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**Changes to legislation:** National Health Service and Community Care Act 1990, Cross Heading: The National Health Service (Scotland) Act 1978 is up to date with all changes known to be in force on or before 16 January 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) View outstanding changes

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## SCHEDULES

### SCHEDULE 9

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The National Health Service (Scotland) Act 1978*

- 19 (1) In section 2 of the <sup>M1</sup>National Health Service (Scotland) Act 1978 (Health Boards), in subsection (5) after the words “subsection (1)” there shall be inserted “and in exercising any function otherwise conferred on them by or under this Act”.
- (2) <sup>F1</sup>.....
- (3) In section 12 of that Act (Scottish Hospital Endowments Research Trust), after subsection (4) there shall be inserted the following subsections—
- “(4A) The Research Trust shall have power to engage in activities intended to stimulate the giving of money or other property to assist them in carrying out the purpose aforesaid.
- (4B) Subject to any directions of the Secretary of State excluding specified activities or descriptions of activity, the activities authorised by subsection (4A) include public appeals or collections, and the soliciting of sponsorship, donations, legacies, bequests and gifts.”
- (4) In section 13 of that Act (co-operation between Health Boards and other authorities), after the word “Boards,” there shall be inserted “NHS trusts,”.
- (5) In subsection (1)(a) of section 13A of that Act (co-operation in planning of services for disabled persons, the elderly and others) for the words from “being” to the end there shall be substituted the words “by Health Boards and such of the authorities mentioned in that section as may be concerned;”.
- (6) [<sup>F2</sup>For paragraph (b) of subsection (2) of section 25 of that Act (arrangements for provision of general dental services) there shall be substituted the following paragraph—
- “(b) for conferring a right, subject to—
- (i) subsection (2A);
- (ii) the provisions of this Part relating to the disqualification of persons providing services; and
- (iii) section 8 (persons over retiring age) of the Health and Medicines Act 1988 and regulations made under that section,
- on any dental practitioner who wishes to be included in any such list to be so included;”.]
- (7)

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[<sup>F2</sup>In section 27 of that Act (arrangements for provision of pharmaceutical services)

- (a) in subsection (1)—
  - (i) for the word “supply” there shall be substituted “provision”;
  - (ii) in paragraph (b), after the word “Board” there shall be inserted “or by an NHS trust”;
  - (iii) at the end of paragraph (c) there shall be inserted—
    - “; and
    - (d) such services as may be prescribed,”; and
  - (iv) for the words “services provided in accordance with the arrangements are” there shall be substituted “provision of drugs, medicines, appliances and services in accordance with the arrangements is”;
- (b) in subsection (2), after the word “mentioned” in the second place where it occurs there shall be inserted “, or to whom services mentioned in subsection (1)(d) are to be provided,”;
- (c) in subsections (3)(b), (c) and (d) and (4), before the word “services” in each place where it occurs there shall be inserted “pharmaceutical”; and
- (d) in subsection (4)(d) for the words “a prescribed criterion” there shall be substituted “prescribed criteria”.]

(8) [<sup>F2</sup>In section 28(2) of that Act (persons authorised to provide pharmaceutical services)—

- (a) after the word “medicines” in the first place where it occurs there shall be inserted “or the provision of pharmaceutical services”;
- (b) after the word “undertake” there shall be inserted “(a)”;
- (c) for the word “supplied” there shall be substituted “provided”; and
- (d) after the word “dispensed” there shall be inserted—

“, and

- (b) that all services mentioned in section 27(1)(d) provided by them under those arrangements shall be provided.”.]

(9) In section 55(1) (hospital accommodation on part payment) of that Act, after the word “hospital” there shall be inserted the words “vested in the Secretary of State”.

(10) In section 57(1) (accommodation and services for private patients), after the word “hospital” where it first occurs there shall be inserted “vested in the Secretary of State”.

(11) In section 73 of that Act (charges for more expensive supplies) at the end there shall be inserted—

- “(c) by a National Health Service trust in respect of the supply by them of any appliance or vehicle which is, at the request of the person supplied, of a more expensive type than the prescribed type, or in respect of the replacement or repair of any such appliance, or the replacement of any such vehicle.”.

(12) In section 74 of that Act (charges for repairs and replacement in certain cases), after paragraph (b) there shall be inserted—

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- “or
- (c) by an NHS trust in respect of the replacement or repair of any appliance or vehicle supplied by them.”.
- (13) In section 75A of that Act (remission and repayment of charges and payment of travelling expenses)—
- (a) in subsection (1), at the end there shall be inserted—
- “and
- (d) for the payment by the Secretary of State to NHS trusts of such sums as will reimburse them for any sums paid by them as travelling expenses in such cases as may be prescribed”; and
- (b) in subsection (2), for the words “or (c)” there shall be substituted the words “, (c) or (d)”.
- (14) In section 77 of that Act (default powers), after paragraph (a) of subsection (1) there shall be inserted—
- “(aa) an NHS trust”.
- (15) In section 79 of that Act (purchase of land and moveable property)—
- (a) in subsection (1), after the word “Act” where it first appears there shall be inserted the words “and may take any such property or land on lease.”; and
- (b) in subsection (2), after the word “(1),” there shall be inserted the words “other than on lease”.
- (16) In section 84 of that Act (power of trustees to make payments to Health Boards)—
- (a) in subsection (1), after the words “Health Board” where they—
- (i) second occur, there shall be inserted the words “or an NHS trust”; and
- (ii) third occur, there shall be inserted the words “or NHS trust”;
- (b) in subsection (2)—
- (i) after the words “Health Board” there shall be inserted the words “or NHS trust”; and
- (ii) after the word “Boards” there shall be inserted the words “or NHS trusts”. and
- (c) in subsection (3), after the words “Health Board” there shall be inserted the words “or an NHS trust”.
- (17) In section 84A of that Act (power to raise money by appeals etc)—
- (a) in subsection (1), after the word “Board” there shall be inserted “or NHS trust”; and
- (b) in subsections (3) to (7), after the word “Board” in each place where it occurs there shall be inserted “, NHS trust”.
- <sup>F3</sup>(18) .....
- (19) In section 101 of that Act (protection of health bodies and their officers), after the word “Board” there shall be inserted “, an NHS trust”.
- (20) In section 102(1) of that Act (management of state hospitals), for the word “90(2)” there shall be substituted “91(2)”.

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- (21) In section 105 of that Act (orders, regulations and directions)—
- (a) after subsection (1) there shall be inserted the following subsection—
 

“(1A) Subsection (1) does not apply to orders made under section 12D(1) or paragraph 26(1) of Schedule 7A.”;
  - (b) in subsection (4), after the words “10(3) to (5)” there shall be inserted the words “12A(1), 12A(8), 12E(1), 12G(2),”; and
  - (c) at the end of the said subsection (4) there shall be inserted the words “paragraph 25(1) of Schedule 7A and paragraph 3 of Schedule 7B”.
- (22) In section 108(1) of that Act (interpretation)—
- (a) in the definition of “Health Board”, for the word “board” there shall be substituted the words “Health Board”;
  - (b) at the end of the definition of “health service hospital” there shall be added “or vested in an NHS trust”;
  - (c) after the definition of “modifications” there shall be inserted—
 

““National Health Service trust” has the meaning indicated by section 12A and “NHS trust” shall be construed accordingly”; and

““NHS contract” has the meaning indicated by section 17A(3)”;
  - (d) after the definition of “officer” there shall be inserted—
 

““operational date”, in relation to an NHS trust, shall be construed in accordance with paragraph 3(1)(e) of Schedule 7A.”; and
  - (e) after the definition of “the Research Trust” there shall be inserted—
 

““Special Health Board” means a Special Health Board constituted under section 2.”.
- (23) In section 110 of that Act (citation, extent and commencement)—
- (a) in subsection (2), for the words “subsection (3)” there shall be substituted “subsections (2A) and (3)”;
  - (b) after subsection (2) there shall be inserted—
 

“(2A) Section 87B(3) extends also to England and Wales.”
- (24) In Schedule 6 to that Act (the Hospital Trust)—
- (a) in paragraph 4(c), after the words “Health Boards” there shall be inserted the words “and NHS trusts”;
  - (b) after paragraph 4(e) there shall be inserted—
 

“(ea) power to accept from any NHS trust for investment and management on behalf of the trust any property held on behalf of the trust by trustees appointed by virtue of section 12G(2), and any endowments or accumulated income otherwise held by the trust.”;
  - (c) in paragraph 4(f)—
    - (i) after the words “paragraph (e)” there shall be inserted the words “or, as the case may be, 0paragraph (ea)”;
    - (ii) after the words “Health Board” there shall be inserted the words “or, as the case may be, by an NHS Trust”;

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- (d) in paragraph 6(2), after the words “Health Boards” there shall be inserted the words “or NHS trusts”;
- (e) in paragraph 7(1), after the words “Health Boards” there shall be inserted the words “, NHS trusts”;
- (f) in paragraph 7(2), after the words “Health Boards” there shall be inserted the words “, NHS trusts”; and
- (g) in paragraph 7(3), at the end there shall be inserted—
  - “(c) in so far as it is distributed among NHS trusts, being used by that trust for any purpose for which the trust was established.”

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#### Textual Amendments

- F1** Sch. 9 para. 19(2) repealed (S.) (1.4.2002) by S.S.I. 2002/176, **art. 5** and expressed to be repealed (S.) (prosp.) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp. 4), ss. 17, 21(2), **sch. 4 para. 11(b)**
- F2** Sch. 9 paras. 19(6)(7)(8) repealed (S.) (2.7.2010 for para. 19(6), otherwise prosp.) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(2), 43(3), **sch. 3**; S.S.I. 2010/185, **arts. 3(b)(ii)**, Sch. Table of Repeals
- F3** Sch. 9 para. 19(18) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 3** (with s. 3(4)).

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#### Marginal Citations

- M1** 1978 c. 29.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A(1)(c) and word added by [S.I. 2006/1056 Sch. para. 5\(a\)\(ii\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))