

SCHEDULES

SCHEDULE 1

Section 2.

PRIMARY CARE TRUSTS

After Schedule 5 to the 1977 Act (Health Authorities and Special Health Authorities), there is inserted—

“SCHEDULE 5A

PRIMARY CARE TRUSTS

PART I

PCT ORDERS

- 1 (1) A PCT order shall specify—
 - (a) the name of the trust, and
 - (b) the operational date of the trust.
- (2) The operational date of a Primary Care Trust is the date on which the functions exercisable by it may be undertaken fully by the trust.
- 2 (1) A PCT order may provide for the establishment of a Primary Care Trust with effect from a date earlier than the operational date.
- (2) During the period beginning with that earlier date and ending with the day immediately preceding the operational date (referred to in this Schedule as the preparatory period), the exercise of any functions by the trust shall be limited to such exercise as may be specified in the PCT order for the purpose of enabling it to begin to operate satisfactorily with effect from the operational date.
- (3) A PCT order may require the Health Authority in whose area a Primary Care Trust is established to meet the costs of the trust performing its functions during the preparatory period by doing either or both of the following—
 - (a) discharging such liabilities of the trust as may be incurred during the preparatory period and are of a description specified in the order,
 - (b) paying the trust sums to enable it to meet expenditure of a description specified in the order.
- (4) A PCT order may require the Health Authority in whose area a Primary Care Trust is established or an NHS trust to make available to the Primary Care Trust during the preparatory period—
 - (a) premises and other facilities of the authority or NHS trust,
 - (b) officers of the authority,
 - (c) staff of the NHS trust.

Status: This is the original version (as it was originally enacted).

PART II

CONSTITUTION AND MEMBERSHIP

Corporate status

3 Every Primary Care Trust shall be a body corporate.

Membership

4 The members of a Primary Care Trust shall be—

- (a) a chairman appointed by the Secretary of State,
- (b) officers of the trust, and
- (c) a number of persons who are not officers of the trust.

5 (1) Regulations may make provision about—

- (a) the appointment of the chairman and other members of a Primary Care Trust (including any conditions to be fulfilled for appointment),
- (b) the tenure of office of the chairman and other members of a trust (including the circumstances in which they cease to hold office or may be removed or suspended from office),
- (c) how many persons may be appointed as members of a trust and how many of those members may be officers (a minimum and maximum number may be specified for both purposes),
- (d) the appointment and constitution of any committees of a trust (which may include or consist of persons who are not members of the trust),
- (e) the appointment and tenure of office of the members of any committees of a trust,
- (f) the procedure to be followed by a trust, and by any committee of the trust, in the exercise of its functions,
- (g) the circumstances in which a person who is not an officer of the trust is to be treated as if he were such an officer.

(2) The power to make provision under paragraphs (c) and (f) of sub-paragraph (1) above includes power to make regulations about the number of persons who may be appointed and the procedure to be followed during the preparatory period.

(3) Any regulations under this paragraph may, in particular, make provision to deal with cases where the post of any officer of a Primary Care Trust is held jointly by two or more persons or where the functions of such an officer are in any other way performed by more than one person.

6 Any reference in this Part of this Schedule to a committee of a Primary Care Trust includes a reference to sub-committees of, and joint committees and joint sub-committees including, the trust.

7 The validity of any proceedings of a Primary Care Trust, or of any of its committees, shall not be affected by any vacancy among the members or by any defect in the appointment of any member.

Status: This is the original version (as it was originally enacted).

Staff

- 8 A Primary Care Trust may employ officers, and on such terms and conditions, as it thinks fit.
- 9 (1) Without prejudice to the generality of section 17 above the Secretary of State may direct a Primary Care Trust—
- (a) to make the services of any of its officers available to another Primary Care Trust, or
 - (b) to employ any person who is or was employed by another Primary Care Trust and is specified in the direction.
- (2) Before he gives a direction under sub-paragraph (1) above the Secretary of State shall—
- (a) consult the person whose services are to be made available or who is to be employed,
 - (b) satisfy himself that the trust has consulted that person, or
 - (c) consult such body as he may recognise as representing that person.
- (3) Sub-paragraph (2) above does not apply in relation to a direction under sub-paragraph (1)(a) above if the Secretary of State—
- (a) considers it necessary to give the direction for the purpose of dealing temporarily with an emergency, and
 - (b) has previously consulted bodies recognised by him as representing the person whose services are to be made available about the giving of directions for that purpose.
- 10 In addition to making provision in relation to Health Authorities and Special Health Authorities, regulations under paragraph 10(2) of Schedule 5 to this Act may also provide—
- (a) for the transfer of officers from one Primary Care Trust to another, and
 - (b) for arrangements under which the services of officers of a Primary Care Trust are placed at the disposal of another Primary Care Trust or a local authority.

Remuneration, pensions etc

- 11 (1) A Primary Care Trust may pay the chairman and any other members of the trust such remuneration and such travelling and other allowances as may be determined by the Secretary of State.
- (2) A trust may pay its officers such remuneration and allowances as it may determine.
- (3) A trust may pay the chairman or any person who has been chairman of the trust such pension, allowance or gratuity as may be determined by the Secretary of State.
- (4) A trust may pay the members of any committee of a trust such travelling and other allowances as may be determined by the Secretary of State.
- (5) If, when a person ceases to be chairman of a trust, the Secretary of State determines that there are special circumstances which make it right that that person should receive compensation, the trust shall pay to him a sum by way of compensation of such amount as the Secretary of State may determine.

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PART III

POWERS AND DUTIES

General powers

- 12 (1) A Primary Care Trust may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its functions.
- (2) That includes, in particular—
- (a) acquiring and disposing of land and other property,
 - (b) entering into contracts,
 - (c) accepting gifts of money, land and other property, including money, land or other property held on trust, either for the general or any specific purposes of the Primary Care Trust or for all or any purposes relating to the health service.
- 13 (1) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a Primary Care Trust of any function exercisable by it by virtue of section 16B or 17A above are enforceable by or (as the case may be) against that trust (and no other health service body).
- (2) This paragraph does not apply in relation to the joint exercise of any functions by a Primary Care Trust with another body under section 16B(2)(c) above.

Specific powers

- 14 (1) A Primary Care Trust may conduct, commission or assist the conduct of research.
- (2) A trust may, in particular, make officers available or provide facilities under subparagraph (1) above.
- 15 A Primary Care Trust may—
- (a) make officers available in connection with any instruction provided under section 63 of the Health Services and Public Health Act 1968,
 - (b) make officers and facilities available in connection with training by a university or any other body providing training in connection with the health service.

Specific duties

- 16 (1) As soon as is practicable after the end of each financial year every Primary Care Trust shall prepare a report on the trust's activities during that year and shall send a copy of the report to the Health Authority within whose area the trust's area falls and to the Secretary of State.
- (2) The report shall give details of the measures the trust has taken to promote economy, efficiency and effectiveness in using its resources for the exercise of its functions.
- (3) A Primary Care Trust shall prepare and send such other reports, and supply such information, to the Health Authority within whose area the trust's area falls or to the Secretary of State as they or, as the case may be, he require.
- 17 Provision must be made by regulations requiring Primary Care Trusts to publicise—
- (a) the trust's audited accounts,

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- (b) the trust's annual reports prepared under paragraph 16 above,
 - (c) any report on the trust's accounts made pursuant to section 8 of the Audit Commission Act 1998 (report of auditor on matter of public interest), and
 - (d) any other document as may be prescribed,
- by taking such steps as may be specified in the regulations.

Status

- 18 A Primary Care Trust is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and a Primary Care Trust's property is not to be regarded as property of, or property held on behalf of, the Crown.

Compulsory acquisition

- 19 (1) A Primary Care Trust may be authorised to purchase land compulsorily for the purposes of its functions by means of an order made by the trust and confirmed by the Secretary of State.
- (2) The Acquisition of Land Act 1981 applies to the compulsory purchase of land under this paragraph.
- (3) No order is to be made by a Primary Care Trust under Part II of the Acquisition of Land Act 1981 in respect of any land unless the proposal to acquire the land compulsorily—
- (a) has been submitted to the Secretary of State in the form, and with the information, required by him, and
 - (b) has been approved by him.

Dissolution

- 20 (1) The Secretary of State may, if a Primary Care Trust is dissolved, by order transfer (or provide for the transfer) to himself or to a Health Authority, a Special Health Authority, an NHS trust or another Primary Care Trust any property, rights or liabilities of the dissolved trust.
- (2) If any consultation requirements apply, they must be complied with before the order is made.
- (3) In this paragraph, "consultation requirements" means requirements about consultation contained in regulations.

PART IV

TRANSFER OF PROPERTY

- 21 (1) The Secretary of State may by order (referred to in this paragraph and paragraph 22 below as a transfer order)—
- (a) transfer (or provide for the transfer of) any of the property, rights and liabilities of a health service authority to a Primary Care Trust,
 - (b) create or impose (or provide for the creation or imposition of) new rights or liabilities in respect of property transferred or retained.

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- (2) Any property, rights and liabilities which—
- (a) belong to a health service authority other than the Secretary of State or are used or managed by a Health Authority, and
 - (b) are to be transferred to a Primary Care Trust by or under a transfer order, must be identified by agreement between the health service authority (or Health Authority) and the Primary Care Trust or, in default of agreement, by direction of the Secretary of State.
- (3) Where a transfer order transfers (or provides for the transfer of)—
- (a) land held on lease from a third party, or
 - (b) any other asset leased or hired from a third party or in which a third party has an interest,
- the transfer is binding on the third party despite the fact that, apart from this sub-paragraph, the transfer would have required the third party's consent or concurrence.
- (4) In sub-paragraph (3) above, "third party" means a person other than a health service authority.
- (5) In this paragraph and paragraph 22 below, "health service authority" means the Secretary of State, a Health Authority, a Primary Care Trust or an NHS trust.
- 22 (1) Stamp duty is not chargeable in respect of any transfer to a Primary Care Trust effected by or under a transfer order.
- (2) Where it becomes necessary, for the purpose of a transfer by or under a transfer order, to apportion any property, rights or liabilities, the order may contain such provisions as appear to the Secretary of State to be appropriate for the purpose.
- (3) Where a transfer order transfers (or provides for the transfer of) any property or rights to which paragraph 21(3) above applies, the order must contain such provisions as appear to the Secretary of State to be appropriate to safeguard the interests of third parties (within the meaning of that sub-paragraph), including, where appropriate, provision for the payment of compensation of an amount to be determined in accordance with the order.
- (4) A certificate issued by the Secretary of State that—
- (a) any specified property,
 - (b) any specified interest in or right over any property, or
 - (c) any specified right or liability,
- has been vested in a Primary Care Trust by or under a transfer order is conclusive evidence of that fact for all purposes.
- In this sub-paragraph, "specified" means specified in the certificate.
- (5) A transfer order may include provision for matters to be settled by arbitration by a person determined in accordance with the order.
- (6) Paragraph 21 above and this paragraph do not prejudice—
- (a) any existing power of a health service authority to transfer property, rights or liabilities to a Primary Care Trust,
 - (b) the extent of the power conferred by section 126(4) above.

PART V

TRANSFER OF STAFF

- 23 (1) The Secretary of State may by order transfer to a Primary Care Trust any specified description of employees to which this paragraph applies.
- (2) This paragraph applies to employees of—
- (a) a Health Authority,
 - (b) an NHS trust,
 - (c) a Primary Care Trust.
- (3) An order may be made under this paragraph only if any prescribed requirements about consultation have been complied with in relation to each of the employees to be transferred.
- 24 (1) The contract of employment of an employee transferred under paragraph 23 above—
- (a) is not terminated by the transfer, and
 - (b) has effect from the date of the transfer as if originally made between the employee and the Primary Care Trust to which he is transferred.
- (2) Without prejudice to sub-paragraph (1) above—
- (a) all the rights, powers, duties and liabilities of the body from which an employee is transferred under paragraph 23 above under or in connection with his contract of employment shall by virtue of this sub-paragraph be transferred to the Primary Care Trust to which the employee is transferred under that paragraph, and
 - (b) anything done before the date of the transfer by or in relation to the body from which he is so transferred in respect of the employee or the contract of employment shall be deemed from that date to have been done by or in relation to the Primary Care Trust to which he is transferred.
- (3) Sub-paragraphs (1) and (2) above do not transfer an employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the body from which they would be transferred, or the Primary Care Trust to which they would be transferred, that he objects to the transfer.
- (4) Where an employee objects as mentioned in sub-paragraph (3) above his contract of employment with the body from which he would be transferred shall be terminated immediately before the date on which the transfer would occur; but he shall not be treated, for any purpose, as having been dismissed by that body.
- (5) This paragraph is without prejudice to any right of an employee to which paragraph 23 above applies to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise by reason only that, under this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.
- 25 (1) Where an employee is to be transferred by an order under paragraph 23 above but is to continue to be employed for certain purposes by the transferor, the order may provide that the contract of employment of the employee shall, on the date on which the employee is transferred, be divided so as to constitute two separate contracts

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of employment between the employee and the transferor and the employee and the Primary Care Trust in question.

(2) Where an employee's contract of employment is divided as provided under subparagraph (1) above, the order shall provide for paragraph 24 above to have effect in the case of the employee and his contract of employment subject to appropriate modifications.

26 Where a Primary Care Trust is dissolved, an order under paragraph 20 above includes power to transfer employees of the trust and the order may make any provision in relation to the transfer of those employees which is or may be made in relation to the transfer of employees under paragraph 23 above."

SCHEDULE 2

Section 19.

THE COMMISSION FOR HEALTH IMPROVEMENT

Status

1 The Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Commissions' property is to not to be regarded as property of, or property held on behalf of, the Crown.

General powers

2 (1) Subject to any directions given by the Secretary of State, the Commission may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.

(2) That includes, in particular—

- (a) acquiring and disposing of land and other property, and
- (b) entering into contracts.

General duty

3 It is the duty of the Commission to carry out its functions effectively, efficiently and economically.

Membership

4 The Commission is to consist of—

- (a) a chairman appointed by the Secretary of State,
- (b) a member appointed by the National Assembly for Wales who appears to the Assembly to be suited to make the interests of Wales his special care, and
- (c) other members appointed by the Secretary of State.

Appointment, procedure etc

5 The Secretary of State may by regulations make provision as to—

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- (a) the appointment of the chairman and other members of the Commission (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment),
- (b) the tenure of office of the chairman and other members of the Commission (including the circumstances in which they cease to hold office or may be removed or suspended from office),
- (c) the appointment of, constitution of and exercise of functions by committees and sub-committees of the Commission (including committees and sub-committees which consist of or include persons who are not members of the Commission), and
- (d) the procedure of the Commission and any committees or sub-committees of the Commission (including the validation of proceedings in the event of vacancies or defects in appointment).

Remuneration and allowances

- 6
- (1) The Commission may pay to its chairman, and to any other member of the Commission, such remuneration and allowances as the Secretary of State may determine.
 - (2) The Commission may pay to any member of a committee or sub-committee of the Commission such allowances as the Secretary of State may determine.
 - (3) If the Secretary of State so determines, the Commission must make provision for the payment of such pension, allowance or gratuities as the Secretary of State may determine to or in respect of a person who is or has been the chairman or any other member of the Commission.
 - (4) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the Commission to receive compensation, the Commission must pay to him such compensation as the Secretary of State may determine.

Employees

- 7
- (1) There is to be a chief executive of the Commission (to be known as the Director for Health Improvement) who is to be an employee of the Commission and is to be responsible to the Commission for the general exercise of the Commission's functions.
 - (2) Subject to sub-paragraph (3), the Director for Health Improvement is to be appointed by the Commission, but his appointment requires the consent of the Secretary of State.
 - (3) The first Director for Health Improvement is to be appointed by the Secretary of State on such terms and conditions as the Secretary of State may determine.
 - (4) The Commission may appoint such other employees as it considers appropriate.
 - (5) Employees of the Commission are to be appointed by the Commission on such terms and conditions as the Commission may determine.
 - (6) The Secretary of State may give directions as to—
 - (a) the appointment of employees (including any conditions to be fulfilled for appointment), and

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(b) the terms and conditions of appointment of employees.

(7) The Commission must comply with any directions under sub-paragraph (6).

Delegation of functions

8 The Commission may arrange for the discharge of any of its functions by a committee, sub-committee, member or employee of the Commission.

Assistance

9 (1) The Commission may arrange for such persons as it thinks fit to assist it in the discharge of any of its functions in relation to a particular case or class of case.

(2) Such arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

Payments and loans to Commission

10 (1) The Secretary of State may make payments out of money provided by Parliament to the Commission of such amounts, at such times and on such conditions (if any) as he considers appropriate.

(2) The National Assembly for Wales may make payments to the Commission of such amounts, at such times and on such conditions (if any) as it considers appropriate.

(3) The Secretary of State may make loans out of money provided by Parliament to the Commission on such terms (including terms as to repayment and interest) as he may determine.

(4) The National Assembly for Wales may make loans to the Commission on such terms (including terms as to repayment and interest) as it may determine.

(5) The approval of the Treasury is required as to the amount and terms of any loan under sub-paragraph (3).

(6) Except as provided by sub-paragraphs (3) and (4), the Commission has no power to borrow money.

(7) The Secretary of State may give directions to the Commission as to the application of any sums received by the Commission under sub-paragraph (1) or (3).

(8) The National Assembly for Wales may give directions to the Commission as to the application of any sums received by the Commission under sub-paragraph (2) or (4).

(9) The Commission must comply with any directions under sub-paragraph (7) or (8).

Accounts

11 (1) The Commission must keep accounts in such form as the Secretary of State may determine.

(2) The Commission must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.

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- (3) The Commission must send copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.
- (4) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts and of his report before Parliament.
- (5) In this paragraph “financial year” means—
 - (a) the period beginning with the date on which the Commission is established and ending with the next 31st March following that date; and
 - (b) each successive period of twelve months ending with 31st March.

Reports and other information

- 12 (1) As soon as possible after the end of each financial year, the Commission must make a report to the Secretary of State on the exercise of its functions during the year.
- (2) The Commission must provide the Secretary of State with such reports and information relating to the exercise of its functions as he may from time to time require.
- (3) In this paragraph “financial year” has the meaning given by paragraph 11(5).

Application of seal and evidence

- 13 The application of the seal of the Commission must be authenticated by the signature—
 - (a) of any member of the Commission, or
 - (b) of any other person who has been authorised by the Commission (whether generally or specially) for that purpose.
- 14 A document purporting to be duly executed under the seal of the Commission or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

Miscellaneous amendments

- 15 In Schedule 1 to the Public Records Act 1958 (definition of public records), the following entry is inserted at the appropriate place in Part II of the Table at the end of paragraph 3—

“Commission for Health Improvement.”
- 16 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), after paragraph (bb) of paragraph 1 there is inserted—

“(bc) the Commission for Health Improvement”.
- 17 In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments and authorities subject to investigation), the following entry is inserted at the appropriate place—

“Commission for Health Improvement.”

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- 18 In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), the following entry is inserted at the appropriate place—
- “The Commission for Health Improvement”.
- 19 In the Northern Ireland Assembly Disqualification Act 1975, the same entry as is set out in paragraph 18 is inserted at the appropriate place in Part II of Schedule 1.

SCHEDULE 3

Section 60.

REGULATION OF HEALTH CARE AND ASSOCIATED PROFESSIONS

Matters generally within the scope of the Orders

- 1 An Order may make provision, in relation to any profession, for any of the following matters (among others)—
- (a) the establishment and continuance of a regulatory body,
 - (b) keeping a register of members admitted to practice,
 - (c) education and training before and after admission to practice,
 - (d) privileges of members admitted to practice,
 - (e) standards of conduct and performance,
 - (f) discipline and fitness to practise,
 - (g) investigation and enforcement by or on behalf of the regulatory body,
 - (h) appeals,
 - (j) default powers exercisable by a person other than the regulatory body.

Manner of exercise of power

- 2 (1) The power to make an Order may be exercised by amending or repealing any enactment (whether or not mentioned in section 60) or prerogative instrument and any other instrument or document.
- (2) But an Order may not amend the Medicines Act 1968.
- (3) Sub-paragraph (2) does not prevent an Order amending—
- (a) sections 80 to 83 of that Act (disqualification, and removal of premises from register), or
 - (b) (in pursuance of section 62(4)) any other provision of Part IV of that Act (pharmacies).
- 3 The power may be exercised so as to make provision for the delegation of functions, including provision conferring power to make, confirm or approve subordinate legislation.
- 4 The power may be exercised so as to make provision for the charging of fees.
- 5 The power may be exercised so as to—
- (a) confer functions (including power to pay grants) on Ministers of the Crown, the Scottish Ministers or the National Assembly for Wales, or
 - (b) modify their functions.

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- 6 The power may not be exercised so as to create any criminal offence, except an offence punishable on summary conviction with a fine not exceeding the amount specified as level 5 on the standard scale.

Matters outside the scope of the Orders

- 7 (1) An Order may not abolish the regulatory body of any profession to which section 60(2)(a) applies, any regulatory body established by an Order as the successor to the Council for Professions Supplementary to Medicine or the United Kingdom Central Council for Nursing, Midwifery and Health Visiting or any other regulatory body established by an Order.
- (2) An Order may not impose any requirement which would have the effect that a majority of the members of the regulatory body of any profession would be persons not included in the register of members admitted to practice.
- (3) An Order may not provide for any function conferred on the Privy Council, in relation to any profession to which section 60(2)(a) applies, to be exercised by a different person.
- 8 (1) Where an enactment provides, in relation to any profession, for any function mentioned in sub-paragraph (2) to be exercised by the regulatory body or any of its committees or officers, an Order may not provide for any person other than that regulatory body or any of its committees or officers to exercise that function.
- (2) The functions are—
- (a) keeping the register of members admitted to practice,
 - (b) determining standards of education and training for admission to practice,
 - (c) giving advice about standards of conduct and performance,
 - (d) administering procedures (including making rules) relating to misconduct, unfitness to practise and similar matters.
- (3) In sub-paragraph (1), “enactment” does not include any enactment contained in or made under the Professions Supplementary to Medicine Act 1960 or the Nurses, Midwives and Health Visitors Act 1997.

Preliminary procedure for making Orders

- 9 (1) If it is proposed to lay a draft of an Order before Parliament, the Secretary of State must first—
- (a) publish a draft of an Order, and
 - (b) invite representations to be made to him about the draft by persons appearing to him appropriate to represent the profession to be regulated, persons appearing to him appropriate to represent those provided with services by the profession and any other persons appearing to him appropriate to consult about the draft.
- (2) After the end of the period of three months beginning with the publication of the draft, he may lay the draft as published, or that draft with any modifications he considers appropriate, together with a report about the consultation before Parliament.
- (3) If any provision of a draft would, if it were included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament—

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- (a) the Secretary of State’s duty under sub-paragraph (1) must be performed also by the Scottish Ministers, and
 - (b) sub-paragraph (4) shall apply instead of sub-paragraph (2).
- (4) After the end of the period of three months beginning with the publication of the draft, the draft as published, or that draft with any modifications which the Secretary of State and the Scottish Ministers consider appropriate, may be laid before Parliament and the Scottish Parliament together with a report made by the Secretary of State and the Scottish Ministers about the consultation.

Interpretation and application

- 10 In this Schedule—
- “Order” means an Order in Council under section 60,
 - “regulatory body”, in relation to any profession, means the body (or main body) responsible for the regulation of the profession,
- and other expressions used in this Schedule and in the 1977 Act have the same meaning in this Schedule as in that Act.
- 11 (1) The powers conferred by section 60 may be exercised so as to regulate a profession which is not regulated by any enactment (whether established before or after the passing of this Act).
- (2) References to regulation, in relation to a profession, in that section and this Schedule include—
- (a) the regulation of persons seeking admission to practice or who were, but are no longer, allowed to practise as members of the profession,
 - (b) the regulation of activities carried on by persons who are not members of the profession but which are carried on in connection with the practice of the profession,
 - (c) in the case of the profession of medical practitioner, the regulation of the qualifications or experience required for a medical practitioner to provide, or assist in the provision of, general medical services under the 1977 Act,
 - (d) in the case of the profession of dental practitioner, the regulation of the qualifications or experience required for a dental practitioner to provide, or assist in the provision of, general dental services under the 1977 Act.
- (3) In sub-paragraph (2)(c), the reference to the provision of general medical services includes the performance of personal medical services and the reference to the 1977 Act includes arrangements under section 28C of that Act.
- 12 (1) The powers conferred by section 60 extend to the regulation of—
- (a) the profession regulated by the Pharmacy (Northern Ireland) Order 1976, and
 - (b) activities carried on by persons who are not members of that profession but which are carried on in connection with the practice of that profession,
- only in relation to the matters dealt with in sections 80 to 83 of the Medicines Act 1968.
- (2) But an Order may not provide for any function conferred by any of those sections on the Statutory Committee to be exercised, in relation to Northern Ireland, otherwise than by the committee appointed under Article 19 of the Pharmacy (Northern Ireland) Order 1976.

SCHEDULE 4

Section 65.

AMENDMENTS OF ENACTMENTS

Public Bodies (Admission to Meetings) Act 1960 (c. 67)

- 1 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), after paragraph (g) of paragraph 1 there is inserted—
“(gg) Primary Care Trusts”.

National Health Service Act 1966 (c. 8)

- 2 Section 10 of the National Health Service Act 1966 (modification of prohibition of full-time salaried practitioner service) is omitted (and, accordingly, section 29(4) of the 1977 Act and section 19(3) of the 1978 Act continue to have effect).

Health Services and Public Health Act 1968 (c. 46)

- 3 In section 63 of the Health Services and Public Health Act 1968 (instruction of Health Authority employees and others)—
- (a) in subsection (1)(a), for “or Special Health Authority or a Health Board” there is substituted “Special Health Authority, Health Board or Primary Care Trust”,
 - (b) in subsection (5A), for “or Special Health Authority” in both places there is substituted “Special Health Authority or Primary Care Trust”,
 - (c) in subsection (5B), after “Special Health Authorities” there is inserted—
“(bb) Primary Care Trusts”.

The 1977 Act

- 4 The 1977 Act is amended as follows.
- 5 In section 8 (Health Authorities)—
- (a) in subsection (2), for “act” there is substituted “be established”,
 - (b) in subsection (3)(a), for “act” there is substituted “be established”,
 - (c) in subsection (4), after paragraph (c) there is inserted—
“(d) change the name by which a Health Authority are known”,
 - (d) in subsection (5)—
 - (i) in paragraph (a), for “acting” there is substituted “established”,
 - (ii) in paragraph (b), for “act” there is substituted “are established”.
- 6 In section 11 (Special Health Authorities), for subsection (1) there is substituted—
“(1) The Secretary of State may by order establish special bodies for the purpose of exercising any functions which may be conferred on them by or under this Act.”
- 7 In section 12 (supplementary provisions for sections 8 and 11), subsection (1) is omitted.
- 8 In section 15 (duty of Health Authority in relation to family health services), subsections (1B) to (1D) are omitted.
- 9 For section 16 (exercise of functions) there is substituted—

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“16 Exercise of functions by Health Authorities and Special Health Authorities

- (1) This subsection applies to functions which are exercisable by a Health Authority under or by virtue of this Act (including this section), the National Health Service and Community Care Act 1990 or any prescribed provision of any other Act.
- (2) Regulations may provide for any functions to which subsection (1) above applies to be exercised—
 - (a) by another Health Authority,
 - (b) by a Special Health Authority, or
 - (c) jointly with any one or more of the following: Primary Care Trusts and other Health Authorities.
- (3) Regulations may provide for any functions which are exercisable by a Special Health Authority under section 16D below to be exercised—
 - (a) by another Special Health Authority, or
 - (b) jointly with one or more other Special Health Authorities.
- (4) Regulations may provide—
 - (a) for any functions to which subsection (1) above applies to be exercised, on behalf of the Health Authority by whom they are exercisable, by a committee, sub-committee or officer of the Health Authority,
 - (b) for any functions which, under section 16D below or this section, are exercisable by a Special Health Authority to be exercised, on behalf of that authority, by a committee, sub-committee or officer of the authority,
 - (c) for any functions exercisable jointly under subsection (2)(c) or (3) (b) above to be exercised, on behalf of the health service bodies in question, by a joint committee or joint sub-committee.”

10 After section 16B there is inserted—

“16C Advice for Health Authorities and Primary Care Trusts

- (1) Every Health Authority shall make arrangements with a view to securing that they receive advice appropriate for enabling them effectively to exercise the functions exercisable by them from persons with professional expertise relating to the physical or mental health of individuals.
- (2) This section applies to Primary Care Trusts as it applies to Health Authorities.”

11 In section 26 (supply of goods and services by Secretary of State)—

- (a) in subsection (1)(b), after “by him” there is inserted “or by a Primary Care Trust” and for “or Special Health Authority” there is substituted “Special Health Authority or Primary Care Trust”,
- (b) in subsection (3), for “or Special Health Authority” (in both places) there is substituted “Special Health Authority or Primary Care Trust”,

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- (c) in subsection (4)(b), for “or Special Health Authorities” there is substituted “Special Health Authorities or Primary Care Trusts”.
- 12 (1) Section 27 (conditions of supply under section 26) is amended as follows.
- (2) In subsection (1), for “or Special Health Authority” (in both places) there is substituted “Special Health Authority or Primary Care Trust”.
- (3) In subsection (3)—
- (a) for “and Special Health Authorities”, in the first place where the words appear, there is substituted “Special Health Authorities and Primary Care Trusts”,
- (b) the words from “and it shall” to the end are omitted.
- 13 In section 28 (supply of goods and services by local authorities)—
- (a) in subsection (1), for “and any Special Health Authority” there is substituted “Special Health Authority or Primary Care Trust”,
- (b) in subsection (3), after “Special Health Authorities” (in both places) there is inserted “Primary Care Trusts”.
- 14 (1) Section 28A (power to make payments towards expenditure on community services) is amended as follows.
- (2) In subsection (2), for “An authority to whom” there is substituted “A body to which”.
- (3) Subsections (4) and (8)(a) are omitted.
- (4) In subsection (9)—
- (a) for “expenditure which has been recommended by a joint consultative committee for a payment under this section” there is substituted “the expenditure in respect of which a payment under this section is proposed to be made”,
- (b) in paragraph (a), for “authority” there is substituted “body”,
- (c) in paragraph (a), after “subsection (2)” there is inserted “or (2A)”,
- (d) in paragraph (b), after “subsection (2) above” there is inserted “, or in subsection (2A) above”,
- (e) for sub-paragraphs (i) and (ii) there is substituted “which conform with the conditions prescribed for payments of that description under subsection (5) above”.
- 15 In section 28C(4) (personal medical or dental services), for “13” there is substituted “16D”.
- 16 In section 28D (persons who may provide personal medical or personal dental services)—
- (a) in subsection (1), after paragraph (e) there is inserted—
- “(f) a Primary Care Trust”,
- (b) in subsection (2), in paragraph (a) of the definition of “qualifying body”, for “paragraphs (a) to (d)” there is substituted “paragraph (a), (b), (c), (d) or (f)”.
- 17 In section 29A(3)(b) of the 1977 Act (medical lists), for the words from first “disqualified” to “46” there is substituted “disqualified for inclusion in the list by, or by virtue of a direction of, the NHS Tribunal”.
- 18 In section 48 (disqualification provisions in Scotland or Northern Ireland)—

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- (a) in paragraph (a), for the words from “services” to “above” there is substituted “any of the services mentioned in any of the paragraphs of section 46(8) above”,
- (b) in paragraph (b), at the beginning there is inserted “in relation to the services in question” and for the words from “a list” to the end there is substituted “any list and (if also the subject of a declaration under those provisions corresponding to a declaration of unfitness) be treated as if a declaration of unfitness had been made in respect of him.”
- (2) Where under the conditional disqualification provisions in Scotland or Northern Ireland—
- (a) any conditions are imposed in relation to the provision by any person of any services mentioned in section 46(8) above, or
- (b) any conditions so imposed are varied,
- the Secretary of State may, by a notice in writing given to each Health Authority and to the person in question, impose those conditions in relation to the provision by that person of those services under this Part of this Act.
- (3) A notice under subsection (2) above may make such modifications of the conditions as the Secretary of State considers necessary for them to have the like effect in relation to England and Wales as they have in relation to Scotland or (as the case may be) Northern Ireland, but only if the Secretary of State has previously given the person concerned written notice of the proposed modifications and an opportunity (in accordance with such requirements, if any, as may be prescribed) to make representations about them.
- (4) Conditions imposed by a notice under subsection (2) above shall cease to have effect if the Secretary of State withdraws the notice by giving written notice to the person concerned.
- (5) In this section, “the conditional disqualification provisions in Scotland or Northern Ireland” means any provisions in force in Scotland or Northern Ireland corresponding to sections 46C and (so far as relating to conditional disqualifications) 47 above
- 19 In section 49 (regulations as to sections 46 to 48)—
- (a) in paragraph (c), after “disqualifications” there is inserted “or conditions”,
- (b) at the end of that section there is inserted—
- “(2) Regulations under subsection (1)(a) above may in particular provide that, where (apart from the regulations) it would be the duty of the Tribunal to inquire into both an efficiency case and a fraud case in respect of the same person, they may inquire into one case before inquiring into the other and, after proceedings in the first case are finally disposed of, may if they think it appropriate adjourn the other case indefinitely.”
- 20 In section 49A (application for interim suspension)—
- (a) after subsection (1) there is inserted—
- “(1A) A Health Authority may, if they have requested a review of a conditional disqualification on the ground mentioned in section 47(3)(b) or (c) above, at any time before the review is concluded apply to the Tribunal for a direction to be made under

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- subsection (2) below in relation to the person to whom the review relates.”,
- (b) in subsection (2), for the words from “it” to “patients” there is substituted “either of the conditions for doing so is satisfied” and after “in question” there is inserted “or the case to which the review in question,”,
 - (c) after that subsection there is inserted—
 - “(2A) The conditions for giving such a direction are—
 - (a) that it is necessary to do so in order to protect persons who are, or may be, provided with services under this Part of this Act to which the case in question, or the case to which the review in question, relates,
 - (b) in, or in the case of a review relating to, a fraud case, that unless they do so there is a significant risk that—
 - (i) an act or omission within section 46(7)(a) above will occur, or
 - (ii) the investigation of the case or the review will be prejudiced.”,
 - (d) in subsection (3)(c), for the words from “under” to “engaged in” there is substituted “of unfitness in relation to”,
 - (e) in subsection (4), after “case” there is inserted “or review”,
 - (f) subsection (5) is omitted,
 - (g) in subsection (6)(a), “prepared under this Part of this Act” is omitted.
- 21 In section 49B (continuation of suspension pending appeal)—
 - (a) for subsection (1) and the preceding sidenote there is substituted—
- “49B Suspension pending appeal**
- (1) Where, on disposing of a case under section 46B above, the Tribunal make a national disqualification, they may, if they consider that either of the conditions mentioned in section 49A(2A) above is satisfied, direct that section 49A(3) above shall apply or, if a direction has been given under section 49A(2) above, shall continue to apply to him as respects services of the kind to which the disqualification relates.”,
 - (b) in subsection (2), in paragraph (a), for “direction under section 46(2)(b) above” there is substituted “national disqualification” and, in paragraph (b), for “that direction” there is substituted “the disqualification”,
 - (c) in subsection (3), for the words from “direction” to “section 46(2)(c) above” there is substituted “disqualification which is not coupled with a declaration of unfitness”,
 - (d) subsection (4) is omitted.
- 22 In section 49D (suspension provisions in Scotland or Northern Ireland), for “46(1)” there is substituted “46(8)”.
- 23 In section 51 (university clinical teaching and research)—
 - (a) in subsection (2), for “or Special Health Authority” in both places there is substituted “Special Health Authority or Primary Care Trust”,
 - (b) in subsection (3), after “Special Health Authorities” there is inserted—
 - “(bb) Primary Care Trusts”.

Status: This is the original version (as it was originally enacted).

- 24 Section 65(3) (accommodation and services for private patients: directions) is omitted.
- 25 In section 85 (default powers), after subsection (1)(b) there is inserted—
 “(bb) a Primary Care Trust”.
- 26 In section 86 (emergency powers), in paragraph (b), the words from “and it shall” to the end are omitted.
- 27 In section 91 (private trusts for hospitals)—
 (a) in subsection (3), for paragraphs (aa) to (b) there is substituted—
 “(b) where the hospital is managed by, and trustees have been appointed for, an NHS trust or Primary Care Trust, the trustees,
 (c) where the hospital is managed by an NHS trust or Primary Care Trust and neither paragraph (a) nor paragraph (b) applies, the NHS trust or (as the case may be) Primary Care Trust,
 (d) in any other case, the Health Authority or Special Health Authority exercising functions of the Secretary of State in respect of the hospital”,
 (b) in subsection (4), “to a trust for a special hospital, or” is omitted.
- 28 In section 92 (further transfers of trust property)—
 (a) in subsection (1A), after “NHS trust” (in both places) there is inserted “or a Primary Care Trust”,
 (b) after subsection (6) there is inserted—
 “(7) Subsection (6) above applies in relation to a Primary Care Trust as it applies in relation to an NHS trust.”
- 29 In section 96 (trusts: supplementary provisions), after “90 to 95 above” (in both places) there is inserted “and 96B below”.
- 30 (1) Section 96A (power of health authorities etc. to raise money) is amended as follows.
 (2) In subsection (5)(b), “on behalf” is omitted.
 (3) After subsection (5A) there is inserted—
 “(5B) Where property—
 (a) is given in pursuance of this section on trust for any purposes of a Primary Care Trust for which trustees have been appointed under section 96B below, and
 (b) those trustees and the Primary Care Trust agree,
 the property may be held, administered and applied by those trustees instead of by the Primary Care Trust.”
 (4) After subsection (10) there is inserted—
 “(11) This section (apart from subsection (5A)) has effect in relation to a Primary Care Trust as it has effect in relation to an NHS trust.”
- 31 (1) Section 97 (public funding of Health Authorities and Special Health Authorities) is amended as follows.
 (2) In subsection (6), after paragraph (b) there is inserted—

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“(bb) the application of sums received by them under section 97C(4) below; or”,

and accordingly the “or” after paragraph (b) is omitted.

(3) Subsection (7) is omitted.

(4) In subsection (9), after “paid” there is inserted “to Health Authorities or Special Health Authorities”.

32 Section 97A(5) (duty to comply with directions) is omitted.

33 (1) Section 98 (accounts and audit) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (b) there is inserted—

“(bb) every Primary Care Trust”,

(b) in paragraph (dd), after “1990” there is inserted—

“(ddd) any trustees for a Primary Care Trust appointed in pursuance of section 96B above”.

(3) Before subsection (2A) there is inserted—

“(2AA) Every Primary Care Trust shall send a copy of any accounts it has prepared under subsection (2) above to the Health Authority within whose area the trust’s area falls.”

34 In section 99 (regulation of financial arrangements)—

(a) in subsection (1), after paragraph (b) there is inserted—

“(ba) Primary Care Trusts”,

(b) in subsection (3), the words from “and shall be complied with” to the end are omitted.

35 In section 103 (special arrangements as to payment of remuneration), in subsection (3)(a), after “trust” there is inserted “or a Primary Care Trust”.

36 In section 122(2) (recovery of charges), “as a simple contract debt” is omitted.

37 (1) Section 126 (orders, regulations and directions) is amended as follows.

(2) In subsection (1)—

(a) after “virtue of this Act shall” there is inserted “, unless it is a PCT order,”,

(b) in paragraph (b), after “apply to” there is inserted “an order made under section 28EE(2) above, paragraph 20, 21 or 23 of Schedule 5A to this Act or to”.

(3) In subsection (3A), after “Secretary of State” there is inserted “or by a Health Authority”.

(4) In subsection (3B), for “11 to 17” there is substituted “16D to 17B”.

(5) After subsection (3B) there is inserted—

“(3C) Any person or body to whom directions are given in pursuance of any provision of this Act or Part I of the National Health Service and Community Care Act 1990 shall comply with the directions.”

Status: This is the original version (as it was originally enacted).

- (6) In subsection (4), for “incidental or supplemental” there is substituted “supplementary, incidental, consequential, transitory, transitional or saving”.
- 38 (1) Section 128 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “health service hospital”, after “or vested in” there is inserted “a Primary Care Trust or”,
- (b) after that definition there is inserted—
- ““high security psychiatric services” has the meaning given by section 4 above”,
- (c) after the definition of “prescribed” there is inserted—
- ““PCT order” has the meaning given by section 16A above”,
- (d) the definition of “special hospital” is omitted.
- (3) After that subsection there is inserted—
- “(1A) So far as is necessary or expedient in consequence of a direction under section 16D or 17A above providing for the exercise by a Health Authority, Special Health Authority or Primary Care Trust of a function exercisable by another person, any reference in any enactment, instrument or other document to that other person is to be read as a reference to the Health Authority, Special Health Authority or Primary Care Trust.”
- 39 (1) Schedule 5 (Health Authorities and Special Health Authorities) is amended as follows.
- (2) In paragraph 9 (pay and allowances), in sub-paragraph (4), after “sub-committee of” there is inserted “, or joint committee or joint sub-committee including,”.
- (3) In paragraph 10 (staff), in sub-paragraph (3), the words from “and it shall” to the end are omitted.
- (4) In paragraph 12 (miscellaneous)—
- (a) in paragraph (a), after “sub-committee of” there is inserted “, or joint committee or joint sub-committee including,”,
- (b) in paragraph (b), for “of an authority” to “and committees and sub-committees” there is substituted “(and joint committees and joint sub-committees) of (or including) an authority (including any such committees”.
- (5) For sub-paragraph (1) of paragraph 15 (acting as principal), there is substituted—
- “15 (1) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by an authority of any function exercisable by them by virtue of section 16 or 16D above are enforceable by or (as the case may be) against that authority (and no other health service body).
- (1A) This paragraph does not apply in relation to the joint exercise of any functions by an authority with another body under section 16(2)(c) or (3)(b) above.”
- 40 In Schedule 7 (Community Health Councils), in paragraph 2 (regulations)—
- (a) in sub-paragraphs (d) and (e), after “Health Authorities” there is inserted “Primary Care Trusts”,

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- (b) in sub-paragraphs (f) and (g), after “Health Authorities” there is inserted “and Primary Care Trusts”.
- 41 In Schedule 9 (NHS Tribunal), in paragraph 5A—
- (a) in sub-paragraph (2)(a), for “section 46” there is substituted “sections 46 to 46C”,
 - (b) in sub-paragraph (2)(b), after “disqualification” there is inserted “conditional disqualification or declaration of unfitness”,
 - (c) in sub-paragraph (2)(d), for the words from “the application” to the end there is substituted “section 49A(3) may be made to apply or continue to apply”.

The 1978 Act

- 42 The 1978 Act is amended as follows.
- 43 In section 9 (local consultative committees)—
- (a) in subsection (5), for “on the provision of services under this Act” there is substituted “and, where the Secretary of State so directs, an NHS trust on the provision of services under this Act or under a pilot scheme under section 1 of the National Health Service (Primary Care) Act 1997”,
 - (b) in subsection (7), after “Health Boards” there is inserted “or, where the Secretary of State so directs, NHS trusts” and for “may be prescribed” there is substituted “the Secretary of State may direct”.
- 44 In section 10(4) (Common Services Agency)—
- (a) after “Health Boards” in the first place where it appears there is inserted “the NHS trusts”,
 - (b) after “Health Boards” in the second place where it appears there is inserted “or of the NHS trusts”,
 - (c) after “Health Boards” in the third place where it appears there is inserted “or NHS trusts”.
- 45 In section 12A(5) (NHS trusts)—
- (a) in paragraph (a), for “and directors” there is substituted “, directors and trustees”,
 - (b) in paragraph (b), after “directors” there is inserted “, trustees”,
 - (c) in paragraph (c), after “directors” there is inserted “and trustees”,
 - (d) in paragraph (d), for the words from “director” where it first appears to the end of the paragraph there is substituted “trustee, to be regarded as an executive director rather than as a trustee”.
- 46 In section 17A (NHS contracts)—
- (a) in subsection (2)—
 - (i) after paragraph (a) there is inserted—

“(aa) Special Health Boards”,
 - (ii) after paragraph (k) there is inserted—

“(ka) Primary Care Trusts established under section 16A of the National Health Service Act 1977”,
 - (iii) paragraphs (d) and (j) are omitted,
 - (b) in subsection (3), paragraph (a) and the word “and” following it are omitted.

Status: This is the original version (as it was originally enacted).

- 47 In section 17E (personal medical and dental services: regulations), subsection (4) is omitted.
- 48 In section 19A(3)(b) (medical lists), for the words from first “disqualified” to “29” there is substituted “disqualified for inclusion in the list by, or by virtue of a direction of, the NHS Tribunal”.
- 49 Section 31 (disqualification provisions in England and Wales or Northern Ireland) is renumbered as subsection (1) of that section and—
- (a) in paragraph (a), for the words from “services” to “29(1)” there is substituted “any of the services mentioned in one of the paragraphs of section 29(8)”;
 - (b) in paragraph (b), at the beginning, there is inserted “in relation to the services in question” and for the words from “a list” to the end there is substituted “any list and (if also the subject of such a declaration under those provisions corresponding to a declaration of unfitness) be treated as if a declaration of unfitness had been made in respect of him”;
 - (c) after that subsection there is inserted—
 - “(2) Where under the conditional disqualification provisions in England and Wales or Northern Ireland—
 - (a) any conditions are imposed in relation to the provision by any person of any of the services mentioned in section 29(8); or
 - (b) any conditions so imposed are varied,
 the Secretary of State may, by a notice in writing given to each Health Board and to the person in question, impose those conditions in relation to the provision by that person of those services under this Part.
 - (3) A notice under subsection (2) may make such modifications of the conditions as the Secretary of State considers necessary for them to have the like effect in relation to Scotland as they have in relation to England and Wales or (as the case may be) Northern Ireland, but only if the Secretary of State has previously given the person concerned written notice of the proposed modifications and an opportunity (in accordance with such requirements, if any, as may be prescribed) to make representations about them.
 - (4) Conditions imposed by a notice under subsection (2) shall cease to have effect if the Secretary of State withdraws the notice by giving written notice to the person concerned.
 - (5) In this section, “the conditional disqualification provisions in England and Wales or Northern Ireland” means any provisions in force in England and Wales or Northern Ireland corresponding to sections 29C and (so far as relating to conditional disqualifications) 30.”
- 50 Section 32 (regulations as to sections 29 to 31) is renumbered as subsection (1) of that section and—
- (a) in paragraph (c) after “disqualification” in both places where it occurs there is inserted “or condition”;
 - (b) after that subsection there is inserted—

Status: This is the original version (as it was originally enacted).

“(2) Regulations under subsection (1)(a) may in particular provide that, where (apart from the regulations) it would be the duty of the Tribunal to inquire into both an efficiency case and a fraud case in respect of the same person, they may inquire into one case before inquiring into the other and, after proceedings in the first case are finally disposed of, may if they think it appropriate adjourn the other case indefinitely.”

51 In section 32A (applications for interim suspension)—

(a) after subsection (1) there is inserted—

“(1A) A Health Board may, if they have requested a review of a conditional disqualification on the ground mentioned in section 30(3)(b) or (c), at any time before the review is concluded apply to the Tribunal for a direction to be made under subsection (2) in relation to the person to whom the review relates.”,

(b) in subsection (2), for the words from “it” to “patients” there is substituted “either of the conditions for doing so is satisfied” and after “in question” there is inserted “or the case to which the review in question”,

(c) after that subsection there is inserted—

“(2A) The conditions for giving such a direction are—

(a) that it is necessary to do so in order to protect persons who are, or may be, provided with services under this Part to which the case in question, or the case to which the review in question, relates;

(b) in, or in the case of a review relating to, a fraud case, that unless they do so there is a significant risk that—

(i) an act or omission within section 29(7)(a) will occur; or

(ii) the investigation of the case or the review will be prejudiced.”,

(d) in subsection (3)(c), for the words from “under” to “engaged in” there is substituted “of unfitness in relation to”,

(e) in subsection (4), after “case” there is inserted “or review”,

(f) subsection (5) is omitted

(g) in subsection (6)(a), “prepared under this Part of this Act” is omitted.

52 In section 32B (continuation of suspension pending appeal)—

(a) for subsection (1) and the preceding sidenote there is substituted—

“32B Suspension pending appeal

(1) Where, on disposing of a case under section 29B, the Tribunal make a national disqualification, they may, if they consider that either of the conditions mentioned in section 32A(2A) is satisfied, direct that section 32A(3) shall apply or, if a direction has been given under section 32A(2), shall continue to apply to him as respects services of the kind to which the disqualification relates.”,

Status: This is the original version (as it was originally enacted).

- (b) in subsection (2), in paragraph (a), for “direction under section 29(2)(b)” there is substituted “national disqualification” and, in paragraph (b), for “that direction” there is substituted “the disqualification”,
 - (c) in subsection (3), for the words from “direction” to “section 29(3)(c)” there is substituted “disqualification which is not coupled with a declaration of unfitness”,
 - (d) subsection (4) is omitted.
- 53 In section 32D (suspension provisions in England and Wales or Northern Ireland), for “29(1)” there is substituted “29(8)”.
- 54 After section 35 there is inserted—

“35A Interpretation of Part II

Where, under a direction by the Secretary of State, a Health Board has delegated any of its functions to an NHS trust, any reference in this Part to a Health Board in relation to such a delegated function shall, unless the context otherwise requires, include a reference to an NHS trust.”

- 55 In section 85A (financial duties of certain bodies)—
- (a) in subsection (1), before “85(1)” in both places where it occurs there is inserted “85AA(1) or” and for “85(2)(a)” there is substituted “85AA(3)”,
 - (b) in subsection (2), for “Subsection (3) of section 85” there is substituted “Subsection (9) of section 85AA”,
 - (c) in subsection (3), before “85(1)” there is inserted “85AA(1) or”,
 - (d) in subsection (6), in paragraph (c) before “85(1)” there is inserted “85AA(1)” and for “85(2)(a)” there is substituted “85AA(3)”.
- 56 In section 85B(2) (bodies in respect of which schemes for meeting losses and liabilities may be made)—
- (a) the “and” after paragraph (c) is omitted,
 - (b) after paragraph (d) there is inserted “and
 - (e) Special Health Boards”.
- 57 In section 86 (accounts of Health Boards and the Agency), subsections (1A), (1C) and (5) are omitted.
- 58 Section 87D (indicative amounts for doctors' practices) is omitted.
- 59 In section 102 (state hospitals), for paragraph (b) of subsection (4) there is substituted—
- “(b) A Health Board, a Special Health Board, the Agency or an NHS trust to the extent that power to do so is delegated to the Board, Agency or trust by the Secretary of State.”
- 60 In section 105(7) (orders, regulations and directions), for “incidental or supplemental” there is substituted “supplementary, incidental, consequential, transitory, transitional or saving”.
- 61 In section 108(1) (interpretation)—
- (a) in the appropriate place there is inserted—
 - ““goods” includes accommodation”,
 - (b) for the definition of “state hospital” there is substituted—

Status: This is the original version (as it was originally enacted).

““state hospital” has the meaning indicated in section 102(2)”.

- 62 In Schedule 7A (NHS trusts)—
- (a) for any reference to a non-executive director or to non-executive directors there is substituted a reference to a trustee or, as the case may be, to trustees,
 - (b) in paragraph 16(c), the words from “which purposes shall include” to the end are omitted,
 - (c) in paragraph 22, in sub-paragraph (1), in paragraph (c) the words from “or is within” to the end of the paragraph, and “or Health Authority” are omitted,
 - (d) paragraph 23 is omitted.
- 63 (1) Schedule 7B (financial provisions relating to NHS trusts) is amended as follows.
- (2) In paragraph 6 (surplus funds)—
- (a) for “amount standing in the reserves of an NHS trust” there is substituted “sum held by an NHS trust other than a sum held on trust under section 12G”,
 - (b) for “that amount” there is substituted “that sum”.
- (3) For paragraph 7 of that Schedule (investment) there is substituted—
- “7 An NHS trust shall have power to invest money held by it in any investments, including investments which do not produce income, specified in directions made by the Secretary of State with the consent of the Treasury; but nothing in this paragraph applies in relation to money held on trust under section 12G.”
- (4) After that paragraph there is inserted—
- “8 Any direction with respect to—
- (a) the power conferred on an NHS trust by paragraph 1; or
 - (b) the maximum amount which an NHS trust may invest in any investment or class of investment,
- may be given only with the consent of the Treasury.”
- 64 In Schedule 8 (the Tribunal), in paragraph 8—
- (a) in sub-paragraph (2)(a), for “section 29” there is substituted “sections 29 to 29C”,
 - (b) in sub-paragraph (2)(b), after “disqualification” there is inserted “conditional disqualification or declaration of unfitness”,
 - (c) in sub-paragraph (2)(d), for the words from “the application” to the end there is substituted “section 32A(3) may be made to apply or continue to apply”.

Mental Health Act 1983 (c. 20)

- 65 The Mental Health Act 1983 is amended as follows.
- 66 In section 122(1) (provision of pocket money for in-patients in hospital), “special hospitals or other hospitals being” is omitted.
- 67 In section 123 (transfers to and from special hospitals)—
- (a) in subsection (1), “in a special hospital” is omitted, after “above)” there is inserted “in a hospital at which high security psychiatric services are

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- provided” and for “other special hospital” there is substituted “other hospital at which those services are provided”,
- (b) in subsection (2), for “which is not a special hospital” there is substituted “at which those services are not provided”.
- 68 In section 134 (correspondence of patients)—
- (a) in subsection (1)(b), for “a special hospital” there is substituted “one at which high security psychiatric services are provided”,
- (b) in subsection (2), for “in a special hospital under this Act” there is substituted “under this Act in a hospital at which high security psychiatric services are provided”.
- 69 (1) Section 145 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) after the definition of “Health Authority” there is inserted—
- ““high security psychiatric services” has the same meaning as in the National Health Service Act 1977,”,
- (b) the definition of “special hospital” is omitted.
- (3) After that subsection there is inserted—
- “(1AA) Where high security psychiatric services and other services are provided at a hospital, the part of the hospital at which high security psychiatric services are provided and the other part shall be treated as separate hospitals for the purposes of this Act.”

Mental Health (Scotland) Act 1984 (c. 36)

- 70 In section 125(1) (interpretation) of the Mental Health (Scotland) Act 1984, in the definition of “managers of a hospital”, in paragraph (c) after “Health Board” there is inserted “, to a Special Health Board, to an NHS trust” and after “that Board” there is inserted “, trust”.

Hospital Complaints Procedure Act 1985 (c. 42)

- 71 In section 1 of the Hospital Complaints Procedure Act 1985 (complaints procedures for hospitals managed by health authorities and NHS trusts)—
- (a) in subsection (1), the words from “under” to “functions)” and “for the management of” are omitted and for “are responsible” there is substituted “manage”,
- (b) in subsection (1A), for “is responsible for the management of” there is substituted “manages”, “for the management of” is omitted and for “is responsible” there is substituted “manages”,
- (c) after subsection (1A) there is inserted—
- “(1B) It shall also be the duty of the Secretary of State to give to each Primary Care Trust which manages a hospital such directions as appear necessary for the purpose of securing that, as respects each hospital which that Primary Care Trust manages—
- (a) such arrangements are made for dealing with complaints made by or on behalf of persons who are or have been patients at that hospital; and

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- (b) such steps are taken for publicising the arrangements so made,
as (in each case) are specified or described in the directions.

(1C) In this section, “directions” means—

- (a) in relation to England and Wales, directions under section 17 of the National Health Service Act 1977,
- (b) in relation to Scotland, directions under section 2(5) of the National Health Service (Scotland) Act 1978.”

Health Service Joint Consultative Committees (Access to Information) Act 1986 (c. 24)

- 72 The Health Service Joint Consultative Committees (Access to Information) Act 1986 is to cease to have effect.

Income and Corporation Taxes Act 1988 (c. 1)

- 73 In section 519A(2) of the Income and Corporation Taxes Act 1988 (health service bodies), after paragraph (aa) there is inserted—
“(ab) a Primary Care Trust”.

The 1990 Act

- 74 The 1990 Act is amended as follows.
- 75 In section 3(1)(a) (primary functions of Health Authorities and Special Health Authorities), for “11 or 13” there is substituted “16D”.
- 76 In section 4 (NHS contracts)—
(a) in subsection (2)—
(i) after paragraph (b) there is inserted—
“(bb) a Primary Care Trust”,
(ii) after paragraph (f) there is inserted—
“(ff) the Commission for Health Improvement”,
(b) in subsections (6) and (7), the words from “and it shall” to the end are omitted.
- 77 In section 6 (transfer of staff to NHS trusts)—
(a) for “or Special Health Authority” in each place there is substituted “Special Health Authority or Primary Care Trust”,
(b) in subsection (1)(a), after “responsibility of the” there is inserted “NHS”.
- 78 In section 7 (supplementary provisions as to transfer of staff), for “or Special Health Authority” there is substituted “Special Health Authority or Primary Care Trust”.
- 79 (1) Section 8 (transfer of property, rights and liabilities to NHS trust) is amended as follows.
(2) In subsection (1)—
(a) for “such” there is substituted “any”,
(b) for “Health Authority or Special Health Authority” there is substituted “Health Authority, Special Health Authority or Primary Care Trust”,
(c) the words from “as, in his opinion,” to the end are omitted.

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- (3) In subsections (2), (3) and (5), for “Health Authority or Special Health Authority” there is substituted “Health Authority, Special Health Authority or Primary Care Trust”.
- (4) For subsection (6) there is substituted—
- “(6) Any property, rights and liabilities which—
- (a) belong to, or are used or managed by, a Health Authority or Special Health Authority or belong to a Primary Care Trust, and
- (b) are to be transferred to an NHS trust by or by virtue of an order under this section,
- must be identified by agreement between the Health Authority, Special Health Authority or Primary Care Trust and the NHS trust or, in default of agreement, by direction of the Secretary of State.”
- 80 Section 18 (indicative amounts for doctors' practices) is omitted.
- 81 (1) Section 21 (schemes for meeting losses and liabilities etc. of certain health service bodies) is amended as follows.
- (2) In subsection (2)—
- (a) after “Special Health Authorities” there is inserted—
- “(aaa) Primary Care Trusts”,
- (b) after “NHS trusts” there is inserted—
- “(bb) the Commission for Health Improvement”.
- (3) In subsections (3) to (5), after “Special Health Authority” in each place where it appears there is inserted “Primary Care Trust”.
- 82 In section 61(3) (health service bodies: taxation), after “1991” there is inserted “or to a Primary Care Trust”.
- 83 (1) Schedule 2 (NHS trusts) is amended as follows.
- (2) In paragraph 3 (matters to be specified in order establishing NHS trust), in sub-paragraph (1)(f), after “which are” there is inserted “or the Primary Care Trust which is”.
- (3) In paragraph 4 (making staff available to new NHS trust), for “or Special Health Authority” in both places there is substituted “Special Health Authority or Primary Care Trust”.
- (4) In paragraph 6 (duties of NHS trusts)—
- (a) in sub-paragraph (1), the words following “Schedule”, and
- (b) sub-paragraph (2),
- are omitted.
- (5) In paragraph 13 (bodies with whom NHS trust can exercise functions jointly), after “jointly” there is inserted “with any Primary Care Trust”.
- (6) Paragraphs 19 and 20 (re-imbursement for health services work carried out otherwise than under NHS contract) are omitted.
- (7) In paragraph 30 (transfer of property etc. on dissolution of NHS trust), in sub-paragraph (1), after paragraph (bb) there is inserted—

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“(bbb) a Primary Care Trust, or”.

84 (1) Schedule 3 (financial provisions relating to NHS trusts) is amended as follows.

(2) In paragraph 6 (surplus funds)—

(a) for “amount standing in the reserves of an NHS trust” there is substituted “sum held by an NHS trust otherwise than as trustee”,

(b) for “that amount” there is substituted “that sum”.

(3) For paragraph 7 (investment) there is substituted—

“7 An NHS trust shall have power to invest money held by it in any investments, including investments which do not produce income, specified in directions under section 17 of the principal Act; but nothing in this paragraph applies in relation to money held by an NHS trust as trustee”.

(4) After that paragraph there is inserted—

“8 Any direction under section 17 of the principal Act with respect to—

(a) the power conferred on an NHS trust by paragraph 1 above; or

(b) the maximum amount which an NHS trust may invest in any investments or class of investments,

may be given only with the consent of the Treasury.”

Health Service Commissioners Act 1993 (c. 46)

85 (1) The Health Service Commissioners Act 1993 is amended as follows.

(2) In section 2 (bodies subject to investigation)—

(a) in subsection (1), after paragraph (d) there is inserted—

“(da) Primary Care Trusts established for areas in England”,

(b) in subsection (2), after paragraph (a) there is inserted—

“(aa) Primary Care Trusts established for areas in Wales”.

(3) In section 3 (general remit of Commissioners), subsection (1B) is omitted.

(4) In section 19 (interpretation), the definitions of “allotted sum” and “recognised fund-holding practice” are omitted.

Value Added Tax Act 1994 (c. 23)

86 In section 41(7) (application to Crown), after “1978” there is inserted “and a Primary Care Trust”.

National Health Service (Residual Liabilities) Act 1996 (c. 15)

87 In section 1 of the National Health Service (Residual Liabilities) Act 1996—

(a) in subsection (1), after “trust” there is inserted “a Primary Care Trust”,

(b) in subsection (2), after paragraph (d) there is inserted—

“(dd) a Primary Care trust”.

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National Health Service (Primary Care) Act 1997 (c. 46)

- 88 (1) The National Health Service (Primary Care) Act 1997 is amended as follows.
- (2) In section 1 (pilot schemes), in subsection (7), after “NHS trust” there is inserted “and a Primary Care Trust”.
- (3) In section 2 (persons who may provide personal medical services under a pilot scheme)—
- (a) in subsection (2), after paragraph (e) there is inserted—
- “*(f) a Primary Care Trust*”,
- (b) in subsection (3), in the definition of “qualifying body”, for “or (e)” there is substituted “(e) or (f)”.
- (4) In section 3 (persons who may provide personal dental services under a pilot scheme)—
- (a) in subsection (2), after paragraph (e) there is inserted—
- “*(f) a Primary Care Trust*”,
- (b) in subsection (3), in paragraph (b) of the definition of “qualifying body”, for “or (e)” there is substituted “(e) or (f)”.
- (5) In section 9 (relationship between 1977 Act and 1997 Act)—
- (a) in subsection (1), for “13” there is substituted “16D” and for “functions on his behalf” there is substituted “his functions”,
- (b) in subsection (2)(b), for “13” there is substituted “16D”.
- (6) Sections 14 (returning to fund-holding status) and 19 (fund-holding practices) are omitted.

National Health Service (Private Finance) Act 1997 (c. 56)

- 89 Section 1 of the National Health Service (Private Finance) Act 1997 (powers to enter into externally financed development agreements) applies to Primary Care Trusts as it applies to NHS trusts.

Audit Commission Act 1998 (c. 18)

- 90 In section 5 of the Audit Commission Act 1998 (general duties of auditors), in subsection (1)(a), for “(2B) (NHS trusts) or (2B) (fund-holding practices)” substitute “or (2B)”.

SCHEDULE 5

Section 65.

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1960 c. 66.	The Professions Supplementary to Medicine Act 1960.	The whole Act.

The repeal of section 97(2) of the 1977 Act has effect for the financial year 1999-2000 and subsequent financial years.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1966 c. 8.	The National Health Service Act 1966.	Section 10.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In section 97, in paragraph (a) of subsection (2), subparagraph (iii), subsection (2A) and in subsection (2B) the definitions of “recognised fund-holding practice” and “allotted sum”.
1977 c. 49.	The National Health Service Act 1977.	In section 8(4), the “or” after paragraph (b). Section 12(1). Section 13. Section 15(1B) to (1D). Section 22(2) to (6). In section 27(3), the words following “appropriate”. Section 28A(4) and (8)(a). Section 28E(4). In section 44(1), paragraphs (a) and (b) and “the Local Medical Committee, the Local Dental Committee”. In section 45(2), “(including travelling and subsistence allowances payable to its members)”. In section 49A, subsection (5) and, in subsection (6)(a), “prepared under this Part of this Act”. Section 49B(4). Section 65(3). In section 86(b), the words following “accordingly”. In section 91(4), “to a trust for a special hospital, or”. In section 96A(5)(b), “on behalf”.

The repeal of section 97(2) of the 1977 Act has effect for the financial year 1999-2000 and subsequent financial years.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 97, subsection (2), in subsection (6), “or” after paragraph (b), and subsection (7). Section 97A(5).
		In section 98, the subsection numbered (2B) which was inserted by section 20(2)(b) of the 1990 Act.
		In section 99(3), the words following paragraph (b).
		In section 122(2), “as a simple contract debt”.
		In section 128(1), the definitions of “fund-holding practice” and “special hospital”.
		In Schedule 5, in paragraph 10(3), the words following paragraph (c).
		In Schedule 15, paragraph 37.
1978 c. 29.	The National Health Service (Scotland) Act 1978.	Section 12E(5) and (6). In section 17A, subsection (2) (d) and (j) and, in subsection (3), paragraph (a) and “and” following it. Section 17E(4). In section 32A, subsection (5) and, in subsection (6)(a), “prepared under this Part of this Act”. Section 32B(4). Section 86(1A), (1C) and (5). Sections 87A to 87D. In Schedule 7A, paragraph 6(2), in paragraph 16(c) the words from “which purposes shall include” to the end, in paragraph 22(1), “or Health Authority” and, in paragraph (c), the words

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1983 c. 20.	The Mental Health Act 1983.	following “Health Board” and paragraph 23. In Schedule 7B, paragraphs 1(3) to (5), 3(2) and 5(2). In Schedule 16, paragraph 22. In section 122(1), “special hospitals or other hospitals being”. In section 123(1), “in a special hospital”. In section 145(1), in the definition of “the managers”, paragraph (b), and the definition of “special hospital”.
1985 c. 42.	The Hospital Complaints Procedure Act 1985.	In section 1, in subsection (1), the words from “under” to “functions)” and “for the management of” and, in subsection (1A), “for the management of”.
1986 c. 24.	The Health Service Joint Consultative Committees (Access to Information) Act 1986.	The whole Act.
1990 c. 19.	The National Health Service and Community Care Act 1990.	In section 4, subsection (2) (f), in subsection (6), the words following “with;” and, in subsection (7), the words following “dispute;”. In section 5(1), “or, as the case may be, subsection (3)”. In section 8(1), the words from “as, in his opinion” to the end. Section 9(5) and (6). Sections 14 to 18. Section 20(2)(b). Sections 34 and 35. Section 62. In Schedule 2, in paragraph 6, in sub-paragraph (1), the

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		words following “Schedule” and sub-paragraph (2) and paragraphs 19 and 20.
		In Schedule 3, paragraphs 1(3) to (5), 3(3) and 5(2).
		In Schedule 7, paragraph 14(3).
1993 c. 46.	The Health Service Commissioners Act 1993.	Section 3(1B).
		In section 15, subsection (1A) and, in subsection (1B), the words following “patients”.
		In section 19, the definitions of “allotted sum” and “recognised fund-holding practice”.
1995 c. 17.	The Health Authorities Act 1995.	In Schedule 1, paragraphs 3(a), 4, 6(c) and (d), 34, 50(c), 58(b), 72 to 77 and 85(d).
		In Schedule 2, paragraph 13(5).
1995 c. 31.	The National Health Service (Amendment) Act 1995.	Section 1.
		Section 2(2).
		Section 3.
		Sections 7 and 9.
1996 c. 5.	The Health Service Commissioners (Amendment) Act 1996.	In Schedule 1, paragraph 6(2) and (7).
1997 c. 24.	The Nurses, Midwives and Health Visitors Act 1997.	The whole Act.
1997 c. 46.	The National Health Service (Primary Care) Act 1997.	Section 14.
		Section 19.
		In Schedule 2, paragraphs 4(3) and (4), 53 to 55, 65(3) to (10), 69, 71(4), 77 and 78.
1998 c. 18.	The Audit Commission Act 1998.	Section 6(3).
		In section 53(1), the definitions of “allotted sum” and “recognised fund-holding practice” and, in the definition of “health service

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		body”, paragraph (b) and “or” preceding it.
		In section 53(3), paragraph (b) and “and” preceding it.
		In Schedule 2, paragraph 3.

The repeal of section 97(2) of the 1977 Act has effect for the financial year 1999-2000 and subsequent financial years.
