

SCHEDULES

SCHEDULE 1

Section 9

FIXED PENALTIES

Contents of penalty notice

- 1 A penalty notice must—
 - (a) state the alleged offence, and
 - (b) give such particulars of the circumstances alleged to constitute it as are necessary for giving reasonable information about it.
- 2 (1) A penalty notice must also state—
 - (a) the name and address of the enforcement authority on whose behalf the authorised officer was acting when he gave the notice,
 - (b) the amount of the penalty and the period for its payment,
 - (c) the discounted amount and the period for its payment,
 - (d) the consequences of not paying the penalty or the discounted amount before the end of the period mentioned in paragraph (b) or (c),
 - (e) the person to whom and the address at which payment may be made,
 - (f) by what method payment may be made,
 - (g) the person to whom and the address at which any representations relating to the notice may be made.

(2) The person mentioned in sub-paragraph (1)(e) and (g) must be the enforcement authority referred to in sub-paragraph (1)(a).
- 3 A penalty notice must also—
 - (a) inform the person to whom it is given of his right to be tried for the alleged offence, and
 - (b) explain how that right may be exercised.
- 4 A penalty notice must be in a form specified in regulations made by the appropriate national authority.

Amount of penalty and period for payment

- 5 The penalty is such amount as the Secretary of State may specify in regulations.
- 6 The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.

Discounted amount and period for payment

- 7 (1) A discounted amount is payable instead of the amount specified in regulations under paragraph 5 if payment is made before the end of the period for payment of the discounted amount.

Status: This is the original version (as it was originally enacted).

- (2) That period is the period of 15 days beginning with the day on which the notice is given, unless the 15th day is not a working day.
- (3) If the 15th day is not a working day, that period is the period beginning with the day on which the notice is given and ending immediately after the first working day following the 15th day.
- (4) In this paragraph, “working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80).
- 8 The discounted amount is such amount as the Secretary of State may specify in regulations.

Effect of notice and payment

- 9 (1) Proceedings for the offence in respect of which a penalty notice was given may not be brought before the end of the period for payment of the penalty.
- (2) Sub-paragraph (1) does not apply if the person to whom the notice was given has asked in accordance with paragraphs 14 and 15 to be tried for the alleged offence.
- 10 If the penalty is paid in accordance with the penalty notice before the end of the period mentioned in paragraph 9(1), no proceedings for the offence may be brought, and paragraph 14 does not apply.
- 11 If the discounted amount is paid in accordance with the penalty notice before the end of the period for payment of the discounted amount, no proceedings for the offence may be brought, and paragraph 14 does not apply.
- 12 If proceedings have been brought pursuant to a request under paragraph 14, but then the penalty or discounted amount is paid as mentioned in paragraph 10 or 11, those proceedings may not be continued.
- 13 In any proceedings, a certificate is evidence of the facts which it states if it—
- (a) purports to be signed by or on behalf of the person responsible for the financial affairs of the enforcement authority on whose behalf the authorised officer who gave a penalty notice was acting, and
 - (b) states that payment of the penalty or discounted amount in pursuance of the notice was or was not received by a date specified in the certificate.

Trial

- 14 If the person to whom a penalty notice has been given asks to be tried for the alleged offence, proceedings may be brought against him.
- 15 Any request to be tried must be made—
- (a) by notice given to the enforcement authority in question before the end of the period for payment of the penalty,
 - (b) in the manner specified in the penalty notice.

Withdrawal of notices

- 16 (1) This paragraph applies if an enforcement authority considers that a penalty notice which an authorised officer acting on its behalf has given to a person (“P”) ought not to have been given.
- (2) The enforcement authority may give notice to P withdrawing the penalty notice.
- (3) If it does so—
- (a) it must repay any amount which has been paid by way of penalty in pursuance of the penalty notice, and
 - (b) no proceedings may be brought or continued against P for the offence in question.

SCHEDULE 2

Section 10

POWERS OF ENTRY, ETC.

- 1 In this Schedule—
- “authorised officer” means authorised officer of an enforcement authority,
 - “premises” includes any place and any vehicle.
- 2 An authorised officer has the right to do any of the following, on production (if required) of his written authority—
- (a) at any reasonable hour, enter any premises (other than premises used only as a private dwelling house not open to the public) which he considers it is necessary for him to enter for the purpose of the proper exercise of his functions by virtue of Chapter 1 of Part 1 of this Act,
 - (b) there carry out such inspections and examinations as he considers necessary for that purpose,
 - (c) if he considers it necessary for that purpose, require the production of any substance or product, and inspect it, and take and retain samples of or extracts from it,
 - (d) take possession of any substance or product on the premises, and retain it for as long as he considers necessary for that purpose,
 - (e) require any person to give him such information, or afford him such facilities and assistance, as he considers necessary for that purpose.
- 3 An authorised officer may, if he considers it necessary for the purpose of the proper exercise of his functions by virtue of Chapter 1 of Part 1 of this Act, arrange for any substance, product, sample or extract mentioned in paragraph 2(c) or (d) to be analysed.
- 4 An authorised officer may make such purchases and secure the provision of such services as he considers necessary for the purpose of the proper exercise of his functions by virtue of Chapter 1 of Part 1 of this Act.
- 5 A person may not be required under paragraph 2 to give any information which he would be entitled to refuse to give in proceedings in the High Court on grounds of legal professional privilege.
- 6 (1) A justice of the peace may exercise the power in sub-paragraph (3) if he is satisfied on sworn information in writing—

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- (a) that for the purpose of the proper exercise of the functions of an enforcement authority under Chapter 1 of Part 1 of this Act there are reasonable grounds for entry into any premises other than premises used only as a private dwelling house not open to the public, and
- (b) of either or both of the matters mentioned in sub-paragraph (2).

(2) The matters are—

- (a) that admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant under this Schedule has been given to the occupier or a person who reasonably appears to the enforcement authority to be concerned in the management of the premises,
- (b) that an application for admission, or the giving of such notice, would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await his return.

(3) The justice may by warrant signed by him authorise any authorised officer to enter the premises, if need be by force.

(4) Such a warrant continues in force until the end of the period of one month beginning with the date on which the justice signs it.

7 An authorised officer entering any premises by virtue of paragraph 2, or of a warrant under paragraph 6, may take with him such other persons and such equipment as he considers necessary.

8 If premises which an authorised officer is authorised to enter by a warrant under paragraph 6 are unoccupied, or if the occupier is temporarily absent, then on leaving them that officer must leave the premises as effectively secured against unauthorised entry as he found them.

9 If by virtue of paragraph 2(d) an authorised officer takes possession of anything, he must leave on the premises from which it was taken a statement giving particulars of what he has taken and stating that he has taken possession of it.

10 If a direction of the appropriate national authority has effect under section 10(4), this Schedule has effect, in relation to any case or case of a description specified in the direction, as if references to an authorised officer were to a person acting on behalf of the appropriate national authority.

SCHEDULE 3

Section 56

NEW SCHEDULE 12B TO 1977 ACT

“SCHEDULE 12B

ACCOUNTS AND AUDIT

English and cross-border NHS bodies

- 1 (1) The following are English NHS bodies for the purposes of this Schedule—
- (a) any Strategic Health Authority;

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

- (b) any Special Health Authority performing functions only or mainly in respect of England;
- (c) any Primary Care Trust;
- (d) any NHS trust all or most of whose hospitals, establishments and facilities are situated in England;
- (e) any trustees for such an NHS trust appointed in pursuance of section 11 of the National Health Service and Community Care Act 1990 (c. 19);
- (f) any special trustees appointed, in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973 (c. 32) and section 95(1) of this Act, for a trust all or most of whose hospitals, establishments and facilities are situated in England;
- (g) any trustees for a Primary Care Trust appointed in pursuance of section 96B of this Act.

- (2) For the purposes of this Schedule a cross-border SHA is a Special Health Authority which neither—
- (a) performs functions only or mainly in respect of England, nor
 - (b) performs functions only or mainly in respect of Wales.

Welsh NHS bodies

- 2 The following are Welsh NHS bodies for the purposes of this Schedule—
- (a) any Special Health Authority performing functions only or mainly in respect of Wales;
 - (b) any Local Health Board;
 - (c) any NHS trust all or most of whose hospitals, establishments and facilities are situated in Wales;
 - (d) any trustees for such an NHS trust appointed as mentioned in paragraph 1(1)(e);
 - (e) any special trustees appointed as mentioned in paragraph 1(1)(f) for a trust all or most of whose hospitals, establishments and facilities are situated in Wales.

Accounts to be kept by NHS bodies

- 3
- (1) Each English NHS body or cross-border SHA must keep proper accounts and proper records in relation to the accounts.
 - (2) If the Secretary of State so directs with the approval of the Treasury, the accounts of any such body of a description specified in the direction must be kept in such form as is so specified.
 - (3) Each Welsh NHS body must keep proper accounts and proper records in relation to the accounts.
 - (4) If the Assembly so directs with the approval of the Treasury, the accounts of any such body of a description specified in the direction must be kept in such form as is so specified.
 - (5) This paragraph has effect subject to the exception in paragraph 10(2).

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

Preparation of annual accounts

- 4 (1) Each English NHS body or cross-border SHA must prepare in respect of each financial year annual accounts in such form as the Secretary of State may direct with the approval of the Treasury.

This is subject to the exception in paragraph 10(3).

- (2) Each Welsh NHS body must prepare in respect of each financial year annual accounts in such form as the Assembly may direct with the approval of the Treasury.

This is subject to the exception in paragraph 10(3).

Auditing of accounts of certain English NHS bodies

- 5 (1) This paragraph applies to any English NHS body that is not a Special Health Authority (as to which, see paragraph 7).

- (2) Any annual accounts prepared by any such body under paragraph 4 are to be audited in accordance with the Audit Commission Act 1998 (c. 18) by an auditor or auditors appointed by the Audit Commission (see section 2(1)(b) of that Act).

- (3) The Comptroller and Auditor General may examine—
(a) any such accounts and any records relating to them, and
(b) any report on them by the auditor or auditors.

- (4) In this paragraph “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales.

Transmission of annual accounts

- 6 (1) Each English NHS body to which paragraph 5 applies must send a copy of any accounts of the body audited as mentioned in paragraph 5(2) to the Secretary of State by the specified date.

- (2) If the body is a Primary Care Trust, it must also send a copy of any such accounts to any Strategic Health Authority whose area includes any part of the Trust’s area.

- (3) Each Special Health Authority that is an English NHS body or cross-border SHA must send copies of any annual accounts prepared by it under paragraph 4—
(a) to the Secretary of State by the specified date, and
(b) to the Comptroller and Auditor General as soon as is reasonably practicable following the end of the financial year in question.

- (4) In sub-paragraph (1) or (3) “the specified date”, in relation to a financial year, means such date as the Secretary of State may direct in relation to that year for the purposes of that sub-paragraph.

- (5) Section 61(1) of the Public Audit (Wales) Act 2004 (c. 23) (audit of Welsh NHS bodies) makes provision for the annual accounts of Welsh NHS bodies to be submitted to the Auditor General for Wales in order for them to be examined by him.

Auditing of certain Special Health Authority accounts by Comptroller and Auditor General

- 7
- (1) This paragraph applies where a Special Health Authority that is an English NHS body or cross-border SHA sends a copy of its annual accounts to the Comptroller and Auditor General under paragraph 6(3).
 - (2) The Comptroller and Auditor General must examine, certify and report on the accounts.
 - (3) The Authority must lay before both Houses of Parliament—
 - (a) a copy of the accounts, and
 - (b) the Comptroller and Auditor General's report on them.

Summarised accounts of English NHS bodies other than Special Health Authorities

- 8
- (1) This paragraph applies in relation to English NHS bodies that are not Special Health Authorities.
 - (2) The Secretary of State must prepare summarised accounts relating to such bodies in respect of each financial year.

This is subject to the exceptions in paragraphs 10(3) and 11(2).
 - (3) The summarised accounts must be prepared in such form as the Treasury may direct.
 - (4) The Secretary of State must transmit the summarised accounts to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which they relate.
 - (5) The Comptroller and Auditor General must —
 - (a) examine and certify the summarised accounts, and
 - (b) lay copies of them and his report on them before both Houses of Parliament.
 - (6) This paragraph has effect subject to any provision made under section 14(1) of the Government Resources and Accounts Act 2000 (power to disapply this paragraph in relation to specified bodies and years).

Summarised accounts of Welsh NHS bodies

- 9
- (1) This paragraph applies in relation to Welsh NHS bodies that are not Special Health Authorities.
 - (2) The Assembly must prepare summarised accounts relating to such bodies in respect of each financial year.

This is subject to the exceptions in paragraphs 10(3) and 11(2).
 - (3) The summarised accounts must be prepared in such form as the Treasury may direct.
 - (4) The Assembly must transmit the summarised accounts to the Auditor General for Wales not later than the end of the month of November following the financial year to which they relate.
 - (5) The Auditor General for Wales must —
 - (a) examine and certify the summarised accounts, and
 - (b) lay copies of them and his report on them before the Assembly.

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

- (6) This paragraph has effect subject to any provision made under section 14(1) of the Government Resources and Accounts Act 2000 (power to disapply this paragraph in relation to specified bodies and years).

Exceptions for accounts of charitable trusts

- 10 (1) For the purposes of this paragraph a “relevant charitable trust”, in relation to an NHS body, means a charitable trust whose trustee or trustees is or are that body.
- (2) Nothing in paragraph 3, so far as it applies to an NHS body of any description, has effect in relation to accounts relating to a relevant charitable trust.
- (3) Nothing in paragraph 4, 8 or 9, so far as it relates to an NHS body of any description, requires any annual or summarised accounts prepared by or in relation to the body to include matters relating to a relevant charitable trust.
- (4) In this paragraph “NHS body” means a body which is an English NHS body, a Welsh NHS body or a cross-border SHA.

Exceptions for accounts of non-charitable trusts

- 11 (1) For the purposes of this paragraph a “relevant non-charitable trust”, in relation to an NHS body, means a trust which is not a charitable trust and whose trustee or trustees is or are that body.
- (2) Nothing in paragraph 8 or 9, so far as it relates to an NHS body of any description, requires any summarised accounts prepared in relation to the body to include matters relating to a relevant non-charitable trust.
- (3) In this paragraph “NHS body” means a body which is an English NHS body, a Welsh NHS body or a cross-border SHA.

Meaning of “the Assembly”

- 12 In this Schedule “the Assembly” means the National Assembly for Wales.”

SCHEDULE 4

Section 57

THE APPOINTMENTS COMMISSION: SUPPLEMENTARY

Status

- 1 (1) The Commission 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 Commission’s property is not to be regarded as property of, or property held on behalf of, the Crown.

The Board of the Commission

- 2 The Commission is to consist of the following members—
- (a) the chairman,

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- (b) the prescribed number of non-executive members,
- (c) the chief executive, and
- (d) the prescribed number of executive members.

Chairman and non-executive members

- 3 (1) The chairman and non-executive members are to be appointed by the Secretary of State.
- (2) Of the non-executive members at least one (but not more than four) must be persons who are also appointed to be health and social care commissioners under paragraph 10.
- (3) Regulations may—
- (a) prescribe conditions which must be satisfied in relation to a person before he is appointed as chairman or as a non-executive member;
 - (b) make provision as to the circumstances in which a person is disqualified for being the chairman or a non-executive member.

Chief executive

- 4 (1) The chief executive is to be appointed by the chairman and the non-executive members of the Commission.
- (2) The chief executive must be—
- (a) an employee of the Commission, or
 - (b) a person seconded to the staff of the Commission.
- (3) Anything authorised or required to be done by the chief executive may be done by any other member of the Commission's staff who is authorised for the purpose by the chief executive (whether generally or specially).

The executive members

- 5 (1) The executive members are to be appointed by the chairman and the non-executive members of the Commission.
- (2) The executive members must be—
- (a) employees of the Commission, or
 - (b) persons seconded to the staff of the Commission.
- (3) A person may not be appointed as an executive member unless he is recommended for appointment by the chief executive.

The vice-chairman

- 6 The members of the Commission may appoint one of the non-executive members to be vice-chairman for such period (not exceeding the remainder of his period of office as member) as they specify on making the appointment.

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

Terms of appointment: chairman and non-executive members

- 7 (1) Regulations may make provision as to the terms on which the chairman and non-executive members of the Commission are to be appointed.
- (2) The regulations may in particular make provision as to—
- (a) the period for which they are to hold office;
 - (b) their eligibility for re-appointment;
 - (c) remuneration and allowances;
 - (d) circumstances in which their membership may be suspended or terminated.
- (3) Sub-paragraph (4) applies if—
- (a) a person ceases to hold office as chairman or a non-executive member of the Commission, and
 - (b) the Secretary of State determines that there are special circumstances that make it appropriate for that person to receive compensation.
- (4) The Secretary of State must—
- (a) pay to that person such compensation as the Secretary of State may determine, or
 - (b) make provision for the payment to or in respect of that person of such pension, allowances or gratuities by way of compensation as the Secretary of State may determine.

Terms of appointment: chief executive and executive members

- 8 (1) The Commission must determine—
- (a) the conditions of service of, and
 - (b) the remuneration and allowances payable to, the chief executive and the executive members.
- (2) The chief executive or (as the case may be) an executive member must not take part in a discussion or decision in pursuance of sub-paragraph (1) which relates to—
- (a) his own conditions of service, or
 - (b) remuneration or allowances payable to him.
- (3) If the chief executive or an executive member is a person seconded to the Commission—
- (a) his conditions of service, and
 - (b) remuneration or allowances payable to him,
- must be determined by agreement between his employer and the Commission.

Committees: general

- 9 (1) The Commission may appoint such committees and sub-committees as it thinks appropriate.
- (2) A committee or sub-committee may consist of or include persons who are not members of the Commission.
- (3) The Commission—
- (a) may delegate to a committee or sub-committee such of its functions as it thinks fit; and

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- (b) may, in particular, delegate to a committee the function of appointing a sub-committee.
- (4) The Commission may make arrangements for the payment of such remuneration and allowances as it thinks fit to any person who—
 - (a) is a member of a committee or sub-committee, but
 - (b) is not an employee of the Commission,whether or not he is also a member of the Commission.
- (5) This paragraph is subject to paragraph 10 and to any directions given by the Secretary of State.

The Health and Social Care Appointments Committee

- 10 (1) There is to be a committee of the Commission to be known as the Health and Social Care Appointments Committee.
- (2) The Committee is to discharge on behalf of the Commission—
 - (a) the functions which are exercisable by it by virtue of directions under section 58, 60 or 61, and
 - (b) such other functions as the Secretary of State may specify.
- (3) The Committee is to consist of—
 - (a) the chairman of the Commission,
 - (b) the chief executive, and
 - (c) not more than the prescribed number of persons appointed by the Secretary of State.
- (4) The persons so appointed are to be known as “health and social care commissioners”.
- (5) Regulations may—
 - (a) prescribe conditions which must be satisfied in relation to persons before they are appointed as health and social care commissioners;
 - (b) make provision as to the circumstances in which persons are disqualified for being health and social care commissioners;
 - (c) make provision as to the terms on which the health and social care commissioners are to be appointed.
- (6) The provision that may be made in relation to the health and social care commissioners under sub-paragraph (5)(c) includes, in particular, provision as to—
 - (a) the period for which they are to hold office as health and social care commissioners;
 - (b) their eligibility for re-appointment as such commissioners;
 - (c) remuneration and allowances payable to them as such commissioners;
 - (d) circumstances in which they may be suspended or removed from office as such commissioners.

Proceedings

- 11 (1) The Commission may make such provision as it thinks fit to regulate—
 - (a) its own proceedings (including quorum), and
 - (b) the procedure (including quorum) of its committees and sub-committees.

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

- (2) Sub-paragraph (1) has effect subject to any directions given by the Secretary of State.
- 12 On any occasion when both the chairman and the vice-chairman are, for any reason, unable to perform the duties of chairman, the other members of the Commission may appoint one of the non-executive members to act in the place of the chairman.
- 13 The validity of any proceedings of the Commission, or any of its committees or sub-committees, is not affected by—
- (a) any vacancy in the office of chairman or chief executive or in the membership of the Commission or the committee or sub-committee, or
 - (b) any defect in the appointment of the chairman or the chief executive or a member of the Commission or the committee or sub-committee.
- 14 The Public Bodies (Admission to Meetings) Act 1960 (c. 67) applies to meetings of the Commission.

Staff

- 15 (1) The Commission may appoint such persons to be employees of the Commission as it thinks fit.
- (2) The Commission may make arrangements for persons to be seconded to the Commission to serve as members of its staff.
- (3) A period of secondment on the staff of the Commission does not affect the continuity of a person's employment with the employer from whose service he is seconded.
- (4) References in this Schedule to members of the Commission's staff are to persons who either are employees of the Commission or have been seconded to it to serve as members of its staff.
- 16 (1) Employees of the Commission are to be appointed on such terms and conditions as the Commission determines.
- (2) Without prejudice to its other powers, the Commission 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.
- 17 (1) The Commission may, to such extent as it determines, delegate any of its functions to any members of its staff.
- (2) Any committee of the Commission may, to such extent as the committee determines, delegate any function conferred on it to any of its sub-committees or any member of the Commission's staff.
- (3) This paragraph is subject to any directions given by the Secretary of State; and sub-paragraph (2) does not apply in relation to decisions falling to be made by the Health and Social Care Appointments Committee in relation to particular appointments.

Financing of Commission

- 18 (1) The Secretary of State may make—
- (a) such annual payments to the Commission as he thinks appropriate in respect of the performance by it of functions to which sub-paragraph (2) applies, and

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- (b) such other payments to the Commission as he thinks appropriate in respect of the performance by it of functions to which sub-paragraph (3) applies.
 - (2) This sub-paragraph applies to—
 - (a) any functions exercisable by virtue of a direction under section 58 in relation to Strategic Health Authorities, Primary Care Trusts or NHS trusts, and
 - (b) such other of the Commission’s functions as may be prescribed.
 - (3) This sub-paragraph applies to any functions exercisable by virtue of a direction under section 58 in relation to—
 - (a) Special Health Authorities, or
 - (b) bodies mentioned in section 58(3) or (4) or section 60.
 - (4) Before deciding the amount of any payment under this paragraph the Secretary of State must take account of any income received by the Commission from any other source.
 - (5) Payments under this paragraph may be made—
 - (a) at such times, and
 - (b) subject to such conditions (if any),as the Secretary of State thinks appropriate.
- 19 The National Assembly for Wales may make such payments to the Commission as the Assembly thinks appropriate in respect of the performance by the Commission of functions exercisable by virtue of a direction under section 61.
- 20 (1) The Secretary of State may make loans to the Commission.
- (2) A loan under this paragraph may be made on such terms as the Secretary of State thinks appropriate.
- 21 (1) The Commission may charge for providing—
 - (a) any services under arrangements under section 63(2) or (4),
 - (b) any services under section 64(1) to (3), or
 - (c) such other services as may be prescribed.
- (2) The amount of any charge is to be fixed in such a way as the Commission considers appropriate for recovering the costs incurred by it in, or in connection with, providing the services in question.

Accounts

- 22 (1) The Commission must keep accounts in such form as the Secretary of State directs.
- (2) The Commission must prepare annual accounts in respect of each financial year in such form as the Secretary of State directs.
- (3) Before the end of the specified period following each financial year the Commission must send a copy of the annual accounts for that year—
 - (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the annual accounts, and
 - (b) lay copies of the accounts and of his report before each House of Parliament.

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

- (5) The “specified period” is such period as the Secretary of State directs.

Authentication of seal

- 23 (1) The application of the Commission’s seal must be authenticated by the signature of the chairman or another member of the Commission or any other person authorised by the Commission for the purpose.
- (2) A document purporting to be duly executed under the seal of the Commission or to be signed on behalf of the Commission is to be—
- (a) received in evidence, and
 - (b) unless the contrary is proved, taken to be so executed or signed.
- (3) This paragraph does not apply in relation to Scotland.

SCHEDULE 5

Section 58

THE APPOINTMENTS COMMISSION: LIST OF STATUTORY BODIES

LIST OF STATUTORY BODIES REFERRED TO IN SECTION 58(3)

The Commission for Healthcare Audit and Inspection.
 The Commission for Patient and Public Involvement in Health.
 The Commission for Social Care Inspection.
 The Council for the Regulation of Health Care Professionals.
 The General Social Care Council.
 The Health Protection Agency.
 The Human Fertilisation and Embryology Authority.
 The Human Tissue Authority.
 The National Biological Standards Board.
 The Independent Regulator of NHS Foundation Trusts.
 The Postgraduate Medical Education and Training Board.

SCHEDULE 6

Section 60

THE APPOINTMENTS COMMISSION: LIST OF REGULATORY BODIES

LIST OF REGULATORY BODIES REFERRED TO IN SECTION 60(1)

The General Chiropractic Council.
 The General Dental Council.
 The General Medical Council.
 The General Optical Council.
 The General Osteopathic Council.
 The Health Professions Council.
 The Nursing and Midwifery Council.

SCHEDULE 7

Section 69

TRANSFER OF STAFF AND PROPERTY ETC. TO APPOINTMENTS COMMISSION

Interpretation

- 1 In this Schedule—
- “the appointed day” means the day appointed under section 83 for the coming into force of section 57(4),
 - “employee” means a person who immediately before the appointed day is an employee of the NHSAC, and
 - “the NHSAC” means the National Health Service Appointments Commission.

Transfer of staff

- 2 (1) An employee’s contract of employment has effect on and after the appointed day as if originally made between him and the Commission.
- (2) Accordingly—
- (a) all the rights, powers, duties and liabilities of the NHSAC under or in connection with the contract of employment are by virtue of this paragraph transferred to the Commission on the appointed day, and
 - (b) anything done before the appointed day by or in relation to the NHSAC in respect of that contract or the employee is to be treated on and after that day as having been done by or in relation to the Commission.
- (3) If before the appointed day an employee informs the NHSAC that he does not wish to become an employee of the Commission—
- (a) sub-paragraphs (1) and (2) do not apply in relation to him, and
 - (b) his contract of employment is terminated on the appointed day.
- (4) An employee is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this paragraph in relation to him.
- (5) Nothing in this paragraph affects any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.
- (6) But no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless he shows that, in all the circumstances, the change is significant and is to his detriment.

Transfer of property, rights and liabilities

- 3 (1) By virtue of this paragraph the property, rights and liabilities (including criminal liabilities) of the NHSAC existing immediately before the appointed day are transferred to the Commission on the appointed day.
- (2) Anything done by or in relation to the NHSAC which is in effect immediately before the appointed day is to be treated on and after the appointed day as done by or in relation to the Commission.
- (3) Anything (including any legal proceedings) which—

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- (a) relates to anything transferred by sub-paragraph (1), and
 - (b) is in the process of being done by or in relation to the NHSAC,
- may be continued on and after the appointed day by or in relation to the Commission.
- (4) Sub-paragraph (1) does not have effect in relation to any rights or liabilities transferred by virtue of paragraph 2(2)(a).
- (5) Sub-paragraph (2) does not have effect in relation to anything treated as done by or in relation to the Commission by virtue of paragraph 2(2)(b).

General

- 4 Nothing in this Schedule affects the validity of anything done by the NHSAC.

SCHEDULE 8

Section 80

MINOR AND CONSEQUENTIAL AMENDMENTS

Pharmacy Act 1954 (c. 61)

- 1 The Pharmacy Act 1954 has effect subject to the following amendments.
- 2 In section 15 (appointment of additional members to the council of the Pharmaceutical Society of Great Britain) omit subsections (3) and (4).
- 3 In Schedule 1 (statutory committee of the Pharmaceutical Society) omit paragraph 3A.

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) insert at the appropriate place—
- “The Appointments Commission.”

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 5 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) insert at the appropriate place—
- “The Appointments Commission.”

National Health Service Act 1977 (c. 49)

- 6 The 1977 Act has effect subject to the following amendments.
- 7 (1) Section 3 (services generally) is amended as follows.
- (2) In subsection (1)(c) after “dental,” insert “ophthalmic.”
 - (3) In subsection (3) after “ophthalmic” insert “services in Wales”.
 - (4) In subsection (4)—
 - (a) in paragraph (a) for “or 16CC(2)” substitute “, 16CC(2) or 16CD(4)”,

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- (b) in paragraph (b) for “or a general dental services contract” substitute “, a general dental services contract or a general ophthalmic services contract”.
- 8 In section 15(1)(a) (duty of Health Authority in relation to family health services)—
- (a) omit “general ophthalmic services”,
- (b) at the end add “and also such arrangements for the provision of primary ophthalmic services for their area if it is in England, or general ophthalmic services for their area if it is in Wales;”.
- 9 In section 18A(3) (provision of services etc.)—
- (a) in paragraph (a), omit “general ophthalmic or”,
- (b) in paragraph (b), for “or primary dental services” substitute “, primary dental services or primary ophthalmic services”.
- 10 In section 19(1) (advisory committees for Wales) for paragraph (e) substitute—
- “(e) the optometrists,”.
- 11 In section 26 (supply of goods and services by Secretary of State)—
- (a) in subsection (2)(b), for “or a general dental services contract” substitute “, a general dental services contract or a general ophthalmic services contract”,
- (b) in subsection (4)(aa), for “or a general dental services contract” substitute “, a general dental services contract or a general ophthalmic services contract”.
- 12 In section 38(1) (arrangements for general ophthalmic services)—
- (a) omit “of every Primary Care Trust and”,
- (b) for “ophthalmic opticians” substitute “optometrists”.
- 13 (1) Section 39 (regulations as to section 38) is amended as follows.
- (2) In subsection (1)(a) omit “by each Primary Care Trust and”.
- (3) In subsection (1)(a) and (d) for “ophthalmic opticians” substitute “optometrists”.
- (4) In subsections (1)(b) and (c) and (2)(a) for “ophthalmic optician” substitute “optometrist”.
- (5) In subsections (1) and (2) omit “Primary Care Trust or” in each place where it occurs.
- (6) In subsection (3) omit “Primary Care Trust or” and “of the Primary Care Trust or”.
- 14 In section 41(3)(d) (arrangements for pharmaceutical services) for “ophthalmic opticians” substitute “optometrists”.
- 15 In section 43D(1) (supplementary lists) at the end add “(but in relation to general ophthalmic services this subsection has effect with the omission of the references to Primary Care Trusts)”.
- 16 In section 44(B2) (recognition of Local Optical Committees and Local Pharmaceutical Committees)—
- (a) omit paragraph (a),
- (b) omit “the Local Optical Committee or”,
- (c) omit “, as the case may be,”.
- 17 (1) Section 45A (Local Medical Committees) is amended as follows.

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- (2) In subsection (3), omit “and” at the end of paragraph (a) and after that paragraph insert—
- “(aa) every medical practitioner who, under a general ophthalmic services contract entered into by him, is providing primary ophthalmic services in the area for which the committee is formed; and”.
- (3) For subsection (4)(a) substitute—
- “(a) who is performing primary medical services or primary ophthalmic services in the area for which the committee is formed—
- (i) pursuant to section 16CC(2)(a) or 16CD(4)(a) above respectively;
- (ii) (in relation to primary medical services) in accordance with section 28C arrangements; or
- (iii) under a general medical services contract or a general ophthalmic services contract, as the case may be; and”.
- 18 In section 49F(1)(d) (disqualification of practitioners) for “ophthalmic opticians” substitute “optometrists”.
- 19 In section 49H(1)(a) and (b) (fraud and unsuitability: supplementary) for “ophthalmic optician” substitute “optometrist”.
- 20 In section 49N(4)(b) (national disqualification) omit “(or, in the case of a medical list, to nominate or approve him for inclusion in it)”.
- 21 In section 72(5) (permission for use of facilities in private practice)—
- (a) in paragraph (a) for “ophthalmic opticians” substitute “optometrists”,
- (b) in paragraph (d)—
- (i) for “or primary dental services” substitute “, primary dental services or primary ophthalmic services”,
- (ii) for “or a general dental services contract” substitute “, a general dental services contract or a general ophthalmic services contract”.
- 22 In section 103(1)(a) (special arrangements as to payment of remuneration) for “or primary dental services” substitute “, primary dental services or primary ophthalmic services”.
- 23 In section 126(4) (orders and regulations, and directions) for “or 28U” substitute “, 28U or 28WD”.
- 24 In section 128(1) (interpretation and construction)—
- (a) at the appropriate place insert—
- ““financial year” means a period of 12 months ending with 31st March in any year;”,
- (b) in the definition of “ophthalmic optician”, for ““ophthalmic optician”” substitute ““optometrist””.
- 25 In Schedule 9A (the Family Health Services Appeal Authority), in paragraph 6(c) for “ophthalmic optician” substitute “optometrist”.
- Medical Act 1983 (c. 54)*
- 26 In Schedule 1 to the Medical Act 1983 (the General Medical Council etc.) omit paragraph 4ZA.

Dentists Act 1984 (c. 24)

- 27 (1) Schedule 1 to the Dentists Act 1984 (the General Dental Council etc.) is amended as follows.
- (2) In paragraph 1(5) for “paragraphs 2 and 2A” substitute “paragraph 2”.
- (3) Omit paragraph 2A.

Opticians Act 1989 (c. 44)

- 28 In Schedule 1 to the Opticians Act 1989 (the General Optical Council) omit paragraph 2A.

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

- 29 (1) Section 4A of the National Health Service and Community Care Act 1990 (provision of certain services under NHS contracts) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or” at the end of paragraph (a), and after that paragraph insert—
- “(aa) by a contractor under a general ophthalmic services contract, or”,
- (b) at the end add “other than under section 16CD of that Act”.
- (3) In subsection (3), before the definition of “health service body” insert—
- ““general ophthalmic services contract” and “contractor” under such a contract have the meanings given by section 28WA of the principal Act;”.

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

- 30 In section 279(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (health service practitioners)—
- (a) for “or primary dental services” substitute “, primary dental services or primary ophthalmic services”,
- (b) at the end of paragraph (b) add “or under a contract under section 28WA of that Act entered into by him with a Primary Care Trust.”.

Osteopaths Act 1993 (c. 21)

- 31 In the Schedule to the Osteopaths Act 1993 (the General Osteopathic Council etc.) omit paragraph 11A.

Health Service Commissioners Act 1993 (c. 46)

- 32 The Health Service Commissioners Act 1993 has effect subject to the following amendments.
- 33 In section 2A(1) (health service providers subject to investigation)—
- (a) in paragraph (a), for “or 28Q” substitute “, 28Q or 28WA”,
- (b) in paragraph (b), omit “general ophthalmic services or”.
- 34 In section 6(5) (general health services and service committees) omit “38, 39,”.

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Chiropractors Act 1994 (c. 17)

- 35 In Schedule 1 to the Chiropractors Act 1994 (the General Chiropractic Council etc.) omit paragraph 11A.

National Health Service (Residual Liabilities) Act 1996 (c. 15)

- 36 (1) Section 1 of the National Health Service (Residual Liabilities) Act 1996 (transfer of residual liabilities of certain NHS bodies) is amended as follows.
- (2) In subsection (1)—
- (a) for “a Health Authority” substitute “a Local Health Board”, and
 - (b) after “all of its liabilities” insert “(other than any criminal liabilities)”.
- (3) In subsection (2)—
- (a) for paragraph (c) substitute—
 - “(c) a Local Health Board;”, and
 - (b) after paragraph (dd) insert “; or
 - (de) an NHS foundation trust.”

Employment Rights Act 1996 (c. 18)

- 37 In section 43K(1)(ba) of the Employment Rights Act 1996 (extension of meaning of “worker” etc. for Part 4A) at the end add “or with a Primary Care Trust under section 28WA of that Act”.

Pharmacists (Fitness to Practise) Act 1997 (c. 19)

- 38 In the Schedule to the Pharmacists (Fitness to Practise) Act 1997 (fitness to practise of registered pharmaceutical chemists) omit paragraph 5.

Audit Commission Act 1998 (c. 18)

- 39 The Audit Commission Act 1998 has effect subject to the following amendments.
- 40 In section 5(1)(a) (general duties of auditors in relation to accounts of health service bodies) for “subsection (2), or (2B) of section 98 of” substitute “paragraph 4(1) of Schedule 12B to”.
- 41 In section 53(1) (interpretation) for the definition of “health service body” substitute—
- ““health service body” means an English NHS body (within the meaning of Schedule 12B to the National Health Service Act 1977), other than a Special Health Authority;”.
- 42 (1) Schedule 2 (accounts subject to audit) is amended as follows.
- (2) Omit paragraph 1(g).
- (3) For paragraph 1A substitute—
- “1A Section 2 also applies to annual accounts of health service bodies prepared under paragraph 4(1) of Schedule 12B to the National Health Service Act 1977.”

- (4) Omit paragraph 1C.

Government of Wales Act 1998 (c. 38)

- 43 In section 144(2) of the Government of Wales Act 1998 (accounts, audit and reports) for “the accounts kept in pursuance of section 98(1) of the National Health Service Act 1977 (accounts and audit of NHS bodies)” substitute “any accounts kept or prepared in pursuance of paragraph 3 or 4 of Schedule 12B to the National Health Service Act 1977 (requirement for Welsh NHS bodies to keep accounts or prepare annual accounts)”.

Government Resources and Accounts Act 2000 (c. 20)

- 44 (1) Section 14 of the Government Resources and Accounts Act 2000 (summarised accounts) is amended as follows.
- (2) In subsection (1) for “section 98(4) of” substitute “paragraph 8 or 9 of Schedule 12B to”.
- (3) In subsection (3) after “subsection (1)” insert “in respect of an English NHS body”.
- (4) For subsection (4) substitute—
- “ (4) Before making an order under that subsection in respect of a Welsh NHS body the Treasury shall consult—
- (a) the National Assembly for Wales, and
- (b) the Auditor General for Wales.”
- (5) At the end add—
- “(6) In this section “English NHS body” and “Welsh NHS body” have the same meanings as in Schedule 12B to the National Health Service Act 1977.”

Freedom of Information Act 2000 (c. 36)

- 45 (1) Schedule 1 to the Freedom of Information Act 2000 (public authorities) is amended as follows.
- (2) In Part 3, in paragraph 43A—
- (a) for “or primary dental services” substitute “, primary dental services or primary ophthalmic services”,
- (b) in paragraph (b) for “or 28Q” substitute “, 28Q or 28WA”.
- (3) In Part 6, at the appropriate place insert—
- “The Appointments Commission.”

Health and Social Care Act 2001 (c. 15)

- 46 In Schedule 1 to the Health and Social Care Act 2001 (exempt information relating to health services), for paragraph 11(a) (as substituted by paragraph 72(2) of Schedule 11 to the 2003 Act) substitute—

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- “(a) is or was formerly providing primary medical services, primary dental services or primary ophthalmic services under a contract under section 28K, 28Q or 28WA of the 1977 Act;”.

Nursing and Midwifery Order 2001 (S.I. 2002/253)

- 47 In Schedule 1 to the Nursing and Midwifery Order 2001 (the Nursing and Midwifery Council etc.) omit paragraph 15A.

Health Professions Order 2001 (S.I. 2002/254)

- 48 In Schedule 1 to the Health Professions Order 2001 (the Health Professions Council etc.) omit paragraph 16A.

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

- 49 The National Health Service Reform and Health Care Professions Act 2002 has effect subject to the following amendments.

- 50 In section 17(1) (entry and inspection of premises)—
 (a) for the paragraph (fa) inserted by paragraph 74(2)(a) of Schedule 11 to the 2003 Act substitute—

“(fb) persons providing primary medical services, primary dental services or primary ophthalmic services under Part 1 of the 1977 Act,”

- (b) in subsection (2), for “(1)(fa),” substitute “(1)(fb),”.

- 51 In Schedule 6 (the Commission for Patient and Public Involvement in Health) omit paragraph 6.

- 52 In Schedule 7 (the Council for the Regulation of Health Care Professionals) omit paragraph 5.

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

- 53 The 2003 Act has effect subject to the following amendments.

- 54 In section 7(5) (continuity of bodies which become NHS foundation trusts and their liabilities) after “liabilities” add “(including its criminal liabilities)”.

- 55 In section 150(7)(d) (liability to pay NHS charges) for sub-paragraph (ii) substitute—
 “(ii) section 2C, 17C, 17J or 25 of the 1978 Act (primary medical services or personal or general dental services).”

- 56 In section 187 (appointments to certain health and social care bodies) omit subsections (1) to (7), (9) and (10).

- 57 Omit section 188 (appointments to certain health and social care bodies: joint functions).

- 58 (1) In Schedule 6 (the Commission for Health Care Audit and Inspection: supplementary) paragraph 3 is amended as follows.

- (2) In sub-paragraph (1)—

- (a) in paragraphs (a) and (c) for “relevant Special Health Authority” substitute “Secretary of State”, and

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- (b) in paragraph (b) for “relevant Special Health Authority who appears to that Authority” substitute “Assembly who appears to the Assembly”.
 - (3) Omit sub-paragraphs (2), (3), (9), (10), (14) and (15).
 - (4) In sub-paragraph (11)—
 - (a) for “Special Health Authority referred to in sub-paragraph (2)” substitute “Secretary of State”, and
 - (b) for “Special Health Authority referred to in sub-paragraph (3)” substitute “Assembly”.
- 59 (1) In Schedule 7 (the Commission for Social Care Inspection: supplementary) paragraph 3 is amended as follows.
- (2) In sub-paragraph (1) for “relevant Special Health Authority” substitute “Secretary of State”.
 - (3) Omit sub-paragraphs (2) and (6) to (8).

General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (S.I. 2003/1250)

- 60 In Schedule 2 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (the Postgraduate Medical Education and Training Board etc.) omit paragraph 4.

Health Protection Agency Act 2004 (c. 17)

- 61 In Schedule 1 to the Health Protection Agency Act 2004 (the Health Protection Agency) omit paragraph 2.

Public Audit (Wales) Act 2004 (c. 23)

- 62 In section 61(1) of the Public Audit (Wales) Act 2004 (audit of Welsh NHS bodies) for “section 98(2) of the National Health Service Act 1977 (accounts of NHS bodies)” substitute “paragraph 4(2) of Schedule 12B to the National Health Service Act 1977 (preparation of annual accounts of Welsh NHS bodies)”.

SCHEDULE 9

Section 80

REPEALS AND REVOCATIONS

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
Pharmacy Act 1954 (c. 61)	In section 15, subsections (3) and (4). In Schedule 1, paragraph 3A.
Medicines Act 1968 (c. 67)	In section 77, paragraph (b) and the “and” immediately preceding it.
National Health Service Act 1977 (c. 49)	In section 15(1)(a), “general ophthalmic services”.

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<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
	In section 18A(3)(a), “general ophthalmic or”.
	In section 38(1), “of every Primary Care Trust and”.
	In section 39, in subsection (1)(a) “by each Primary Care Trust and”; in subsections (1) and (2) “Primary Care Trust or” in each place it occurs; and in subsection (3) “Primary Care Trust or” and “of the Primary Care Trust or”.
	In section 44(B2), paragraph (a); “the Local Optical Committee or”; and “, as the case may be,”.
	In section 45A(3), “and” at the end of paragraph (a).
	In section 49N(4)(b), “(or, in the case of a medical list, to nominate or approve him for inclusion in it)”.
	In Schedule 12, in paragraph 2A(1), “or” at the end of paragraph (b).
Health and Social Services and Social Security Adjudications Act 1983 (c. 41)	In Schedule 5, paragraph 3.
Medical Act 1983 (c. 54)	In Schedule 1, paragraph 4ZA.
Dentists Act 1984 (c. 24)	In Schedule 1, paragraph 2A.
Opticians Act 1989 (c. 44)	In Schedule 1, paragraph 2A.
National Health Service and Community Care Act 1990 (c. 19)	In section 4A(1), “or” at the end of paragraph (a). Section 11(7). Section 20(2). In Schedule 2, paragraph 24.
Osteopaths Act 1993 (c. 21)	In the Schedule, paragraph 11A.
Health Service Commissioners Act 1993 (c. 46)	In section 2A(1)(b), “general ophthalmic services or”. In section 6(5), “38, 39,”.
Chiropractors Act 1994 (c. 17)	In Schedule 1, paragraph 11A.
Health Authorities Act 1995 (c. 17)	In Schedule 1, paragraph 50.
Pharmacists (Fitness to Practise) Act 1997 (c. 19)	In the Schedule, paragraph 5.
Audit Commission Act 1998 (c. 18)	In Schedule 2, paragraphs 1(g) and 1C.
Health Act 1999 (c. 8)	In Schedule 3, paragraph 2(2).

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<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
	In Schedule 4, paragraph 33.
Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90)	In Schedule 1, paragraph 13(6).
National Health Service Appointments Commission (Establishment and Constitution) Order 2001 (S.I. 2001/793)	The whole Order.
Nursing and Midwifery Order 2001 (S.I. 2002/253)	In Schedule 1, paragraph 15A.
Health Professions Order 2001 (S.I. 2002/254)	In Schedule 1, paragraph 16A.
National Health Service Reform and Health Care Professions Act 2002 (c. 17)	Section 35. In Schedule 1, paragraph 29. In Schedule 2, paragraphs 11, 12(3) and (4) (a). In Schedule 5, paragraph 21. In Schedule 6, paragraph 6. In Schedule 7, paragraph 5.
Health and Social Care (Community Health and Standards) Act 2003 (c. 43)	In section 187, subsections (1) to (7), (9) and (10). Section 188. In Schedule 6, paragraph 3(2), (3), (9), (10), (14) and (15). In Schedule 7, paragraph 3(2) and (6) to (8). In Schedule 11, paragraph 33. In Schedule 12, paragraphs 1, 2(3), 3(2) and (4) and 4 to 8.
General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (S.I. 2003/1250)	In Schedule 2, paragraph 4.
Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003 (S.I. 2003/1324)	The whole Order.
Health Protection Agency Act 2004 (c. 17)	In Schedule 1, paragraph 2.
Public Audit (Wales) Act 2004 (c. 23)	In Schedule 2, paragraphs 2 and 38(2).
Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2004 (S.I. 2004/1714)	The whole Order.
Regulatory Reform (National Health Service Charitable and Non-Charitable	Articles 2 and 4.

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<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
Trust Accounts and Audit) Order 2005 (S.I. 2005/1074)	
Special Health Authorities (Audit) Order 2006 (S.I. 2006/960)	The whole Order.
