

*Status: Point in time view as at 10/02/2015. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Local Audit and Accountability Act 2014, SCHEDULE 13 is up to date with all changes known to be in force on or before 29 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 13

Section 47

#### NHS TRUSTS AND TRUSTEES FOR NHS TRUSTS: TRANSITORY AND SAVING PROVISION

##### *Operation of this Schedule*

- 1 (1) This Act has effect in accordance with this Schedule until the coming into force of section 179(1) of the Health and Social Care Act 2012, subject to sub-paragraph (2) and any provision made under paragraph 2.
- (2) This Act has effect in accordance with this Schedule in relation to—
- (a) any body which continues to be constituted as an NHS trust by virtue of section 179(3) of that Act after the coming into force of subsection (1) of that section, and
  - (b) any trustees for such a body, appointed under paragraph 10 of Schedule 4 to the National Health Service Act 2006,
- until that body has ceased to be constituted as an NHS trust (by virtue of paragraph (a), (b) or (c) of section 179(3) of the Health and Social Care Act 2012).

##### **Commencement Information**

**I1** Sch. 13 para. 1 in force at 16.12.2014 by S.I. 2014/3319, art. 2(g)(i)

- 2 (1) The Secretary of State may by order make further transitory or saving provision for the purposes of this Schedule.
- (2) An order under this paragraph may, in particular, make provision about the audit of—
- (a) the accounts of an NHS trust prepared in respect of the period which includes the day on which the trust ceased to be constituted as an NHS trust;
  - (b) the accounts of the trustees for an NHS trust prepared in respect of the period which includes the day on which the trust ceased to be constituted as an NHS trust.
- (3) An order under this paragraph may—
- (a) amend the modifications of this Act made by this Schedule;
  - (b) further modify this Act.

##### **Commencement Information**

**I2** Sch. 13 para. 2 in force at 16.12.2014 by S.I. 2014/3319, art. 2(g)(i)

*“Relevant authorities”, “health service bodies” and “accounts”*

- 3 (1) The following are relevant authorities for the purposes of this Act—

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- (a) an NHS trust all or most of whose hospitals, establishments and facilities are situated in England, and
- (b) any trustees for such a trust, appointed under paragraph 10 of Schedule 4 to the National Health Service Act 2006.

(2) Accordingly, Schedule 2 is to be read as if it contained the following paragraphs—

“24A An NHS trust all or most of whose hospitals, establishments and facilities are situated in England.

24B Any trustees for an NHS trust within paragraph 24A, appointed under paragraph 10 of Schedule 4 to the National Health Service Act 2006 (trustees for NHS trusts established under section 25 of that Act).”

**Commencement Information**

**I3** Sch. 13 para. 3 in force at 16.12.2014 by [S.I. 2014/3319](#), [art. 2\(g\)\(i\)](#)

4 In section 3(9), the definition of “health service body” is to be read as if it contained the following paragraphs—

“(c) an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;

(d) any trustees for such a trust, appointed under paragraph 10 of Schedule 4 to the National Health Service Act 2006.”

**Commencement Information**

**I4** Sch. 13 para. 4 in force at 16.12.2014 by [S.I. 2014/3319](#), [art. 2\(g\)\(i\)](#)

5 (1) Section 4 is to be read as if after subsection (5) there were inserted—

“(6) In relation to an NHS trust, or the trustees for an NHS trust, “accounts” means the annual accounts prepared under paragraph 3 of Schedule 15 to the National Health Service Act 2006.”

(2) Accordingly, in section 44(1) the definition of “accounts” is to be read as if for “(5)” there were substituted “(6)”.

**Commencement Information**

**I5** Sch. 13 para. 5 in force at 16.12.2014 by [S.I. 2014/3319](#), [art. 2\(g\)\(i\)](#)

VALID FROM 01/04/2015

*Notice of appointment of local auditor*

6 Section 8(4) (publication of notice of appointment of local auditor) is to be read as if it contained the following paragraphs—

“(d) in the case of an NHS trust, it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of persons

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to whom the trust provides services for the purposes of the health service in England;

- (e) in the case of trustees for an NHS trust, they publish the notice in such manner as they think is likely to bring the notice to the attention of persons to whom that NHS trust provides services for the purposes of the health service in England.”

VALID FROM 01/04/2015

*Functions of auditor panel*

7 Section 10(10) (publication of advice of auditor panel) is to be read as if it contained the following paragraphs—

- “(d) in the case of an NHS trust, it publishes the advice in such manner as it thinks is likely to bring the advice to the attention of persons to whom the trust provides services for the purposes of the health service in England;
- (e) in the case of trustees for an NHS trust, they publish the advice in such manner as they think is likely to bring the advice to the attention of persons to whom that NHS trust provides services for the purposes of the health service in England.”

VALID FROM 01/04/2015

*Failure to appoint local auditor*

8 (1) Section 12 does not apply in relation to an NHS trust mentioned in paragraph 3(1)(a), or the trustees for such a trust as mentioned in paragraph 3(1)(b).

(2) Paragraph 9 applies in relation to such a body.

9 (1) If an NHS trust fails, or the trustees for an NHS trust fail, to appoint an auditor in accordance with Part 3, the trust or (as the case may be) the trustees must immediately inform the National Health Service Trust Development Authority (“the Authority”) of that fact.

(2) If it appears to the Authority that an NHS trust has, or the trustees for an NHS trust have, failed to appoint an auditor in accordance with Part 3, the Authority must inform the Secretary of State of that fact by the end of 25 March in the financial year preceding the financial year to which the accounts to be audited relate.

(3) If the Secretary of State has been informed by the Authority under sub-paragraph (2), the Secretary of State may—

(a) take either of the steps in sub-paragraph (4), or

(b) direct the Authority to take whichever of the steps in sub-paragraph (4) the Authority considers appropriate.

(4) Those steps are—

- (a) to direct the trust or trustees to appoint an auditor named in the direction given under this paragraph, or

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- (b) to appoint an auditor on behalf of the trust or trustees.
- (5) An appointment under sub-paragraph (4)(b) takes effect—
  - (a) as if it had been made by the trust or trustees, and
  - (b) on such terms as the Secretary of State or (as the case may be) the Authority may direct.
- (6) The Secretary of State or the Authority must—
  - (a) inform the trust or trustees of the intention to give a direction or appoint an auditor under sub-paragraph (4) not less than 28 days before the direction is given or the appointment made, and
  - (b) consider any representations made by the trust or trustees regarding the proposed direction or appointment.
- (7) But the Secretary of State or the Authority may give a direction or make an appointment under sub-paragraph (4) without having complied with sub-paragraph (6) if the Secretary of State or the Authority thinks it is likely that an auditor would have to exercise a function under this Act in relation to the trust or trustees within the period of 60 days beginning with the day on which the direction is given or the appointment is made.
- (8) The National Health Service Trust Development Authority is the Special Health Authority established under the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012 (SI 2012/901).

VALID FROM 01/04/2015

*General duties of auditors*

- 10 Section 21(3) (general duties of auditors of accounts of special trustees for a hospital) is to be read as if—
- (a) for “accounts of special trustees for a hospital” there were substituted “accounts of a health service body other than a clinical commissioning group”, and
  - (b) in paragraph (c)—
    - (i) for “the special trustees have” there were substituted “the body has”, and
    - (ii) for “their” there were substituted “its”.

*Independence requirement: directors of NHS trusts*

- 11 In Schedule 5, paragraph 5 (independence requirement: modification of section 1214 of the Companies Act 2006) is to be read as if the substitution for section 1214 of the Companies Act 2006 provided (in addition to its existing provision) that a director of an NHS trust may not act as a local auditor of—
- (a) that NHS trust, or
  - (b) the trustees for that NHS trust.

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#### Commencement Information

**16** Sch. 13 para. 11 in force at 16.12.2014 by S.I. 2014/3319, art. 2(g)(ii)

VALID FROM 01/04/2015

#### *Public interest reports and written recommendations*

- 12 (1) Schedule 7 is to be read in accordance with the following sub-paragraphs.
- (2) In paragraph 2(3) (persons to whom written recommendations must be sent) after paragraph (c) insert—
- “(ca) where the relevant authority is an NHS trust or the trustees for an NHS trust, to the National Health Service Trust Development Authority.”
- (3) In paragraph 3(2) (persons to whom public interest reports must be sent) after paragraph (c) omit “and” and insert—
- “(ca) where the relevant authority is an NHS trust or the trustees for an NHS trust, to the National Health Service Trust Development Authority, and”.
- (4) In paragraph 4(8) (means of publicising public interest reports and related notices) after paragraph (c) insert—
- “(d) in the case of an NHS trust, it publishes the notice in such manner as it thinks is likely to bring the notice to the attention of persons to whom the trust provides services for the purposes of the health service in England;
- (e) in the case of trustees for an NHS trust, they publish the notice in such manner as they think is likely to bring the notice to the attention of persons to whom that NHS trust provides services for the purposes of the health service in England.”
- (5) In the modifications made by this paragraph, “National Health Service Trust Development Authority” is to be construed in accordance with paragraph 9(8).

VALID FROM 01/04/2015

#### *Unlawful expenditure or activity*

- 13 (1) Section 30(2) (referral of health service bodies to certain persons as regards unlawful expenditure or activity) is to be read as if, at the end of paragraph (b), there were inserted “, and
- (c) if the health service body is an NHS trust or the trustees for an NHS trust, notify the National Health Service Trust Development Authority of the matter.”
- (2) In the modification made by sub-paragraph (1), “National Health Service Trust Development Authority” is to be construed in accordance with paragraph 9(8).

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