***Changes to legislation:** National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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 8 E+W+S

Section 60.

PROVISIONS ARISING OUT OF REMOVAL OF CROWN IMMUNITIES FROM HEALTH SERVICE BODIES

Commencement Information

I1 Sch. 8 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

PART I E+W+S

AMENDMENTS CONTINUING CERTAIN STATUTORY EXEMPTIONS

The Employers' Liability (Compulsory Insurance) Act 1969

1 In section 3 of the [M1]Employers' Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance), in subsection (2) after the words "subsection (1)(a) above" there shall be inserted—

"(a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978; and

(b)".

Marginal Citations

M1 1969 c. 57.

The Vehicles (Excise) Act 1971

[F1]2 . . . . . .

Textual Amendments

F1 Sch. 8 para. 2 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

The Copyright, Designs and Patents Act 1988

3 At the end of section 48 of the [M2]Copyright, Designs and Patents Act 1988 (material communicated to the Crown in the course of public business) there shall be added the following subsection—

Changes to legislation: *National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

"(6) In this section "the Crown" includes a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978; and the reference in subsection (1) above to public business shall be construed accordingly."

Marginal Citations

M2 1988 c. 48.

The Road Traffic Act 1988

4 In section 144 of the [M3]Road Traffic Act 1988 (exceptions from requirement of third-party insurance or security) in subsection (2) after paragraph (d) there shall be inserted the following paragraphs—

"(da) to a vehicle owned by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, at a time when the vehicle is being driven under the owner's control,

(db) to an ambulance owned by a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978, at a time when a vehicle is being driven under the owner's control".

Marginal Citations

M3 1988 c. 52.

PART II E+W+S

CONSEQUENTIAL AMENDMENTS

The Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947

5 In the First Schedule to the [M4]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (procedure for authorising compulsory purchases), after paragraph 10 there shall be inserted the following paragraph—

"10A In paragraphs 9 and 10 of this Schedule "statutory undertakers" include—

(a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and

(b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;

but in relation to a health service body, as so defined, any reference in those paragraphs to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for use by the Secretary of State for use or occupation by that body."

***Changes to legislation:** National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

Marginal Citations

M4 1947 c. 42.

The Town and Country Planning Act 1971

6 In section 128 of the [M5]Town and Country Planning Act 1971 (use and development of consecrated land and burial grounds) after subsection (4) there shall be inserted the following subsection—

"(4A) In the case of land—

(a) which has been acquired by the Secretary of State under subsection (1) of section 87 of the National Health Service Act 1977 or to which, by virtue of subsection (6) of that section, this section applies as if it had been so acquired, and

(b) which is held, used or occupied by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990,

subsection (1) or, as the case may be, subsection (4) above shall apply with the omission of paragraph (a) and, in paragraph (b), of the words "in any other case"."

Marginal Citations

M5 1971 c. 78.

The Town and Country Planning (Scotland) Act 1972

[F2]7 . . . . . .

Textual Amendments

F2 Sch. 8 para. 7 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3)

The Acquisition of Land Act 1981

8 (1) At the end of section 16 of the [M6]Acquisition of Land Act 1981 (statutory undertakers' land excluded from compulsory purchase) there shall be added the following subsection—

"(3) In the preceding provisions of this section "statutory undertakers" include—

(a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and

(b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;

but in relation to a health service body, as so defined, any reference in those provisions to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for acquisition by the Secretary of State for use or occupation by that body".

Changes to legislation: *National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

(2) In section 17 of that Act (local authority and statutory undertakers' land) at the end of subsection (2) there shall be inserted the following subsection—

"(2A) Subsection (3) of section 16 above applies in relation to subsections (1) and (2) above as it applies in relation to the preceding provisions of that section."

Marginal Citations

M6 1981 c. 67.

The Value Added Tax Act 1983

[F3]9 . . . . . .

Textual Amendments

F3 Sch. 8 para. 9 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

The Housing Act 1988

10 In Schedule 2 to the [M7]Housing Act 1988 (grounds for possession of dwelling-houses let on assured tenancies), at the end of Ground 16 (dwelling-house let in consequence of employment by the landlord) there shall be added the following paragraph—

"For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State."

Marginal Citations

M7 1988 c. 50.

The Housing (Scotland) Act 1988

11 In Schedule 5 to the [M8]Housing (Scotland) Act 1988 (grounds for possession of houses let on assured tenancies) at the end of Ground 17 (house let in consequence of employment by the landlord) there shall be added the following paragraph—

"For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State."

Marginal Citations

M8 1988 c. 43.

***Changes to legislation:** National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

PART III E+W+S

TRANSITIONAL PROVISIONS

12 In this Part of this Schedule—

(a) "the appointed day" means the day appointed for the coming into force of subsection (1) of section 60 of this Act;

(b) "functional health service land" means land which for the time being falls within paragraph (a) or paragraph (b) of that subsection;

(c) "health service body" has the same meaning as in that section; and

(d) "NHS trust" means such a trust established under Part I of this Act or the [M9]National Health Service (Scotland) Act 1978.

Marginal Citations

M9 1978 c. 29.

The Building (Scotland) Act 1959

13 (1) Notwithstanding section 60(1) of this Act, where, on or after the appointed day, relevant work is carried out by or on behalf of a health service body or an NHS trust—

(a) in relation to a building which is, immediately before the appointed day, a Crown building within the meaning of section 26(3) of the [M10]Building (Scotland) Act 1959 (application to the Crown); or

(b) in constructing a building which, if it had been constructed before the appointed day, would have been a Crown building within the meaning of that provision,

Part II of that Act shall apply to the relevant work as if it were being carried out before the appointed day.

(2) In sub-paragraph (1) above, "relevant work" means work in respect of which, before the appointed day, a health service body has granted a certificate that the detail design has been completed.

Marginal Citations

M10 1959 c. 24.

The Medicines Act 1968

14 (1) In any case where—

(a) before the appointed day, a health service body or an NHS trust has made an application for a licence under Part II of the [M11]Medicines Act 1968 or any such application as is referred to in section 36 of that Act (applications for clinical trial and animal test certificates), and

(b) the application was accompanied by a declaration under paragraph (a) or paragraph (b) of sub-paragraph (2) below, and

(c) the application has not been determined before the appointed day,

Changes to legislation: *National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

then, on and after the appointed day and until the application is determined, the health service body or NHS trust concerned shall be treated for all purposes as if it held a licence or, as the case may be, a certificate of the description applied for.

(2) The declarations referred to in sub-paragraph (1)(b) above are,—

(a) in the case of a health service body, that, at the date of the application, the body was carrying on activities which, after the appointed day, it would be unlawful to carry on except in accordance with a licence or certificate of the description applied for; and

(b) in the case of an NHS trust, that the trust has been established to assume responsibility for the ownership and management of a hospital or other establishment or facility and, at the date of the application, a health service body was carrying on at that hospital, establishment or facility activities which it is unlawful for the NHS trust to carry on except in accordance with a licence or certificate of the description applied for.

(3) For the purposes of sub-paragraph (1) above, an application is determined when the licensing authority—

(a) grant a licence or, as the case may be, certificate to the applicant (whether or not in accordance with the application); or

(b) notify the applicant of their refusal to grant a licence or certificate on the application.

(4) Expressions used in sub-paragraphs (1) to (3) above have the same meaning as in sections 18 to 22 of the Medicines Act 1968 (applications for, and grant of, licences), including, where applicable, any of those sections as applied by subsection (3) of section 36 of that Act in relation to applications falling within subsection (1) of that section.

Marginal Citations

M11 1968 c. 67.

The Fire Precautions Act 1971

15 [F4] . . . . . .

Textual Amendments

F4 Sch. 8 para. 15 repealed (E.W.) (1.10.2006) by The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 53(2), **Sch. 4** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), **arts. 1(1)**, 2) and Sch. 8 para. 15 repealed (S.) (1.10.2006) by The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 2, **Sch. 2**

The Town and Country Planning Act 1971

16 (1) This paragraph applies if—

(a) before the appointed day, notice of any proposed development has been given to a local planning authority in accordance with arrangements relating to development by government departments; and

***Changes to legislation:** National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

(b) the development relates to land which, at the time the notice was given, was functional health service land; and

(c) the proposed development has not been carried out before the appointed day.

(2) So far as relates to the carrying out of the development of which notice was given as mentioned in sub-paragraph (1)(a) above, for the purposes of the arrangements referred to in that paragraph and of the [M12]Town and Country Planning Act 1971,—

(a) the carrying out of the development shall continue to be regarded as being by or on behalf of the Crown; and

(b) so long as the interest of the Secretary of State in the land referred to in sub-paragraph (1)(b) above continues on and after the appointed day to be held in fact by the Secretary of State or an NHS trust, that interest shall be regarded as continuing to be an interest of, or held on behalf of, the Crown.

(3) Subject to paragraph 12 above, expressions used in sub-paragraphs (1) and (2) above have the same meaning as in the Town and Country Planning Act 1971.

Marginal Citations

M12 1971 c. 78.

The Town and Country Planning (Scotland) Act 1972

17 (1) This paragraph applies if—

(a) before the appointed day, notice of any proposed development has been given to a planning authority in accordance with arrangements relating to development by government departments; and

(b) the development relates to land which, at the time the notice was given, was functional health service land; and

(c) the proposed development has not been carried out before the appointed day.

(2) So far as relates to the carrying out of the development of which notice was given as mentioned in sub-paragraph (1)(a) above, for the purposes of the arrangements referred to in that paragraph and of **[**[F5]the Town and Country Planning (Scotland) Act 1997**]**—

(a) the carrying out of the development shall continue to be regarded as being by or on behalf of the Crown; and

(b) so long as the interest of the Secretary of State in the land referred to in sub-paragraph (1)(b) above continues on and after the appointed day to be held in fact by the Secretary of State or an NHS trust, that interest shall be regarded as continuing to be an interest of, or held on behalf of, the Crown.

(3) Subject to paragraph 12 above, expressions used in sub-paragraphs (1) and (2) above have the same meaning as in **[**[F5]the Town and Country Planning (Scotland) Act 1997**]**.

Textual Amendments

F5 Words in Sch. 8 para. 17(2)(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 46(2)**

Changes to legislation: *National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

The Building Act 1984

18 (1) If, immediately before the appointed day, approved work is proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) the fact that, on or after the appointed day, the work may be carried out by or on behalf of a health service body or an NHS trust shall not prevent it continuing to be regarded for the purposes of Part I of the [M13]Building Act 1984 as work carried out by a Crown authority.

(2) Subject to sub-paragraph (3) below, expressions used in sub-paragraph (1) above have the same meaning as in section 44 of the [M14]Building Act 1984 (application of Part I to Crown).

(3) Any reference in sub-paragraph (1) above to approved work is a reference to work in respect of which, before the appointed day, either a contract for carrying it out was entered into or all necessary design certificates were signed in accordance with arrangements relating to compliance with the substantive requirements of building regulations by Regional and District Health Authorities and certain Special Health Authorities.

Marginal Citations

M13 1984 c. 55.

M14 1984 c. 55.

The Housing Act 1988 and the Rent Act 1977

19 (1) This paragraph applies to a tenancy—

(a) which was entered into before the appointed day; and

(b) which is of land in England or Wales which, immediately before the appointed day, was functional health service land.

(2) If and so long as the interest of the landlord under a tenancy to which this paragraph applies continues on and after the appointed day to belong in fact either to the Secretary of State or to an NHS trust, it shall be taken to belong to a government department for the purposes of—

(a) paragraph 11 of Schedule 1 to the [M15]Housing Act 1988 (Crown tenancies entered into after the commencement of Part I of that Act not to be assured tenancies); or

(b) section 13 of the [M16]Rent Act 1977 (earlier Crown tenancies not to be protected tenancies).

(3) Expressions used in sub-paragraphs (1) and (2) above have the same meaning as in Part I of the Housing Act 1988 or, as the case may require, the Rent Act 1977.

Marginal Citations

M15 1988 c. 50.

M16 1977 c. 42.

Changes to legislation: *National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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*

The Housing (Scotland) Act 1988 and the Rent (Scotland) Act 1984

20 (1) This paragraph applies to a tenancy—

(a) which was entered into before the appointed day; and

(b) which is of land in Scotland which, immediately before the appointed day, was functional health service land.

(2) If and so long as the interest of the landlord under a tenancy to which this paragraph applies continues on and after the appointed day to belong in fact either to the Secretary of State or to an NHS trust, it shall be taken to belong to a government department for the purposes of—

(a) paragraph 10 of Schedule 4 to the [M17]Housing (Scotland) Act 1988 (Crown tenancies entered into after the commencement of that Schedule not to be assured tenancies); or

(b) section 4 of the [M18]Rent (Scotland) Act 1984 (earlier Crown tenancies not to be protected tenancies).

(3) Expressions used in sub-paragraphs (1) and (2) above have the same meaning as in Part II of the Housing (Scotland) Act 1988 or, as the case may be, the Rent (Scotland) Act 1984.

Marginal Citations

M17 1988 c. 43.

M18 1984 c. 58.

Changes to legislation:
National Health Service and Community Care Act 1990, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 June 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.
View outstanding changes

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))