

## SCHEDULE

Article 10

Saving and transitional provision in respect of Schedule 5 to the 2012 Act

1. The following provisions have effect from the commencement of the provisions of Schedule 5 to the 2012 Act (amendments of enactments other than the National Health Service Act 2006 in consequence of provision made by Part 1 of the 2012 Act) by article 2(2) of this Order.

### **Provision relating to paragraph 8 of Schedule 5**

2. Action taken before 1st April 2013 by a Primary Care Trust or a Strategic Health Authority on behalf of the Secretary of State or in the exercise of functions of the Secretary of State continue to be matters not subject to investigation by the Parliamentary Commissioner under the Parliamentary Commissioners Act 1967(1).

### **Provision relating to paragraph 30 of Schedule 5**

3. Section 139 of the Mental Health Act 1983 (protection for acts done in pursuance of this Act)(2) continues to apply to proceedings brought against a Primary Care Trust or Strategic Health Authority before that date, if those proceedings are continued after 31st March 2013.

### **Provision relating to paragraphs 49 and 55 of Schedule 5**

4.—(1) For the purposes of section 24(1B) of the Children Act 1989(3), any period before 1st April 2013 during which a child aged sixteen or over was accommodated by a Primary Care Trust shall count towards the calculation of the consecutive period during which that child was accommodated as referred to in section 24(2)(d) of the Act (meaning of “looked after, accommodated or fostered”).

(2) If for any consecutive period of three months starting before 1st April 2013 and ending on or after that date, a child is accommodated by a Primary Care Trust and then by a body pursuant to arrangements referred to in section 85(2ZA)(b) of the Children Act 1989 (arrangements by the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group)(4), section 85(1), (2) and (2ZA) of that Act shall apply as if the child has been accommodated pursuant to those arrangements for a consecutive period of three months.

### **Provision relating to paragraph 63 of Schedule 5**

5.—(1) This paragraph applies where a health record (within the meaning of the Access to Health Records Act 1990(5) (“the 1990 Act”)) was made before 1st April 2013 by a health professional (within the meaning of that Act) performing primary medical services—

- (a) under a general medical services contract with a Primary Care Trust; or
- (b) in accordance with arrangements made under section 92 or 107 of the 2006 Act with a Primary Care Trust or Strategic Health Authority.

(2) Where paragraph (1) applies, and on 1st April 2013 the rights and liabilities of the Trust or Authority under those arrangements have been transferred to the National Health Service Commissioning Board, the person or body who entered that contract or who made those arrangements with the Trust or Authority (or in the case where more than one person entered that

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(1) 1967 c. 13.

(2) 1983 c. 20; relevant amendments to section 139 were made by S.I. 2000/90 and 2002/2469.

(3) 1989 c. 41.

(4) Section 85(2ZA) is inserted by paragraph 55 of Schedule 5 to the 2012 Act.

(5) 1990 c. 23.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

contract or made those arrangements, any such person) continues to be the holder of the record for the purposes of the 1990 Act.

**Provisions relating to paragraph 184 of Schedule 5**

6.—(1) Section 149 of the Charities Act 2011 (audit or examination of English NHS charity accounts)<sup>(6)</sup> continues to apply in respect of the accounts of a relevant charitable trust for the financial year ending on 31st March 2013 or any previous financial year.

(2) In this paragraph, a “relevant charitable trust” means a charitable trust of which the trustees were, on 31st March 2013, a Primary Care Trust, the trustees for such a Trust appointed in pursuance of paragraph 12 of Schedule 3 to the 2006 Act or a Strategic Health Authority.

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(6) 2011 c. 25.