under that section ”.

**Commencement Information**

**I297** Sch. 11 para. 24(a) in force at 1.4.2004 for E. by [S.I. 2004/288](#), **art. 5(2)(l)** (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

**I298** Sch. 11 para. 24(a) in force at 1.4.2004 for W. by [S.I. 2004/480](#), **art. 4(2)(n)** (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))

- 25 Section 53 (immunisation) shall cease to have effect.

**Commencement Information**

**I299** Sch. 11 para. 25 in force at 1.4.2004 for W. by [S.I. 2004/480](#), **art. 4(2)(o)** (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))

**I300** Sch. 11 para. 25 in force at 1.4.2004 for E. by [S.I. 2004/288](#), **art. 5(2)(m)** (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

- 26 (1) Section 54 (as substituted by the National Health Service (Primary Care) Act 1997) is amended as follows.

- (2) In subsection (1)—

- (a) in paragraph (a), after “1973 or” insert “ (prior to its repeal) section 29 of ”;
- (b) in paragraph (b), at the end insert “ (prior to the coming into force of section 16CC above) ”;
- (c) after that paragraph insert “or
- (c) provided or performed primary medical services in accordance with section 28C arrangements, arrangements under section 16CC(2)(b) above or under a general medical services contract—
- (i) in prescribed circumstances, or
- (ii) if regulations so provide, in all circumstances,”.

- (3) In subsection (2), in the definition of “relevant area”—

- (a) after “Primary Care Trust”, in both places, insert “ , Local Health Board ”;
- (b) after “by arrangement” insert “ or contract ”;
- (c) for paragraphs (a) and (b) substitute “ provided or performed services as specified in subsection (1) above ”.

**Commencement Information**

**I301** Sch. 11 para. 26 partly in force; Sch. 11 para. 26 in force at Royal Assent for certain purposes, see s. 199(1)(4)

**I302** Sch. 11 para. 26 in force at 11.3.2004 for specified purposes for E. by [S.I. 2004/759](#), **art. 10**

**I303** Sch. 11 para. 26 in force at 1.4.2004 for W. by [S.I. 2004/480](#), **art. 4(2)(o)** (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))

**I304** Sch. 11 para. 26 in force at 1.4.2004 for E. by [S.I. 2004/288](#), **art. 5(2)(m)** (with [arts. 7, 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#))

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- 27 (1) Section 72 is amended as follows.
- (2) In subsection (5), at the end insert “and
- (d) persons providing primary medical services or primary dental services under a general medical services contract or a general dental services contract or in accordance with section 28C arrangements”.
- (3) In subsection (6)(a), for “Part II” substitute “ this Act ”.

#### Commencement Information

**I305** Sch. 11 para. 27 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(m) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I306** Sch. 11 para. 27 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(o) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

VALID FROM 01/04/2006

- 28 In section 77, at the end insert—
- “(4) This section does not apply in relation to the provision of any relevant dental service (within the meaning of section 79 below).”

VALID FROM 01/04/2006

- 29 In section 78(3), for “paragraphs 2 and 5” substitute “ paragraph 2 ”.

VALID FROM 01/04/2006

- 30 In section 83(a), for “to 79” substitute “ and 78 ”.

VALID FROM 01/04/2006

- 31 In section 83A(1)(a), for the words from “section 77(1)” to “1997” substitute “ section 77(1), 78(1) or 79 above ”.

VALID FROM 01/04/2006

- 32 In section 85(1)—
- (a) insert “ or ” at the end of paragraph (bbb);
- (b) omit paragraph (e).

VALID FROM 01/04/2006

- 33 (1) Section 98 is amended as follows.

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(2) In subsection (1)—

- (a) insert “ and ” at the end of paragraph (dd);
- (b) omit paragraph (e) and the preceding “and”.

(3) In subsection (4)—

- (a) in paragraph (a), omit the words from “, other than” to the end;
- (b) omit paragraph (b).

VALID FROM 01/04/2006

34

In section 99(1)—

- (a) insert “ and ” at the end of paragraph (bb);
- (b) omit paragraph (f) and the preceding “and”.

VALID FROM 01/04/2006

35

In section 100(1)—

- (a) insert “ and ” at the end of paragraph (b);
- (b) omit paragraph (e) and the preceding “and”.

36

In section 103(1)(a)—

- (a) after “in respect of” insert “ primary medical services or primary dental services provided by any person under Part 1 of this Act or of ”;
- (b) omit “or in accordance with section 28C arrangements”.

#### Commencement Information

**I307** Sch. 11 para. 36(a) in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I308** Sch. 11 para. 36(a) in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(n) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

37

In section 105(2)(a), for the words from “as part of” to “arrangements” substitute “ in the provision under this Act of primary medical services for that person ”.

#### Commencement Information

**I309** Sch. 11 para. 37 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(q) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I310** Sch. 11 para. 37 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(o) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

38

In section 126(4), after “19A(7) above” insert “, or by section 28E(3A), 28N, 28T or 28U above,”.

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#### Commencement Information

- I311** Sch. 11 para. 38 in force at 3.2.2004 for E. by S.I. 2004/288, art. 2(1)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I312** Sch. 11 para. 38 in force at 28.2.2004 for W. by S.I. 2004/480, art. 2(1)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

39 In section 128(1), at the appropriate places in alphabetical order insert—

““general dental services contract” has the meaning given by section 28K above;”;

““general medical services contract” has the meaning given by section 28Q above;”;

““primary dental services” means services which are primary dental services for the purposes of Part 1 (see section 16CA);”;

““primary medical services” means services which are primary medical services for the purposes of Part 1 (see section 16CC).”

#### Commencement Information

- I313** Sch. 11 para. 39 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 2(1)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I314** Sch. 11 para. 39 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 3(1)(d) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I315** Sch. 11 para. 39 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I316** Sch. 11 para. 39 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 3(1)(c) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

40 (1) In Schedule 7A, paragraph 3 is amended as follows.

(2) In sub-paragraph (1)—

(a) after paragraph (f) insert—

“(fa) persons providing primary medical services or primary dental services under Part 1 of this Act;”.

(b) in paragraph (g), omit the words from “or under” to “this Act”.

(3) In sub-paragraph (2), for “(1)(g)” substitute “(1)(fa), (g)”.

#### Commencement Information

- I317** Sch. 11 para. 40 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(r) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

41 In Schedule 8A, in paragraph 1(5), for the words from “personal medical” to the end substitute “primary medical services or primary dental services under any provision of, or made under, this Act.”

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#### Commencement Information

**I318** Sch. 11 para. 41 in force at 1.4.2004 for W. by S.I. 2004/480, **art. 4(2)(s)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

- 42 (1) Schedule 9A is amended as follows.
- (2) In paragraph 6, for paragraphs (a) and (b) substitute—
- “(a) health care professional of each description prescribed under section 28X above, provided that each such health care professional appointed is included in a list under that section;”.
- (3) At the end of paragraph 6 insert— “ For the purposes of paragraph (a) above, “health care professional” has the same meaning as in section 28X above. ”
- (4) In paragraph 10—
- (a) after “49N above” insert “ or for the purposes of regulations under section 28X above containing provision corresponding to those sections ”;
- (b) for paragraph (a) substitute—
- “(a) if the practitioner is a health care professional of a description prescribed under section 28X above, one member of the panel must be a health care professional of the same description;
- (aa) if the practitioner is of a description referred to in paragraph 6(c) or (d) above, one member of the panel must be a practitioner of that description; and”.
- (5) In paragraph 17(c), at the end insert “ or under any provision of regulations under section 28X above corresponding to that provision ”.

#### Commencement Information

**I319** Sch. 11 para. 42 in force at 1.4.2004 for W. by S.I. 2004/480, **art. 4(2)(t)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I320** Sch. 11 para. 42 in force at 1.4.2004 for E. by S.I. 2004/288, **art. 5(2)(p)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

- 43 In Schedule 10, in paragraph 3, for “general medical services or personal medical services” substitute “ or performed services as specified in section 54(1) ”.

#### Commencement Information

**I321** Sch. 11 para. 43 in force at 1.4.2004 for E. by S.I. 2004/288, **art. 5(2)(p)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I322** Sch. 11 para. 43 in force at 1.4.2004 for W. by S.I. 2004/480, **art. 4(2)(t)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

- 44 In Schedule 12, in paragraph 1(1)(b), for “accordance with section 28C arrangements or “” substitute “ the provision of primary medical services under Part 1 or in accordance with ”.



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#### Commencement Information

- I323** Sch. 11 para. 44 in force at 1.4.2004 for W. by S.I. 2004/480, **art. 4(2)(t)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I324** Sch. 11 para. 44 in force at 1.4.2004 for E. by S.I. 2004/288, **art. 5(2)(p)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

- 45 In Schedule 12A, insert “ or ” after paragraphs 1(2)(b), 2(2)(a), 4(2)(aa), 5(2)(a), 6A(2)(b) and 6B(2)(a).

#### Commencement Information

- I325** Sch. 11 para. 45 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, **art. 4(2)(u)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I326** Sch. 11 para. 45 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, **art. 5(2)(q)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

#### *National Health Service (Scotland) Act 1978 (c. 29)*

- 46 (1) Section 17D of the National Health Service (Scotland) Act 1978 is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b)(ii), after “arrangements or” insert “ primary medical services in accordance with ”;
  - (b) in paragraph (c)(ii), after “arrangements or” insert “ primary dental services in accordance with ”.
- (3) In subsection (2), in the definition of “NHS employee”—
- (a) in paragraph (b)(ii), after “arrangements or” insert “ primary medical services in accordance with ”;
  - (b) in paragraph (c)(i), for “36(1)(a)” substitute “ 28X ”;
  - (c) in paragraph (c)(ii), after “arrangements or” insert “ primary dental services in accordance with ”.

#### Commencement Information

- I327** Sch. 11 para. 46(1) in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, **art. 5(2)(r)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I328** Sch. 11 para. 46(1) in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, **art. 4(2)(v)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I329** Sch. 11 para. 46(2)(a)(3)(a) in force at 1.4.2004 for E. by S.I. 2004/288, **art. 5(2)(r)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I330** Sch. 11 para. 46(2)(a)(3)(a) in force at 1.4.2004 for W. by S.I. 2004/480, **art. 4(2)(v)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

#### *Medical Act 1983 (c. 54)*

- 47 The Medical Act 1983 is amended as follows.

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**Commencement Information**

- I331** Sch. 11 para. 47 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(w) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I332** Sch. 11 para. 47 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(s) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

- 48 In section 11(4), in the definition of “medical practice”—
- (a) after “practitioners—” insert—
- “(za) perform primary medical services under Part 1 of the National Health Service Act 1977; or”;
- (b) in paragraph (a), omit “Part II of the National Health Service Act 1977,”;
- (c) in paragraph (b), omit “section 28C of the 1977 Act.”

**Commencement Information**

- I333** Sch. 11 para. 48 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(s) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I334** Sch. 11 para. 48 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(w) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

- 49 In section 12(2)(a), for “general medical services under Part II of the National Health Service Act 1977,” substitute “primary medical services under Part 1 of the National Health Service Act 1977 or general medical services under ”.

**Commencement Information**

- I335** Sch. 11 para. 49 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(s) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I336** Sch. 11 para. 49 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(w) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

VALID FROM 01/04/2006

*Dentists Act 1984 (c. 24)*

- 50 In section 40(2) of the Dentists Act 1984, after paragraph (a) insert—
- “(aa) by a person providing primary dental services under section 28C of the National Health Service Act 1977 or under a contract under section 28K of that Act, or”.

*Community Health Councils (Access to Information) Act 1988 (c. 24)*

- 51 In section 1(6) of the Community Health Councils (Access to Information) Act 1988, in the paragraph 6B inserted into Schedule 12A of the Local Government Act 1972 (c. 70)—
- (a) after paragraph (a) insert—

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- “(aa) any particular person who is or was formerly included in, or is an applicant for inclusion in, a list under section 28X of that Act; or
- (ab) any particular person who is or was formerly providing services under a contract under section 28K or section 28Q of that Act; or”;
- (b) in paragraph (b), for “such a person” substitute “ a person mentioned in paragraphs (a) to (ab) above ”.

#### Commencement Information

- I337** Sch. 11 para. 51 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(x) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I338** Sch. 11 para. 51 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(t) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

#### *Copyright, Designs and Patents Act 1988 (c. 48)*

- 52 In section 240(4) of the Copyright, Designs and Patents Act 1988—
- (a) after “providing—” insert—
    - “(za) primary medical services or primary dental services under Part 1 of the National Health Service Act 1977”;
  - (b) in paragraph (a)(i), after “1977” insert “ (in the case of pharmaceutical services) ”;
  - (c) omit paragraph (b)(i).

#### Commencement Information

- I339** Sch. 11 para. 52 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(x) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I340** Sch. 11 para. 52 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(t) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

#### *Health and Medicines Act 1988 (c. 49)*

- 53 The Health and Medicines Act 1988 has effect subject to the following amendments.

#### Commencement Information

- I341** Sch. 11 para. 53 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 4(2)(y) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I342** Sch. 11 para. 53 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 5(2)(u) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

VALID FROM 01/04/2006

- 54 In section 12(1)—

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

- (a) omit “The Dental Estimates Board shall be renamed as “the Dental Practice Board” and”;
- (b) in paragraph (a), omit “for any reference to the Dental Estimates Board there were substituted a reference to the Dental Practice Board and”;
- (c) in paragraph (b)—
  - (i) omit “the Dental Estimates Board or”;
  - (ii) for “either or both of those Boards” substitute “ that Board ”, and
  - (iii) omit “the Dental Practice Board and”.

- 55 In section 17(1)—
- (a) omit “29, 36”;
  - (b) for “39 or 42” substitute “ 38, 39, 41 or 42 ”.

#### **Commencement Information**

- I343** Sch. 11 para. 55 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(y) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I344** Sch. 11 para. 55 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(u) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

#### *National Health Service and Community Care Act 1990 (c. 19)*

- 56 (1) Section 18 of the National Health Service and Community Care Act 1990 is amended as follows (for so long as it has effect).
- (2) In subsection (1), for “Health Authority”, in each place, substitute “ Local Health Board ”.
- (3) In subsection (3), for paragraphs (a) and (b) substitute—
- “(a) a person or body who has entered into a contract under section 28Q of the principal Act, otherwise than in partnership; or
  - (b) two or more individuals practising in partnership who together have entered into such a contract.”.
- (4) In subsections (4) and (5), for “Health Authority”, in each place, substitute “ Local Health Board ”.
- (5) At the end insert—
- “(9) In this section, references to the “relevant” Primary Care Trust or Local Health Board, in relation to a practice, are to the Primary Care Trust or Local Health Board with which it has entered into a contract under section 28Q of the principal Act.”

#### **Commencement Information**

- I345** Sch. 11 para. 56 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(z) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I346** Sch. 11 para. 56 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(v) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

*Access to Health Records Act 1990 (c. 23)*

- 57 (1) The Access to Health Records Act 1990 is amended as follows.
- (2) In section 1, in subsection (2), for paragraph (a) substitute—
- “(a) in the case of a record made by a health professional performing primary medical services under a general medical services contract made with a Primary Care Trust or Local Health Board, the person or body who entered into the contract with the Trust or Board (or, in a case where more than one person so entered into the contract, any such person);
- (aa) in the case of a record made by a health professional performing such services in accordance with arrangements under section 28C of that Act with a Primary Care Trust, Strategic Health Authority or Local Health Board, the person or body which made the arrangements with the Trust, Authority or Board (or, in a case where more than one person so made the arrangements, any such person);”.
- (3) In that subsection, in paragraph (b), after “by a health service body” insert “(and not falling within paragraph (aa) above)”.
- (4) In section 7—
- (a) in subsection (2), omit the words from “(other” to “section 1(2)(a) above”;
- and
- (b) omit subsection (3).
- (5) In section 11—
- (a) at the appropriate place, insert—
- ““general medical services contract” means a contract under section 28Q of the National Health Service Act 1977;”;
- (b) omit the definition of “general practitioner”.
- (6) This paragraph extends to England and Wales only.

**Commencement Information**

**I347** Sch. 11 para. 57 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(v) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I348** Sch. 11 para. 57 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(z) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

*Water Industry Act 1991 (c. 56)*

- 58 In Schedule 4A to the Water Industry Act 1991, for paragraph 7 substitute—
- “7 Premises not falling within paragraph 5 or 6 above which are used for the provision of primary medical services or primary dental services under Part 1 of the National Health Service Act 1977.”

**Commencement Information**

**I349** Sch. 11 para. 58 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(v) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

*Status: Point in time view as at 01/06/2004.*

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**I350** Sch. 11 para. 58 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(z) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

*Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)*

59 (1) Section 279 of the Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.

(2) In paragraph (a), omit “28C, 29, 35”.

(3) Renumber the existing provision as subsection (1).

(4) After that provision insert—

“(2) In this Act “worker” also includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person performing primary medical services or primary dental services—

(a) in accordance with arrangements made by a Primary Care Trust, Strategic Health Authority or Local Health Board under section 28C of the National Health Service Act 1977; or

(b) under a contract under section 28K or 28Q of that Act entered into by him with a Primary Care Trust or Local Health Board,

and “employer” in relation to such an individual, regarded in that capacity, means that Trust, Authority or Board.”

**Commencement Information**

**I351** Sch. 11 para. 59 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(z) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I352** Sch. 11 para. 59 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(v) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

*Health Service Commissioners Act 1993 (c. 46)*

60 The Health Service Commissioners Act 1993 has effect subject to the following amendments.

**Commencement Information**

**I353** Sch. 11 para. 60 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 4(2)(aa) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I354** Sch. 11 para. 60 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 5(2)(w) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

61 In section 2—

(a) in subsection (1)(c), for the words from “exercising” to the end substitute “not exercising functions only or mainly in Wales”;

(b) in subsection (2)(b), for the words from “exercising” to the end substitute “not exercising functions only or mainly in England”.

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

#### Commencement Information

**I355** Sch. 11 para. 61 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(aa) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

62 (1) Section 2A is amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) substitute—

“(a) persons (whether individuals or bodies) providing services under a contract entered into by them with a Primary Care Trust under section 28K or 28Q of the National Health Service Act 1977”;

(b) in paragraph (c), for “personal”, in both places, substitute “primary”.

(3) In subsection (2)—

(a) for paragraph (a) substitute—

“(a) persons (whether individuals or bodies) providing services under a contract entered into by them with a Local Health Board under section 28K or 28Q of the National Health Service Act 1977;”;

(b) in paragraph (c), for “personal”, in both places, substitute “primary”.

#### Commencement Information

**I356** Sch. 11 para. 62 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(aa) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I357** Sch. 11 para. 62 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(w) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

63 In section 6(5)—

(a) omit “29, 36”;

(b) for “39 or 42” substitute “38, 39, 41 or 42”.

#### Commencement Information

**I358** Sch. 11 para. 63 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(aa) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I359** Sch. 11 para. 63 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(w) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

64 In section 18(1), after “partly” insert “or wholly”.

#### Commencement Information

**I360** Sch. 11 para. 64 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(aa) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)



*Status: Point in time view as at 01/06/2004.*

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*Employment Rights Act 1996 (c. 18)*

- 65 (1) Section 43K of the Employment Rights Act 1996 is amended as follows.
- (2) In subsection (1), after paragraph (b) insert—
- “(ba) works or worked as a person performing services under a contract entered into by him with a Primary Care Trust or Local Health Board under section 28K or 28Q of the National Health Service Act 1977,”.
- (3) In subsection (2), after paragraph (a) insert—
- “(aa) in relation to a worker falling within paragraph (ba) of that subsection, the Primary Care Trust or Local Health Board referred to in that paragraph.”.

**Commencement Information**

**I361** Sch. 11 para. 65 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(bb) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I362** Sch. 11 para. 65 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(x) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

VALID FROM 01/04/2006

*Education Act 1996 (c. 56)*

- 66 In section 520(1) of the Education Act 1996, for “(1A)” substitute “ 16CB ”.

*Health Act 1999 (c. 8)*

- 67 In Schedule 3 to the Health Act 1999, in paragraph 11(2)—
- (a) in sub-paragraph (c), for the words from “provide” to “under” substitute “perform primary medical services under Part 1 of”;
- (b) in sub-paragraph (d), for the words from “provide” to “under” substitute “perform primary dental services under Part 1 of”.

**Commencement Information**

**I363** Sch. 11 para. 67(a) in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(bb) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I364** Sch. 11 para. 67(a) in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(x) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

VALID FROM 17/01/2005

*Freedom of Information Act 2000 (c. 36)*

- 68 In Schedule 1 to the Freedom of Information Act 2000, in Part 3, before paragraph 44 insert—



*Status: Point in time view as at 01/06/2004.*

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- “43A Any person providing primary medical services or primary dental services—
- (a) in accordance with arrangements made under section 28C of the National Health Service Act 1977; or
  - (b) under a contract under section 28K or 28Q of that Act; in respect of information relating to the provision of those services.”

*Health and Social Care Act 2001 (c. 15)*

- 69 The Health and Social Care Act 2001 has effect subject to the following amendments.

**Commencement Information**

**I365** Sch. 11 para. 69 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 4(2)(cc) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I366** Sch. 11 para. 69 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 5(2)(y) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

- 70 Section 18 shall cease to have effect.

**Commencement Information**

**I367** Sch. 11 para. 70 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(y) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I368** Sch. 11 para. 70 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(cc) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

- 71 In section 28(4), for the words from “personal medical services” to the end substitute “primary medical services or primary dental services under any provision of, or made under, the 1977 Act.”

**Commencement Information**

**I369** Sch. 11 para. 71 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(cc) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I370** Sch. 11 para. 71 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(y) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

VALID FROM 01/04/2006

- 72 (1) Schedule 1 is amended as follows.
- (2) For paragraphs 11 and 12 substitute—
- “11 Information relating to a particular person who—
- (a) is or was formerly providing primary medical services or primary dental services under a contract under section 28K or 28Q of the 1977 Act;

*Status: Point in time view as at 01/06/2004.*

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)

(b) is or was formerly included in, or is an applicant for inclusion in, a list under section 28X of the 1977 Act.”

(3) In paragraph 13, for “, 11 or 12” substitute “ or 11 ”.

73 In Schedule 2, in paragraph 5(2), for paragraphs (c) and (d) substitute—  
“(c) primary medical services provided under Part 1 of the 1977 Act.”

#### Commencement Information

**I371** Sch. 11 para. 73 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(cc) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**I372** Sch. 11 para. 73 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(y) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

#### *National Health Service Reform and Health Care Professions Act 2002 (c. 17)*

74 (1) Section 17 of the National Health Service Reform and Health Care Professions Act 2002 is amended as follows.

(2) In subsection (1)—

(a) after paragraph (f) insert—

“(fa) persons providing primary medical services or primary dental services under Part 1 of the 1977 Act,”; and

(b) in paragraph (g), omit the words from “or under” to “that Act”.

(3) In subsection (2), for “(1)(g)” substitute “ (1)(fa), (g) ”.

#### Commencement Information

**I373** Sch. 11 para. 74 in force at 1.4.2004 for E. by S.I. 2004/288, art. 5(2)(z) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

**I374** Sch. 11 para. 74 in force at 1.4.2004 for W. by S.I. 2004/480, art. 4(2)(dd) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

VALID FROM 19/10/2004

SCHEDULE 12

Section 187

PRIVY COUNCIL APPOINTMENTS

**Status:** Point in time view as at 01/06/2004.

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)

VALID FROM 01/04/2005

## SCHEDULE 13

Section 190

### AMENDMENTS CONSEQUENTIAL ON THE ABOLITION OF THE PUBLIC HEALTH LABORATORY SERVICE BOARD

## SCHEDULE 14

Section 196

### REPEALS AND REVOCATIONS

#### Commencement Information

- I375** Sch. 14 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 4(2)(c) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I376** Sch. 14 in force at 1.4.2004 for specified purposes for E. by S.I. 2004/288, art. 6 (with arts. 7-9) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I377** Sch. 14 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/480, art. 5 (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

## PART 1

### NHS FOUNDATION TRUSTS

#### Commencement Information

- I378** Sch. 14 Pt. 1 in force at 1.4.2004 for E.W. insofar as not already in force by S.I. 2004/759, art. 12

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Health Services and Public Health Act 1968 (c. 46)	In section 63(5B), the “and” at the end of paragraph (bbb).
National Health Service Act 1977 (c. 49)	In section 22(1A), the “or” at the end of paragraph (cc). In section 125, the “and” at the end of paragraph (bbb).
National Health Service and Community Care Act 1990 (c. 19)	In Schedule 2, paragraphs 21 and 25(b). In Schedule 9— paragraph 7(a), paragraph 13(a), in paragraph 18(5)(a), the words from “after” to “trust” and“,

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

	paragraph 36(4)(a).
Access to Health Records Act 1990 (c. 23)	In section 11, in the definition of “health service body”, the “or” before paragraph (d).
Courts and Legal Services Act 1990 (c. 41)	In Schedule 16— in paragraph 14(b), the words from “and after” to the end, paragraph 20.
Health and Social Care Act 2001 (c. 15)	In section 11(2), the “and” before paragraph (c).
National Health Service Reform and Health Care Professions Act 2002 (c. 17)	In section 15(1), the “and” before paragraph (b).

## PART 2

### STANDARDS

#### Commencement Information

**I379** Sch. 14 Pt. 2 in force at 1.4.2004 for specified purposes for E.W. by S.I. 2004/759, art. 13

**I380** Sch. 14 Pt. 2 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/873, art. 2(e)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Public Records Act 1958 (c. 51)	In Schedule 1, in Part 2 of the Table at the end of paragraph 3, the entries relating to the Commission for Health Improvement and the National Care Standards Commission.
Public Bodies (Admission to Meetings) Act 1960 (c. 67)	In the Schedule, paragraph 1(bc) and (bf).
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to the Commission for Health Improvement and the National Care Standards Commission.
Local Authority Social Services Act 1970 (c. 42)	Section 7B.
House of Commons Disqualification Act 1975 (c. 24)	In Part 2 of Schedule 1, the entries relating to the Commission for Health Improvement and the National Care Standards Commission.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the entries relating to the Commission for Health Improvement and the National Care Standards Commission.
Hospital Complaints Procedure Act 1985 (c. 42)	In section 1— in subsection (1), the words from “to each”, where first occurring, to “Wales and” and the words “Strategic Health Authority, Health Authority, Special

*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

	Health Authority or”; and “20 or” and “or Schedule 2,”; subsections (1B), (1C)(a) and (3)(a).
Children Act 1989 (c. 41)	Section 14G.
Health Service Commissioners Act 1993 (c. 46)	Section 4(6).
Health Authorities Act 1995 (c. 17)	In Schedule 1, paragraph 109.
Health Act 1999 (c. 8)	Sections 18 to 24. In section 62— in subsection (2), “20 or” and “or Schedule 2,”; in subsection (5), “20 or”. In section 64, the definition of “the Commission”. Section 66(6). Schedule 2. In Schedule 4, paragraph 71.
National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)	In Schedule 1, in the entry relating to the Health Act 1999, “20(1), 22 and” and “and Schedule 2 (other than paragraph 2)”. In Schedule 2, the entries relating to the Health Act 1999.
Care Standards Act 2000 (c. 14)	Sections 6 and 7. Section 9. Section 10(1). Section 22(8)(a). In section 31(6), “and inspect any medical records relating to his treatment in the establishment”. Section 32(8). Section 44. Section 45(1) to (3) and (5). Sections 46 and 47. Section 49(2). Section 51. In section 113(1), “the Commission or” and, in paragraph (b), “6(2) or”. In section 121(13), in the table, the entry for “the Commission”. In Schedule 1— in paragraph 1(1), “the Commission,”; paragraphs 9 to 11, 15 and 17.
Local Government Act 2000 (c. 22)	In Schedule 5, paragraph 29.
Freedom of Information Act 2000 (c. 36)	In Part VI of Schedule 1, the reference to the Commission for Health Improvement.
National Health Service Reform and Health Care Professions Act 2002 (c. 17)	Sections 11 to 14. In Schedule 1, paragraphs 37, 49 and 50. In Schedule 5, paragraph 44.

*Status: Point in time view as at 01/06/2004.*

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	In Schedule 8, paragraphs 28 to 31.
Health and Social Care (Community Health and Standards) Act 2003	In Schedule 9, paragraph 27.

### PART 3

#### RECOVERY OF NHS CHARGES

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Road Traffic (NHS Charges) Act 1999 (c. 3)	The whole Act.
Road Traffic Act 1988 (c. 52)	In section 145(6)— (a) the words “or the Road Traffic (NHS Charges) Act 1999”, and (b) in paragraph (b), the words “or section 1 of the Act of 1999”. In section 161(1), in the definition of “hospital”, paragraph (b).
Tribunals and Inquiries Act 1992 (c. 53)	In Part 2 of Schedule 1, paragraph 56(e).
Community Care and Health (Scotland) Act 2002 (asp 5)	Section 20(3).

### PART 4

#### DENTAL AND MEDICAL SERVICES

<i>Reference</i>	<i>Extent of repeal or revocation</i>
National Health Service (Amendment) Act 1949 (c. 93)	The whole Act.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 3, in paragraph 8(1), “the Dental Practice Board or”.
Health Services and Public Health Act 1968 (c. 46)	In section 59(2A), “section 28C of the 1977 Act.”. In section 63(2)(ba), “section 28C of the 1977 Act or”.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entry relating to the Chairman or Vice-Chairman of the Dental Practice Board or member of that Board appointed at an annual salary.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to the Dental Practice Board.

Note: The repeals in this Part of this Schedule to the following enactments extend to England and Wales only—

- (a) the National Health Service (Amendment) Act 1949 (c. 93);
- (b) the Access to Health Records Act 1990 (c. 23);
- (c) the National Health Service (Primary Care) Act 1997 (c. 46) and enactments amending that Act.

*Status: Point in time view as at 01/06/2004.*

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Patents Act 1977 (c. 37)	In section 56(4)(a)(ii), “section 28C of the 1977 Act,”.
National Health Service Act 1977 (c. 49)	<p>In section 3(3), “medical, dental,”.</p> <p>Section 5(1A).</p> <p>In section 18A(3)(a), “general medical, general dental,”.</p> <p>In section 26(2)(a) and (4)(a), “general medical services, general dental services”.</p> <p>Section 28C(3) and (7).</p> <p>In section 28D(2), the definitions of “qualifying dental practitioner” and “qualifying medical practitioner”.</p> <p>Section 28DA.</p> <p>In section 28E—</p> <p style="padding-left: 40px;">in subsection (2), paragraph (b) and the words following that paragraph; subsection (3)(f), (g), (j) and (k); subsections (5) to (8).</p> <p>Sections 28F to 28H.</p> <p>Sections 29 to 37.</p> <p>Section 43ZA(3)(a) and (b).</p> <p>In section 43C(3), in the definition of “Part II services” the words “general medical services, general dental services,”.</p> <p>In section 43D—</p> <p style="padding-left: 40px;">in subsection (1), “general medical services, general dental services,”; subsection (10)(a) and (b).</p> <p>In section 44—</p> <p style="padding-left: 40px;">subsections (ZA1) to (B1); subsection (3)(a) to (d); subsection (5).</p> <p>In section 45—</p> <p style="padding-left: 40px;">subsection (1)(b); subsection (1ZA)(b) and the preceding “or”;</p> <p style="padding-left: 40px;">in subsection (1A), “Strategic Health Authority”;</p> <p style="padding-left: 40px;">in subsection (3), “general medical services, general dental services”;</p> <p>Section 49F(1)(a) and (c).</p> <p>In section 49H(1)(a), “or a dental corporation”.</p> <p>In section 52, “general medical services, general dental services,”.</p> <p>Section 53.</p> <p>Section 56(a) and (b).</p> <p>In section 72(5)(a), “, dental practitioners,”.</p>

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*Status: Point in time view as at 01/06/2004.*

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)

- In section 78—  
in the side-note, “dental or”;  
subsections (1A) and (2).
- Section 81(b).
- Section 82(b).
- Section 83(b).
- Section 85(1)(e).
- In section 98—  
subsection (1)(e) and the preceding  
“and”;  
in subsection (4), in paragraph (a), the  
words from “, other than” to the end,  
and paragraph (b).
- Section 99(1)(f) and the preceding “and”.
- Section 100(1)(e) and the preceding “and”.
- Section 102(1)(a)(iii) and (iv) and (2)(b) and  
(c).
- In section 103(1)(a), “or in accordance with  
section 28C arrangements”.
- In section 126(4), the words from  
“regulations made under section 32” to “or  
to”.
- In section 128(1)—  
the definitions of “dental corporation”,  
“medical list”, “personal dental  
services” and “personal medical  
services”;  
in the definition of “terms of service”,  
the words “general medical services,  
general dental services,”.
- In Schedule 1—  
in the title, “and their education in  
dental health”;  
in paragraph 1(a), “or dental” and “or  
for education in dental health”.
- In Schedule 7A, in paragraph 3(1)(g), the  
words from “or under” to “this Act”.
- In Schedule 12—  
in the heading preceding paragraph 2,  
“dental or”;  
in paragraph 2, sub-paragraphs (3) to  
(7) and, in sub-paragraph (8), the words  
from “and, in the case of” to the end;  
paragraph 3 and the preceding heading;  
paragraph 6.
- In Schedule 12A—  
paragraph 1(2)(d) and the preceding  
“or”;

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- (b) the Access to Health Records Act 1990 (c. 23);
- (c) the National Health Service (Primary Care) Act 1997 (c. 46) and enactments amending that Act.



*Status: Point in time view as at 01/06/2004.*

*Changes to legislation: Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)*

	paragraph 2(2)(c) and the preceding “or”; paragraph 4(2)(b) and the preceding “or”; paragraph 5(2)(b) and the preceding “or”; paragraph 6A(2)(d) and the preceding “or”; paragraph 6B(2)(c) and the preceding “or”.
National Health Service (Scotland) Act 1978 (c. 29)	Section 17A(2)(g).
Health Services Act 1980 (c. 53)	In Schedule 5, paragraphs 2(3) and 4.
Health and Social Services and Social Security Adjudications Act 1983 (c. 41)	Section 14(1). Section 15(a). In Schedule 6, paragraph 2.
Medical Act 1983 (c. 54)	In section 11(4), in the definition of “medical practice”— in paragraph (a), “Part II of the National Health Service Act 1977,”; in paragraph (b), “section 28C of the 1977 Act.” In Schedule 5, paragraph 16(a).
Dentists Act 1984 (c. 24)	In section 40(2)(ab), “section 28C of the National Health Service Act 1977 or”. In Schedule 5, paragraph 8.
Health and Social Security Act 1984 (c. 48)	In Schedule 3, paragraph 5.
Income and Corporation Taxes Act 1988 (c. 1)	Section 519A(2)(f).
Copyright, Designs and Patents Act 1988 (c. 48)	Section 240(4)(b)(i).
Health and Medicines Act 1988 (c. 49)	In section 2(1)(a)— in sub-paragraph (i), “Part II of the National Health Service Act 1977 or”; in sub-paragraph (ii), “section 28C of the 1977 Act or”. In section 8(1)— in paragraph (a), “section 29 of the National Health Service Act 1977 or”; in paragraph (b), “section 36 of the National Health Service Act 1977 or”. In section 12(1)—

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- (b) the Access to Health Records Act 1990 (c. 23);
- (c) the National Health Service (Primary Care) Act 1997 (c. 46) and enactments amending that Act.

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	<p>“The Dental Estimates Board shall be renamed as “the Dental Practice Board” and”;</p> <p>in paragraph (a), “for any reference to the Dental Estimates Board there were substituted a reference to the Dental Practice Board and”;</p> <p>in paragraph (b), “the Dental Estimates Board or” and “the Dental Practice Board and”.</p> <p>Section 12(2) and (3)(a).</p> <p>In section 17(1), “29, 36”.</p> <p>In Schedule 2, paragraphs 4 to 6, 7(1) and (2) and 8(2) and (3).</p>
National Health Service and Community Care Act 1990 (c. 19)	<p>In section 4(2)(g), “the Dental Practice Board or”.</p> <p>Section 18(7).</p> <p>Sections 23 and 24.</p> <p>Section 60(7)(f).</p>
Access to Health Records Act 1990 (c. 23)	<p>In section 7—</p> <p>in subsection (2), the words from “(other” to “section 1(2)(a) above” subsection (3).</p> <p>In section 11, the definition of “general practitioner”.</p>
Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)	<p>In section 279(a), “28C, 29, 35”.</p>
Health Service Commissioners Act 1993 (c. 46)	<p>Section 2(1)(f).</p> <p>In section 6(5), “29, 36”.</p>
Health Authorities Act 1995 (c. 17)	<p>In Schedule 1, paragraphs 18 to 26.</p>
Medical (Professional Performance) Act 1995 (c. 51)	<p>In the Schedule, paragraph 28.</p>
Employment Rights Act 1996 (c. 18)	<p>In section 43K(1)(c)(i), “29, 35”.</p> <p>Section 218(10)(d).</p>
National Health Service (Primary Care) Act 1997 (c. 46)	<p>Part 1.</p> <p>Section 23(1).</p> <p>Section 24(1).</p> <p>Section 25(1).</p> <p>Section 32.</p> <p>Section 40(1) and (3).</p> <p>Schedule 1.</p> <p>In Schedule 2, paragraphs 6, 8 to 12, 16 to 19, 24, 25, 71 to 73, 80 and 81.</p>
Health Act 1999 (c. 8)	<p>Section 6(1).</p>

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- (a) the National Health Service (Amendment) Act 1949 (c. 93);
- (b) the Access to Health Records Act 1990 (c. 23);
- (c) the National Health Service (Primary Care) Act 1997 (c. 46) and enactments amending that Act.

*Status: Point in time view as at 01/06/2004.*

**Changes to legislation:** Health and Social Care (Community Health and Standards) Act 2003 is up to date with all changes known to be in force on or before 10 June 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)

	Section 9(2) and (3). In section 10(1)— in the section 43A inserted into the National Health Service Act 1977, in subsection (1), “general medical services, general dental services,”; in the section 43B so inserted, in subsection (6), the words from “Subject to” to “35(2) above,”.
	Section 11(2). Section 39(2) and (3). In section 61(2), the words from “, or Part 1” to “1997,”. In Schedule 3, paragraph 11(3). In Schedule 4— in paragraph 2, “section 29(4) of the 1977 Act and”; paragraphs 17 and 88.
National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672)	In Schedule 1, in the entry for the National Health Service Act 1977, paragraphs (c) and (e).
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 3— paragraph 42; in paragraph 44, “general medical services, general dental services,”; paragraph 45.
Health and Social Care Act 2001 (c. 15)	Section 15. Sections 17 and 18. Section 20(2) to (4). Section 22. Section 23(2) and (3). Section 26. Section 27(5). In section 41(1)— in paragraph (a), “(provision of personal medical or dental services)”; paragraph (b) and the preceding “or”. In Schedule 5, paragraphs 5(4) to (7), 11(2) and (3) and 12(2).
National Health Service Reform and Health Care Professions Act 2002 (c. 17)	Section 4(1). Section 5(2), (3) and (6). In section 17(1)(g), the words from “or under” to “that Act”. In Schedule 1, paragraph 17. In Schedule 2, paragraphs 3 to 10 and 72. In Schedule 3, paragraphs 2 to 6, 10 and 15 to 17.

Note: The repeals in this Part of this Schedule to the following enactments extend to England and Wales only—

- (a) the National Health Service (Amendment) Act 1949 (c. 93);
- (b) the Access to Health Records Act 1990 (c. 23);
- (c) the National Health Service (Primary Care) Act 1997 (c. 46) and enactments amending that Act.

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In Schedule 8, paragraph 2.

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- (b) the Access to Health Records Act 1990 (c. 23);
- (c) the National Health Service (Primary Care) Act 1997 (c. 46) and enactments amending that Act.

## PART 5

### REPLACEMENT OF WELFARE FOOD SCHEMES

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Social Security Act 1988 (c. 7)	Section 15A(3).

## PART 6

### LOANS BY SECRETARY OF STATE TO NHS TRUSTS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
National Health Service and Community Care Act 1990 (c. 19)	In Schedule 3, in paragraph 1(6), the words “, with the consent of the Treasury,”.

## PART 7

### ABOLITION OF THE PUBLIC HEALTH LABORATORY SERVICE BOARD

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 3, in paragraph 8(1) the words “or by the Public Health Laboratory Service Board”.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entry relating to the Chairman of the Public Health Laboratory Service Board.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to the Public Health Laboratory Service Board.
National Health Service Act 1977 (c. 49)	Section 5(4) and (5). In section 127(c) the words “(except the Public Health Laboratory Service Board)”. Schedule 3.
Public Health Laboratory Service Act 1979 (c. 23)	Sections 1(3) and (4) and 2.
Income and Corporation Taxes Act 1988 (c. 1)	Section 519A(2)(h).

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National Health Service and Community Care Act 1990 (c. 19)	Section 4(2)(h). In section 21(2), paragraph (c) and the preceding “and”. In section 60(7), paragraph (h) and the preceding “and”.
Health Service Commissioners Act 1993 (c. 46)	In section 2(1), paragraph (g) and the preceding “and”.
Employment Rights Act 1996 (c. 18)	In section 218(10), paragraph (e) and the preceding “and”.
Government of Wales Act 1998 (c. 38)	In Schedule 5, paragraph 39.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, paragraph 43.
International Development Act 2002 (c. 1)	In Schedule 1 the words “Public Health Laboratory Service Board”.
Nationality, Immigration and Asylum Act 2002 (c. 41)	In section 133(4)— in paragraph (a), sub-paragraph (v) and the preceding “or”; in paragraph (b), sub-paragraph (iii) and the preceding “or”.

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**Status:**

Point in time view as at 01/06/2004.

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