

**Changes to legislation:** National Health Service and Community Care Act 1990, SCHEDULE 9 is up to date with all changes known to be in force on or before 30 March 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

## SCHEDULES

### SCHEDULE 9 **E+W+S**

Section 66(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Public Health (Scotland) Act 1897*

1 <sup>F1</sup> .....

#### Textual Amendments

**F1** Sch. 9 para. 1 repealed (S.) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp. 5), ss. 126(1), 128(2), Sch. 3 Pt. 1 (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

##### *The Voluntary Hospitals (Paying Patients) Act 1936*

- 2 In section 1 of the <sup>M1</sup>Voluntary Hospitals (Paying Patients) Act 1936 (definitions)—
- (a) in the definition of “voluntary hospital”, after the words “of the rates” there shall be inserted “or which is vested in an NHS trust”; and
  - (b) after the definition of “committee of management” there shall be inserted—  
““NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990.”

#### Marginal Citations

**M1** 1936 c. 17.

##### *The Nursing Homes Registration (Scotland) Act 1938*

- [<sup>F23</sup> In section 10(3)(a) (interpretation) of the <sup>M2</sup>Nursing Homes Registration (Scotland) Act 1938, after the words “local authority” there shall be inserted the words “or a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978.”.]

#### Textual Amendments

**F2** Sch. 9 para. 3 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(i)

#### Marginal Citations

**M2** 1938 c. 73.

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*The Public Health (Scotland) Act 1945*

- 4 In section 1(3) of the <sup>M3</sup>Public Health (Scotland) Act 1945 (regulations with regard to treatment and prevention of spread of certain diseases)—
- (a) after the words “Health Boards” there shall be inserted the words “or National Health Service trusts established under section 12A of the National Health Service (Scotland) Act 1978”; and
  - (b) in the proviso to that subsection, after the word “Board” there shall be inserted the words “National Health Service trust,”.

**Marginal Citations**

**M3** 1945 c. 15. (9 & 10 Geo. 6).

*The National Assistance Act 1948*

- 5 (1) At the beginning of subsection (4) of section 21 of the <sup>M4</sup>National Assistance Act 1948 (accommodation provided under section 21 to be provided in premises managed by a local authority) there shall be inserted “Subject to the provisions of section 26 of this Act”.
- (2) For paragraphs (b) and (c) of subsection (7) of that section (which enable health services to be provided on premises where accommodation is provided under that section) there shall be substituted—
- “(b) make arrangements for the provision on the premises in which the accommodation is being provided of such other services as appear to the authority to be required.”
- (3) At the end of subsection (8) of that section (which excludes from that section provision required to be made by a local authority under other enactments) there shall be inserted “or authorised or required to be provided under the National Health Service Act 1977”.
- (4) In section 24 of that Act (authority liable for provision of accommodation)—
- (a) in subsection (6) for the words from “patient” to “shall” there shall be substituted “patient in a hospital vested in the Secretary of State or an NHS trust shall”; and
  - (b) at the end there shall be added—
    - “(7) In subsection (6) above “NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or under the National Health Service (Scotland) Act 1978.”
- (5) In section 26 of that Act (provision of accommodation in premises maintained by voluntary organisations etc.)—
- (a) in subsection (2) the words “subsection (1) of” shall be omitted;
  - (b) after subsection (4) there shall be inserted—
    - “(4A) Section 21(5) of this Act shall have effect as respects accommodation provided under arrangements made by virtue of this section with the substitution for the reference to the authority

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managing the premises of a reference to the authority making the arrangements.”;

(c) in subsection (5) the words “subsection (1) of” shall be omitted.

(6) Subsections (2) and (3) of section 35 of that Act (duty of authorities to exercise functions under Part III of that Act in accordance with regulations) shall cease to have effect.

(7) Section 36 of that Act (default powers of Minister) shall cease to have effect.

(8) Section 54 of that Act (which enables inquiries to be held for the purposes of that Act) shall cease to have effect.

(9) In paragraph (f) of section 65 of that Act (application to Scotland)—

(a) the words “Part IV of” shall cease to have effect;

(b) at the end there shall be inserted “or section 7 (functions of local authorities) of the Mental Health (Scotland) Act 1984,”.

#### Commencement Information

**II** Sch. 9 para. 5 wholly in force at 1.4.1993; Sch. 9 para. 5 not in force at Royal Assent see s. 67(2); Sch. 9 para. 5(4) in force at 5.7.1990 by S.I. 1990/1329, art. 2(1), Sch. 1; Sch. 9 para. 5(6)(7)(8)(9)(b) in force at 1.4.1991 by S.I. 1990/2218, art. 2, Sch. and 1990/2510, art. 2, Sch.; Sch. 9 para. 5(1)-(3)(5)(9)(a) in force at 1.4.1993 by S.I. 1992/2975, art. 2(2), Sch.

#### Marginal Citations

**M4** 1948 c. 29.

#### *The Public Records Act 1958*

6 In Schedule 1 to the <sup>M5</sup>Public Records Act 1958 (definition of public records), in the Table in Part I, in the entry relating to the Department of Health, in the second column—

(a) after the words “National Health Service Authorities” there shall be inserted “including National Health Service trusts”; and

(b) for the words “National health service hospitals” there shall be substituted “health service hospitals, within the meaning of the National Health Service Act 1977”.

#### Marginal Citations

**M5** 1958 c. 51.

#### *The Human Tissue Act 1961*

7 <sup>F3</sup> .....

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#### Textual Amendments

- F3** Sch. 9 para 7 repealed (1.9.2006) by Human Tissue Act 2004 (c. 30), ss. 57, 60(2), Sch. 7 Pt. 1 (with s. 58); S.I. 2006/1997, art. 3(1)(2) (subject to transitional provisions in arts. 4, 7, 8) (as amended by S.I. 2006/2169, art. 2)

#### *The Abortion Act 1967*

- 8 In section 1 of the <sup>M6</sup>Abortion Act 1967 (medical termination of pregnancy), in subsection (3) after the words “National Health Service (Scotland) Act 1978” there shall be inserted “or in a hospital vested in a National Health Service trust”.

#### Marginal Citations

- M6** 1967 c. 87.

#### *The Leasehold Reform Act 1967*

- 9 In section 28 of the <sup>M7</sup>Leasehold Reform Act 1967 (retention or resumption of land required for public purposes)—
- (a) in subsection (5)(d) for the words “and any special health authority” there shall be substituted “any special health authority and any National Health Service trust”; and
  - (b) in subsection (6)(c) for the words “or special health authority” there shall be substituted “special health authority or National Health Service trust”.

#### Marginal Citations

- M7** 1967 c. 88.

#### *The Social Work (Scotland) Act 1968*

- 10 (1) The <sup>M8</sup>Social Work (Scotland) Act 1968 shall be amended as follows.
- (2) In section 2 (the social work committee), in subsection (2) after paragraph (k) there shall be inserted—
    - “(l) sections 21 to 23 of the Health and Social Services and Social Security Adjudications Act 1983;
    - (m) the Access to Personal Files Act 1987.”
  - (3) In section 4 (provisions relating to performance of functions by local authorities), after the word “Act”, there shall be inserted the words “or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984,”.
  - (4) <sup>F4</sup> .....
  - (5) In section 12 (general social welfare services of local authorities) at the end there shall be inserted—

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- “(6) For the purposes of subsection (2) of this section “person in need” includes a person who is in need of care and attention arising out of drug or alcohol dependency or release from prison or other form of detention.”
- (6) In section 14 (home help), for the words—
- (a) “home help”, where they first occur there shall be substituted the words “domiciliary services”;
  - (b) “help is”, there shall be substituted the words “services are”; and
  - (c) “home help is”, there shall be substituted the words “domiciliary services are”.
- (7) In section 59(1) (provision of residential and other establishments), at the beginning there shall be inserted the words “Subject to section 13A of this Act,”.
- [<sup>F5</sup>(8) In section 61(1A) (definition of “establishment”)—
- (a) after the word “include” there shall be inserted “(a)”; and
  - (b) at the end of the definition of “establishment” there shall be inserted—
    - “; or
    - (b) any establishment providing residential accommodation with nursing falling within section 13A of this Act;”.
- (9) In subsection (1) of section 67 (inspection of establishments by local authorities)—
- (a) for the words “duly authorised officer of” there shall be substituted the words “person duly authorised by”;
  - (b) for the words “required to be kept therein by virtue of this Part of this Act” there shall be substituted the words “(in whatever form they are held) relating to the place or to any person for whom services have been or are provided there by virtue of this Act or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984”;
  - (c) after the words “subsections (2)”, there shall be inserted the words “to (2D)”;
  - (d) for the words “an officer”, where they first occur, there shall be substituted the words “a person”; and
  - (e) for the words “an officer of” there shall be substituted the words “a person authorised by”.
- (10) In subsection (2) of the said section 67, for the word “officer”, in both places where it occurs, there shall be substituted the word “person”.]
- (11) In subsection (1)(d) of section 86 (adjustments between authority providing accommodation etc., and authority of area of residence), at the end there shall be inserted—
- “or
  - (e) in the provision of accommodation, services or facilities for persons ordinarily so resident under section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984;”.
- (12) In subsection (3) of the said section 86, after the words “1978” there shall be inserted the words “or in a hospital managed by a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or section 12A of the National Health Service (Scotland) Act 1978”.

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- (13) In section 87 (charges for services and accommodation),—
- (a) in subsection (1), after the words “under this Act”, there shall be inserted the words “or section 7 (functions of local authorities) or 8 (provision of after-care services) of the Mental Health (Scotland) Act 1984”;
  - (b) in subsection (1A), after the words “under this Act”, there shall be inserted the words “or section 7 or 8 of the said Act of 1984”;
  - (c) in subsections (2), (3) and (4), after the words “under this Act”, there shall be inserted the words “or section 7 of the said Act of 1984;” and
  - (d) in subsection (4), after the word “organisation” there shall be inserted the words “or any other person or body”.
- (14) In subsection (1) of section 94 (interpretation),—
- (a) after the definition of “contributor” there shall be inserted the following definition—
 

““domiciliary services” means any services, being services provided in the home, which appear to a local authority to be necessary for the purpose of enabling a person to maintain as independent an existence as is practicable in his home;”;
  - (b) in the definition of “hospital”, after the words “1978” there shall be inserted—
 

“(aa) any hospital managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978;”.

#### Textual Amendments

- F4** Sch. 9 para. 10(4) repealed (S.) (23.2.2006) by [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#), ss. **8(4)(e)**, 10(2)
- F5** Sch. 9 para. 10(8)-(10) repealed (S.) (1.4.2002) by [2001 asp 8](#), ss. 80(1), 81(2), **Sch. 4**; S.S.I. 2002/162, **art. 2(i)**

#### Commencement Information

- I2** Sch. 9 para. 10 partly in force; Sch. 9 para. 10 not in force at Royal Assent see s.67(2); Sch. 9 para. 10(12)(14)(b) in force at 24.07.1990 by [S.I. 1990/1520](#); Sch. 9 para. 10(2)-(6)(9)-(11)(13)(14)(a) in force at 1.4.1991 by [S.I. 1990/2510](#), **art. 2**, **Sch.**; Sch. 9 para. 10(7)(8) in force at 1.4.1993 by [S.I. 1992/2975](#), **art. 2(2)**, **Sch.**

#### Marginal Citations

- M8** 1968 c. 49.

### *The Local Authority Social Services Act 1970*

- 11 In Schedule 1 to the <sup>M9</sup>Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committee)—
- (a) in the entry relating to the Children Act 1989, in the second column after the words “health authorities” there shall be inserted “National Health Service trusts”;
  - (b) for the entry relating to section 6 of the Local Authority Social Services Act 1970 there shall be substituted—

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“Sections 6 and 7B of this Act	Appointment of director of social services, etc; provision and conduct of complaints procedure.”; and
(c) at the end of that Schedule there shall be inserted—	
“National Health Service and Community Care Act 1990 (c.19)	
Section 46	Preparation of plans for community care services.
Section 47	Assessment of needs for community care services.”

**Commencement Information**

**I3** Sch. 9 para. 11 wholly in force at 1.4.1993; Sch. 9 para. 11 not in force at Royal Assent see s. 67(2); Sch. 9 para. 11(b) in force and para. 11(c) in force for certain purposes at 1.4.1991 by S.I. 1990/2218, art. 2 Sch.; Sch. 9 para. 11(a) in force and para. 11(c) in force so far as not already in force at 1.4.1993 by S.I. 1992/2975, art. 2(2), Sch.

**Marginal Citations**

**M9** 1970 c. 42.

*The Chronically Sick and Disabled Persons Act 1970*

- 12 In section 2(1) of the <sup>M10</sup>Chronically Sick and Disabled Persons Act 1970, the words from “to the provisions” in the first place where they occur, to “the purpose) and” shall be omitted and after the words “Secretary of State)” there shall be inserted “and to the provisions of section 7A of that Act (which requires local authorities to exercise their social services functions in accordance with directions given by the Secretary of State)”.

**Commencement Information**

**I4** Sch. 9 para. 12 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/2218, art. 2, Sch.

**Marginal Citations**

**M10** 1970 c. 44.

*The Local Government Act 1972*

- 13 In section 113 of the <sup>M11</sup>Local Government Act 1972 (placing of staff at disposal of other bodies),—
- (a) <sup>F6</sup> .....
- (b) at the end there shall be added the following subsection—
- “(4) In subsection (1A) above “NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990.”

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#### Textual Amendments

**F6** Sch. 9 para. 13(a) repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), Sch. 14 Pt. 1; S.I. 2004/759, art. 12

#### Marginal Citations

**M11** 1972 c. 70.

#### *The Criminal Procedure (Scotland) Act 1975*

- 14 In section 462 (interpretation) of the <sup>M12</sup>Criminal Procedure (Scotland) Act 1975, in paragraph (a) of the definition of “hospital”, after the words “Secretary of State” there shall be inserted the words “or in a National Health Service trust”.

#### Marginal Citations

**M12** 1975 c. 21.

#### *The Child Benefit Act 1975*

- <sup>F7</sup>15 .....

#### Textual Amendments

**F7** Sch. 9 para. 15 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), Sch.1 (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14) s. 118(5) (7) (with s. 118(1)(2)(4))).

#### Commencement Information

**I5** Sch. 9 para. 15, before being brought into force was repealed (1.7.1992). By art. 2(2), Sch. of S.I. 1992/2975 (made on 30.11.1992), Sch. 9 para. 15 was expressed to be brought into force on 1.4.1993.

#### *The Children Act 1975*

- 16 In section 99(1)(b) of the <sup>M13</sup>Children Act 1975 (inquiries in Scotland) the words “paragraph (a) of section 1(4) and” shall cease to have effect and after the word “(h)” there shall be inserted “to (k)”.

#### Commencement Information

**I6** Sch. 9 para. 16 wholly in force at 10.12.1992 see s. 67(2) and S.I. 1992/2975, art. 2(1)(b).

#### Marginal Citations

**M13** 1975 c. 72.

#### *The Adoption Act 1976*

- 17 <sup>F8</sup> .....



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**Textual Amendments**

- F8** Sch. 9 para. 17 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(3), 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2897, art. 2(b)

*The National Health Service Act 1977*

18 **F9** .....

**Textual Amendments**

- F9** Sch. 9 para. 18 repealed (E.W.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4

*The National Health Service (Scotland) Act 1978*

- 19 (1) In section 2 of the <sup>M14</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) **F10** .....
- (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>F11</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

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(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) [F11In 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) [F11In 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

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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—

“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>F12</sup>(18) .....

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- (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)”.
- (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)—

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- (i) after the words “paragraph (e)” there shall be inserted the words “or, as the case may be, 0paragraph (ea)”; and
- (ii) after the words “Health Board” there shall be inserted the words “or, as the case may be, by an NHS Trust”;
- (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.”

**Textual Amendments**

- F10** 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)
- F11** 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
- F12** Sch. 9 para. 19(18) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), Sch. 3 (with s. 3(4)).

**Marginal Citations**

- M14** 1978 c. 29.

*The Employment Protection (Consolidation) Act 1978*

<sup>F13</sup>20 .....

**Textual Amendments**

- F13** Sch. 9 para. 20 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-200, 202)

*The Overseas Development and Co-operation Act 1980*

<sup>F14</sup>21 .....

**Textual Amendments**

- F14** Sch. 9 para. 21 repealed (17.6.2002) by 2002 c. 1, s. 19, Sch. 4 (with s. 20, Sch. 5 para. 5); S.I. 2002/1408, art. 2

*The Education Act 1981*

<sup>F15</sup>22 .....

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### Textual Amendments

**F15** Sch. 9 para. 22 repealed (1.9.1994) by S.I. 1994/2038, art. 3, Sch. 2 Appendix

### *The Acquisition of Land Act 1981*

- 23 In the <sup>M15</sup>Acquisition of Land Act 1981, in section 17 (local authority and statutory undertakers' land), in subsection (4), in the definition of "statutory undertakers" after paragraph (a) there shall be inserted—
- “(aa) a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990, and”.

### Marginal Citations

**M15** 1981 c. 67.

### *The Mental Health Act 1983*

- 24 (1) In section 12 of the <sup>M16</sup>Mental Health Act 1983 (general provisions as to medical recommendations), in subsection (3) after the words "National Health Service Act 1977" there shall be inserted "or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990".
- (2) In section 19 of that Act (regulations as to transfer of patients), in subsection (3)—
- (a) after the words "such a hospital" there shall be inserted "or in a hospital vested in a National Health Service trust", and
- (b) for the words from "for which the managers" to "also the managers", there shall be substituted "which is managed by the managers of, or is vested in the National Health Service trust for, the first-mentioned hospital".
- (3) In section 23 of that Act (discharge of patients)—
- <sup>F16</sup>(a) .....
- (b) in subsection (4), after the word "exercised" there shall be inserted "subject to subsection (5) below" and after the word "authority", in each place in which it occurs, there shall be inserted "trust", and
- (c) after subsection (4) there shall be inserted the following subsection—
- “(5) The reference in subsection (4) above to the members of an authority, trust or body or the members of a committee or sub-committee of an authority, trust or body,—
- (a) in the case of a District or Special Health Authority or a committee or sub-committee of such an authority, is a reference only to the chairman of the authority and such members (of the authority, committee or sub-committee, as the case may be) as are not also officers of the authority, within the meaning of the National Health Service Act 1977; and
- (b) in the case of a National Health Service trust or a committee or sub-committee of such a trust, is a reference only to the chairman of the trust and such directors or (in the case of

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a committee or sub-committee) members as are not also employees of the trust.”

<sup>F17</sup>(4) . . . . .

(5) In section 32 of that Act (regulations for purposes of Part II), in subsection (3) <sup>F17</sup> . . . and for the words “and authorities” there shall be inserted “authorities and trusts”.

<sup>F17</sup>(6) . . . . .

(7) In section 139 of that Act (protection for acts done in pursuance of the Act), at the end of subsection (4) there shall be inserted “or against a National Health Service trust established under the National Health Service and Community Care Act 1990”.

(8) In section 140 of that Act (notification of hospitals having arrangements for reception of urgent cases) after the words “administered by” there shall be inserted “or otherwise available to”.

(9) In section 145(1) of that Act (definitions) in the definition of “the managers”, after paragraph (b) there shall be inserted the following paragraph—

“(bb) in relation to a hospital vested in a National Health Service trust, the directors of the trust”.

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**Textual Amendments**

**F16** Sch. 9 para. 24(3)(a) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 39(4)(a)(i)**, 306(4); [S.I. 2012/1319](#), art. 2(3)

**F17** Sch. 9 para. 24(4)(6) and words in sub-paras. (3)(a), (5) repealed (1.4.1996) by [1995 c. 17](#), s. 5(1)(2), **Sch. 3** (with [Sch. 2 para. 6](#))

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**Marginal Citations**

**M16** [1983 c. 20](#).

*The Health and Social Services and Social Security Adjudications Act 1983*

25 (1) In section 17 of the <sup>M17</sup>Health and Social Services and Social Security Adjudications Act 1983 (charges for local authority services in England and Wales) after paragraph (e) of subsection (2) (services to which that section applies) there shall be inserted “other than the provision of services for which payment may be required under section 22 or 26 of the National Assistance Act 1948”.

(2) In subsection (8) of section 21 of that Act (recovery of sums due to local authority where persons in residential accommodation have disposed of assets), at the end there shall be inserted the words “or section 7 (functions of local authorities) of the Mental Health (Scotland) Act 1984”.

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**Commencement Information**

**I7** [Sch. 9 para. 25](#) wholly in force at 12.4.1993; [Sch. 9 para. 25](#) not in force at Royal Assent see [s. 67\(2\)](#); [Sch. 9 para. 25\(1\)](#) in force at 1.4.1993 and para. 25(2) in force at 12.4.1993 by [S.I. 1992/2975](#), art. 2(2)(3)(b), **Sch.**

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**Marginal Citations**

**M17** 1983 c. 41.

*The Public Health (Control of Disease) Act 1984*

- 26 <sup>F18</sup>(1) .....
- (2) In section 37 of that Act (removal to hospital of person with notifiable disease), in subsection (1)—
- (a) in paragraph (c) after the words “Secretary of State” there shall be inserted “or, pursuant to arrangements made by a District Health Authority (whether under an NHS contract or otherwise), in a suitable hospital vested in a NHS trust or other person”; <sup>F19</sup> . . .
- <sup>F19</sup>(b) .....
- (3) In section 41 of that Act (removal to hospital of inmate of common lodging-house with notifiable disease), in subsection (1)—
- (a) in paragraph (c) after the words “Secretary of State” there shall be inserted “or, pursuant to arrangements made by a District Health Authority (whether under an NHS contract or otherwise) in a suitable hospital vested in an NHS trust or any other person”; <sup>F20</sup> . . .
- <sup>F20</sup>(b) .....
- (4) In section 74 of that Act (definitions) after the definition of “London port health authority” there shall be inserted—
- ““NHS trust” and “NHS contract” have the same meaning as in Part I of the National Health Service and Community Care Act 1990 or, as the case may require, the National Health Service (Scotland) Act 1978”.

**Textual Amendments**

- F18** Sch. 9 para. 26(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)
- F19** Sch. 9 para. 26(2)(b) and preceding “and” repealed (1.10.2002) by S.I. 2002/2469, reg. 19, Sch. 13
- F20** Sch. 9 para. 26(3)(b) and preceding “and” repealed (1.10.2002) by S.I. 2002/2469, reg. 19, Sch. 13

*The Registered Homes Act 1984*

27 <sup>F21</sup> .....

**Textual Amendments**

- F21** Sch. 9 para. 27 repealed (1.4.2002 for E.W.) by 2000 c. 14, ss. 117(2), 122, Sch. 6; S.I. 2001/4150, arts. 3(3)(c)(ix) (subject to transitional provisions in art. 4 and S.I. 2002/1493, art. 4); S.I. 2002/920, art. 3(g)(vii) (with art. 3(5)(10))

*The Mental Health (Scotland) Act 1984*

28 <sup>F22</sup> .....



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**Textual Amendments**

- F22** Sch. 9 para. 28 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (asp. 13), ss. 331(2), 333(3), [Sch. 5 Pt. 1](#); S.S.I. 2005/161, [art. 3](#) (as substituted by S.S.I. 2005/375, [art. 2](#), and as amended by S.S.I. 2005/459, [art. 2](#))

*The Hospital Complaints Procedure Act 1985*

F23 29 .....

**Textual Amendments**

- F23** Sch. 9 para. 29 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), [Sch. 3](#) (with [Sch. 2 para. 6](#))

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

- 30 (1) In section 2 of the <sup>M18</sup>Disabled Persons (Services, Consultation and Representation) Act 1986 (rights of authorised representatives of disabled persons), in subsection (5) (by virtue of which a disabled person's authorised representative may visit and interview him in various categories of accommodation)—
- (a) in paragraph (a) (hospital accommodation) after the words “the 1977 Act” there shall be inserted “or by a National Health Service trust established under the provisions of the National Health Service and Community Care Act 1990” and after the words “the 1978 Act” there shall be inserted “or by a National Health Service trust established under that Act”;
  - (b) in paragraph (c) (accommodation provided by a voluntary organisation in accordance with arrangements made under section 26 of the National Assistance Act 1948) after the word “organisation”, in the first place where it occurs, there shall be inserted the words “or other person”; and
  - (c) in paragraph (cc) (which is inserted by paragraph 59(4) of Schedule 13 to the <sup>M19</sup>Children Act 1989) after the word “organisation” there shall be inserted the words “or other person”.
- (2) In section 7 of that Act (persons discharged from hospital), in subsection (9), in the definition of “managers” the word “and” at the end of paragraph (c) shall be omitted and after that paragraph there shall be inserted—
- “(cc) in relation to a hospital vested in a National Health Service trust means the directors of that trust; and”.

**Marginal Citations**

- M18** 1986 c. 33.  
**M19** 1989 c. 41.

*The Education (No. 2) Act 1986*

F24 31 .....

**Changes to legislation:** National Health Service and Community Care Act 1990, SCHEDULE 9 is up to date with all changes known to be in force on or before 30 March 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

#### Textual Amendments

**F24** Sch. 9 para. 31 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt. I, Sch. 39 (with ss. 1(4), 561, Sch. 39 paras. 5, 6, 8 and 30)

#### *The AIDS (Control) Act 1987*

32 (1) Section 1 of the <sup>M20</sup>AIDS (Control) Act 1987 (periodical reports on matters relating to AIDS and HIV) shall be amended as follows—

(a) in subsection (1), in paragraph (b) <sup>F25</sup>. . . at the end of sub-paragraph (iii) there shall be inserted—

“and

(iv) each NHS trust”;

<sup>F25</sup>(b) .....

<sup>F25</sup>(c) .....

(d) at the end there shall be added—

“(10) In this section “NHS trust” means a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or, as the case may be, under the National Health Service (Scotland) Act 1978.”

(2) In the Schedule to that Act (contents of reports), after the word “Authority”, in each place in which that word appears, there shall be inserted “NHS trust”.

#### Textual Amendments

**F25** Sch. 9 para. 32(1)(b)(c) and words in para.(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3 (with Sch. 2 para. 6)

#### Marginal Citations

**M20** 1987 c. 33.

#### *The Community Health Councils (Access to Information) Act 1988*

33 In section 1 of the <sup>M21</sup>Community Health Councils (Access to Information) Act 1988 (access to meetings and documents of Community Health Councils), in subsection (6)(a) after the words “exercises functions” there shall be inserted “or any National Health Service trust which is established under Part I of the National Health Service and Community Care Act 1990 and carries on any of its activities from premises in the area of the authority”.

#### Marginal Citations

**M21** 1988 c. 24.

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*The Health and Medicines Act 1988*

- 34 In section 7 of the <sup>M22</sup>Health and Medicines Act 1988 (extension of powers for financing the health service) in subsection (2), after the word “powers”, in the second place where it occurs, there shall be inserted “(exercisable outside as well as within Great Britain)”.

**Marginal Citations**

**M22** 1988 c. 49.

*The Road Traffic Act 1988*

- 35 In section 161 of the <sup>M23</sup>Road Traffic Act 1988 (interpretation) in subsection (1), in the definition of “hospital” for the word “an”, in the first place where it occurs, there shall be substituted “any health service hospital, within the meaning of the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978 and any other”.

**Marginal Citations**

**M23** 1988 c. 52.

*The Children Act 1989*

- 36 (1) In section 21 of the <sup>M24</sup>Children Act 1989 (provision of accommodation for children in police protection etc.), in subsection (3) after the words “vested in the Secretary of State” shall be inserted the words “or otherwise made available pursuant to arrangements made by a District Health Authority”.
- (2) In section 24 of that Act (advice and assistance for certain children)—
- (a) at the end of subsection (2)(d)(ii) there shall be added the words “or in any accommodation provided by a National Health Service trust”; and
  - (b) at the end of subsection (12)(c) there shall be added the words “or any accommodation provided by a National Health Service trust”.
- (3) In section 29 of that Act (recoupment of cost of providing services etc.), at the end of paragraph (c) of subsection (8) there shall be added the words “or any other hospital made available pursuant to arrangements made by a District Health Authority”.
- (4) In section 80 of that Act (inspection of children’s homes etc.)—
- (a) <sup>F26</sup> .....
  - (b) in subsection (5)(e) after the words “health authority” there shall be inserted “National Health Service trust”.
- (5) In section 85 of that Act (children accommodated by health authorities and local education authorities), in subsection (1) after the words “health authority” there shall be inserted “National Health Service trust”.

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**Textual Amendments**

**F26** Sch. 9 para. 36(4)(a) repealed (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 196, 199(1)(b), **Sch. 14 Pt. 1**; S.I. 2004/759, **art. 12**

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**Marginal Citations**

**M24** 1989 c. 41.

*The Opticians Act 1989*

- 37 In section 27 of the <sup>M25</sup>Opticians Act 1989 (sale and supply of optical appliances), at the end of subsection (4)(b)(i) there shall be inserted “or the National Health Service and Community Care Act 1990”.

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**Marginal Citations**

**M25** 1989 c. 44.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 9 para. 19(2)(24) repealed by [2003 asp 4 sch. 4 para. 11\(b\)](#)
- Sch. 9 para. 19(4) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(7)(a)(ii) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(11)-(14) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(16) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(17) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(19) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(21) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(22)(b) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 19(22)(d) repealed by [2004 asp 7 sch. 2](#)
- Sch. 9 para. 4 repealed by [2008 asp 5 Sch. 3 Pt. 1](#)

**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))