

SCHEDULES

SCHEDULE 4

Section 34

AMENDMENTS RELATING TO NHS FOUNDATION TRUSTS

The Voluntary Hospitals (Paying Patients) Act 1936 (c. 17)

- 1 The Voluntary Hospitals (Paying Patients) Act 1936 is amended as follows.
- 2 In section 1 (definitions), in the definition of “voluntary hospital”, after “NHS trust” there is inserted “, an NHS foundation trust”.

The National Assistance Act 1948 (c. 29)

- 3 The National Assistance Act 1948 is amended as follows.
- 4 In section 24 (authority liable for provision of accommodation), in subsection (6), for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”.

The Public Records Act 1958 (c. 51)

- 5 The Public Records Act 1958 is amended as follows.
- 6 In Schedule 1 (definition of public records), in the Table in Part 1, in the entry relating to the Department of Health, in the second column, for “and National Health Service trusts” there is substituted “, National Health Service trusts and NHS foundation trusts”.

The Human Tissue Act 1961 (c. 54)

- 7 The Human Tissue Act 1961 is amended as follows.
- 8 In section 1 (removal of parts of bodies for medical purposes), in subsection (4A)(b), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

The Abortion Act 1967 (c. 87)

- 9 The Abortion Act 1967 is amended as follows.
- 10 In section 1 (medical termination of pregnancy), in subsection (3), after “National Health Service trust” there is inserted “or an NHS foundation trust”.

The Leasehold Reform Act 1967 (c. 88)

- 11 The Leasehold Reform Act 1967 is amended as follows.
- 12 In section 28 (retention or assumption of land required for public purposes)—
 - (a) in subsection (5), for “and any National Health Service trust” there is substituted “, any National Health Service trust and any NHS foundation trust”,

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- (b) in subsection (6)(c), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”.

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

- 13 The Health Services and Public Health Act 1968 is amended as follows.
- 14 In section 63 (provisions of instruction for officers of hospital authorities etc. employed, or contemplating employment, in certain activities connected with health or welfare), in subsection (5B), the “and” at the end of paragraph (bbb) is omitted and after paragraph (c) there is inserted—
- “(d) NHS foundation trusts”.

The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57)

- 15 The Employers' Liability (Compulsory Insurance) Act 1969 is amended as follows.
- 16 In section 3 (employers exempted from insurance), in subsection (2)(a), after “1978,” there is inserted “an NHS foundation trust”.

The Local Government Act 1972 (c. 70)

- 17 The Local Government Act 1972 is amended as follows.
- 18 In section 113 (placing of staff of local authorities at disposal of other local authorities), in subsection (1A), for “or NHS trust” (in each place) there is substituted “, NHS trust or NHS foundation trust”.

The House of Commons Disqualification Act 1975 (c. 24)

- 19 The House of Commons Disqualification Act 1975 is amended as follows.
- 20 In Part 3 of Schedule 1 (disqualifying offices), there is inserted at the appropriate place—
- “Chairman or other non-executive director of an NHS foundation trust.”

The Race Relations Act 1976 (c. 74)

- 21 The Race Relations Act 1976 is amended as follows.
- 22 In Schedule 1A (bodies and other persons subject to general statutory duty), after paragraph 8 there is inserted—
- “8A An NHS foundation trust.”

The National Health Service Act 1977 (c. 49)

- 23 The 1977 Act is amended as follows.
- 24 In section 18A (provision of services etc. by PCTs), in subsection (6)(a), after “NHS contracts” there is inserted “or under agreements or arrangements made with NHS foundation trusts”.
- 25 In section 22 (co-operation between health authorities and local authorities), in subsection (1A), the “or” at the end of paragraph (cc) is omitted and after paragraph (d) there is inserted—

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- “(e) an NHS foundation trust”.
- 26 In section 28 (supply of goods and services by local authorities), in subsection (3)—
- (a) for “and NHS trusts” (in both places) there is substituted “, NHS trusts and NHS foundation trusts”,
 - (b) for “and the National Health Service and Community Care Act 1990” there is substituted “, the National Health Service and Community Care Act 1990 and Part 1 of the Health and Social Care (Community Health and Standards) Act 2003”.
- 27 In section 28A (power to make payments towards expenditure on community services), in subsection (2B), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.
- 28 In section 63 (hospital accommodation on part payment), in subsection (1C), at the end there is inserted “or an NHS foundation trust”.
- 29 In section 65 (accommodation and services for private patients), in subsection (4), at the end there is inserted “or an NHS foundation trust”.
- 30 In section 81 (charges for more expensive supplies), in paragraph (a), for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”.
- 31 In section 82 (charges for repairs and replacements in certain cases), in paragraph (a), for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”.
- 32 In section 83A (remission and repayment of charges and payment of travelling expenses), in subsection (1)—
- (a) in paragraph (b), for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”,
 - (b) in paragraph (c), after “NHS trust” there is inserted “or an NHS foundation trust”.
- 33 In section 84 (inquiries), in subsection (1), at the end there is inserted “or Part 1 of the Health and Social Care (Community Health and Standards) Act 2003”.
- 34 In section 91 (private trusts for hospitals), in subsection (3), after “NHS trust” (in each place) there is inserted “NHS foundation trust”.
- 35 In section 92 (further transfers of trust property)—
- (a) in subsection (1A), after “NHS trust” (in both places) there is inserted “NHS foundation trust”,
 - (b) in subsection (7), before “a Primary Care Trust” there is inserted “an NHS foundation trust and”.
- 36 In section 96 (trusts: supplementary provisions), any reference to sections 90 to 95 of the 1977 Act includes section 22(1) to (3) of this Act.
- 37 In section 96A (powers of health bodies to raise money by appeals etc.), after subsection (11) there is inserted—
- “(12) This section has effect in relation to an NHS foundation trust as it has effect in relation to an NHS trust, but as if the reference in subsection (5A) to section 11(1) of the National Health Service and Community Care Act 1990 included a reference to section 22 of the Health and Social Care (Community Health and Standards) Act 2003.”

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- 38 In section 103 (special arrangement as to payment of remuneration), in subsection (3) (a), after “NHS trust” there is inserted “or an NHS foundation trust”.
- 39 In section 105 (payments for certain medical examinations), in subsection (2)(b), after “NHS trust,” there is inserted “NHS foundation trust,”.
- 40 In section 122 (recovery of charges), in subsection (1), after “1990” there is inserted “or Part 1 of the Health and Social Care (Community Health and Standards) Act 2003”.
- 41 In section 125 (protection of members and officers of authorities)—
- (a) after paragraph (c) there is inserted—
 - “(d) an NHS foundation trust,”
 - (b) for the words following “this Act” there is substituted “, the National Health Service and Community Care Act 1990 and Part 1 of the Health and Social Care (Community Health and Standards) Act 2003”.
- 42 In section 128 (interpretation and construction), in subsection (1), in the definition of “health service hospital”, for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”.
- 43 In Schedule 5A (Primary Care Trusts), in paragraph 20(1), after “NHS trust” there is inserted “, an NHS foundation trust”.
- 44 In Schedule 8A (local pharmaceutical services schemes), in paragraph 1(8), after “NHS trust” there is inserted “, an NHS foundation trust”.
- 45 In Schedule 12A (expenditure of Health Authorities and Primary Care Trusts), in paragraph 7(3), after “NHS trust” there is inserted “or an NHS foundation trust”.

The Acquisition of Land Act 1981 (c. 67)

- 46 (1) An NHS foundation trust may be authorised to purchase land compulsorily for the purposes of its functions by means of an order—
- (a) made by the trust, and
 - (b) confirmed by the Secretary of State.
- (2) The Acquisition of Land Act 1981 is to apply to the compulsory purchase of land under this paragraph.
- (3) But no order is to be made by an NHS foundation trust under Part 2 of that Act with respect to any land unless the proposal to acquire it compulsorily—
- (a) is submitted to the Secretary of State in such form, and together with such information, as he may require, and
 - (b) is approved by him.
- 47 The Acquisition of Land Act 1981 is amended as follows.
- 48 In section 16 (statutory undertakers' land excluded from compulsory purchase), in subsection (3), after paragraph (b) there is inserted—
- “(ba) an NHS foundation trust;”.
- 49 In section 17 (local authority and statutory undertakers' land), in subsection (4), in the definition of “statutory undertakers”, after paragraph (aa) there is inserted—
- “(aab) an NHS foundation trust;”.

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

The Mental Health Act 1983 (c. 20)

- 50 The Mental Health Act 1983 is amended as follows.
- 51 In section 12 (general provisions as to medical recommendation), in subsection (3), at the end there is inserted “or otherwise to be accommodated, by virtue of an undertaking to pay in respect of the accommodation, in a hospital vested in an NHS foundation trust”.
- 52 In section 19 (regulations as to transfer of patients), in subsection (3), after “National Health Service trust” (in both places) there is inserted “, NHS foundation trust”.
- 53 In section 23 (discharge of patients)—
- (a) in subsection (3), after “National Health Service trust,” (in both places) there is inserted “NHS foundation trust,”,
 - (b) in subsection (4), after “trust” (in the first place it occurs) there is inserted “(other than an NHS foundation trust),”,
 - (c) after subsection (5), there is inserted—
 - “(6) The powers conferred by this section on any NHS foundation trust may be exercised by any three or more non-executive directors of the board of the trust authorised by the board in that behalf.”
- 54 In section 24 (visiting and examination by patients), in subsection (3), for “or National Health Service trust” (in both places) there is substituted “, National Health Service trust or NHS foundation trust”.
- 55 In section 32 (regulations for purposes of Part 2), in subsection (3), for “or National Health Service trusts” there is substituted “, National Health Service trusts or NHS foundation trusts”.
- 56 In section 139 (protection for acts done in pursuance of this Act), in subsection (4), at the end there is inserted “or NHS foundation trust”.
- 57 In section 145 (interpretation), in subsection (1), after paragraph (bb) of the definition of “the managers” there is inserted—
 - “(bc) in relation to a hospital vested in an NHS foundation trust, the trust;”.

The National Audit Act 1983 (c. 44)

- 58 The National Audit Act 1983 is amended as follows.
- 59 In section 6 (public departments etc.), in subsection (3)(b), at the end there is inserted “and any NHS foundation trust”.

The Public Health (Control of Disease) Act 1984 (c. 22)

- 60 The Public Health (Control of Disease) Act 1984 is amended as follows.
- 61 In section 13 (regulations for control of certain diseases), in subsection (4)(a), for “or National Health Service trusts” there is substituted “, National Health Service trusts or NHS foundation trusts”.
- 62 In section 37 (removal to hospital of person with notifiable disease), in subsection (1) (c), after “NHS trust,” there is inserted “NHS foundation trust,”.

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

- 63 In section 41 (removal to hospital of inmate of common lodging-house with notifiable disease), in subsection (1)(c), after “NHS trust,” there is inserted “NHS foundation trust”.

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 64 The Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.
- 65 In section 2 (rights of authorised representatives of disabled persons), in subsection (5)(a), after “1990” there is inserted “or by an NHS foundation trust”.
- 66 In section 7 (persons discharged from hospital), in subsection (9), in the definition of “the managers”—
- (a) in paragraph (a)(i), after “National Health Service trust” there is inserted “, an NHS foundation trust”;
 - (b) in paragraph (cc), after “that trust;” there is inserted—
 - “(cd) in relation to a hospital vested in an NHS foundation trust, means the board of directors of that trust;”.

The Company Directors Disqualification Act 1986 (c. 46)

- 67 The Company Directors Disqualification Act 1986 is amended as follows.
- 68 After section 22B there is inserted—

“22C Application of Act to NHS foundation trusts

- (1) This Act applies to NHS foundation trusts as it applies to companies within the meaning of this Act.
- (2) References in this Act to a company, or to a director or officer of a company, include, respectively, references to an NHS foundation trust or to a director or officer of the trust; but references to shadow directors are omitted.
- (3) In the application of Schedule 1 to the directors of an NHS foundation trust, references to the provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of Part 1 of the Health and Social Care (Community Health and Standards) Act 2003.”

The AIDS (Control) Act 1987 (c. 33)

- 69 The AIDS (Control) Act 1987 is amended as follows.
- 70 In section 1 (periodical reports on matters relating to AIDS and HIV)—
- (a) in subsection (1)(b)(iv), after “NHS trust” there is inserted—
 - “(iva) each NHS foundation trust;”;
 - (b) in subsection (2)(b), after “NHS Trust” there is inserted “, NHS foundation trust”.

The Copyright, Designs and Patents Act 1988 (c. 48)

- 71 The Copyright, Designs and Patents Act 1988 is amended as follows.

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- 72 In section 48 (material communicated to the Crown in the course of public business), in subsection (6), after “1978” there is inserted “and an NHS foundation trust”.

The Road Traffic Act 1988 (c. 52)

- 73 The Road Traffic Act 1988 is amended as follows.
- 74 In section 144 (exceptions from requirement of third-party insurance), in subsection (2), after paragraph (db) there is inserted—
- “(dc) to an ambulance owned by an NHS foundation trust, at a time when the vehicle is being driven under the owner’s control.”.

The Children Act 1989 (c. 41)

- 75 The Children Act 1989 is amended as follows.
- 76 In section 24 (persons qualifying for advice and assistance), in subsection (2)(d)(ii), after “trust” there is inserted “or an NHS foundation trust”.
- 77 In section 24C (information), in subsection (2)(c), after “trust” there is inserted “or an NHS foundation trust”.
- 78 In section 27 (co-operation between authorities), in subsection (3)(d), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”.
- 79 In section 47 (local authority’s duty to investigate), in subsection (11)(d), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”.
- 80 In section 80 (inspection of children’s homes etc. by persons authorised by Secretary of State)—
- (a) in subsection (1)(d), for “or National Health Service trust” there is substituted “, National Health Service trust or NHS foundation trust”,
- (b) in subsection (5)(e), after “National Health Service trust” there is inserted “, NHS foundation trust”.
- 81 In section 85 (children accommodated by health authorities and local education authorities), in subsection (1), after “National Health Service trust” there is inserted “, NHS foundation trust”.
- 82 In Schedule 2 (local authority support for children and families), in paragraph 1A(3), after paragraph (b) there is inserted—
- “(ba) every NHS foundation trust which manages a hospital (within the meaning of the Health and Social Care (Community Health and Standards) Act 2003) in the authority’s area;”.

The National Health Service and Community Care Act 1990 (c. 19)

- 83 The 1990 Act is amended as follows.
- 84 In section 21 (schemes for meeting losses and liabilities etc. of certain health service bodies)—
- (a) in subsection (2), after “NHS trusts;” there is inserted—
- “(ba) NHS foundation trusts;”.

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- (b) in subsections (3)(a) and (4)(b), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”,
- (c) in subsection (4), at the end there is inserted—
 - “but the Secretary of State may not make a direction under paragraph (a) above in relation to an NHS foundation trust”,
- (d) in subsection (5), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

85 In Schedule 2 (NHS trusts)—

- (a) in the case of patients being provided with goods and services for the purposes of the health service, paragraph 14 is to have effect in relation to accommodation and further services made available to them by an NHS foundation trust as it does in relation to accommodation and services made available by NHS trusts,
- (b) in paragraph 30, in sub-paragraph (1), after paragraph (bbc) there is inserted—
 - “(bbd) an NHS foundation trust, or”,
- (c) in paragraph 32, at the end there is inserted “or section 28 of the Health and Social Care (Community Health and Standards) Act 2003”.

The Town and Country Planning Act 1990 (c. 8)

86 Sections 238 to 240 of the Town and Country Planning Act 1990 (use and development of consecrated land and burial grounds) apply to consecrated land and land comprised in a burial ground which an NHS foundation trust holds for any of its purposes as if—

- (a) the trust were a statutory undertaker, and
- (b) that land had been the subject of a relevant acquisition by the trust.

The Access to Health Records Act 1990 (c. 23)

87 The Access to Health Records Act 1990 is amended as follows.

88 In section 11 (interpretation), in the definition of “health service body”, the “or” before paragraph (d) is omitted and after that paragraph there is inserted—

- “(e) an NHS foundation trust;”.

The Water Industry Act 1991 (c. 56)

89 The Water Industry Act 1991 is amended as follows.

90 In Schedule 4A (premises that are not to be disconnected for non-payment of charges), in paragraph 16, at the end there is inserted “or by an NHS foundation trust”.

The London Local Authorities Act 1991 (c. xiii)

91 The London Local Authorities Act 1991 is amended as follows.

92 In section 4 (interpretation of Part 2), in paragraph (d) of the definition of “establishment for special treatment”, after “1990” there is inserted “or by an NHS foundation trust”.

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

The Health Service Commissioners Act 1993 (c. 46)

- 93 The Health Service Commissioners Act 1993 is amended as follows.
- 94 In section 2 (the bodies subject to investigation), in subsection (1), after paragraph (da) there is inserted—
“(db) NHS foundation trusts,”.

The Vehicle Excise and Registration Act 1994 (c. 22)

- 95 The Vehicle Excise and Registration Act 1994 is amended as follows.
- 96 In Schedule 2 (exempt vehicles), in paragraph 7, after the “or” at the end of paragraph (b) there is inserted—
“(ba) an NHS foundation trust, or”.

The Value Added Tax Act 1994 (c. 23)

- 97 The Value Added Tax Act 1994 is amended as follows.
- 98 In Schedule 8 (zero-rating), in the Notes to Group 12, in paragraph (5H), after paragraph (e) there is inserted—
“(eaa) an NHS foundation trust;”.

The Employment Rights Act 1996 (c. 18)

- 99 The Employment Rights Act 1996 is amended as follows.
- 100 In section 50 (right to time off for public duties), in subsection (8), after paragraph (a) there is inserted—
“(ab) an NHS foundation trust,”.
- 101 In section 218 (change of employer), in subsection (10), after paragraph (c) there is inserted—
“(ca) NHS foundation trusts,”.

The Housing Grants, Construction and Regeneration Act 1996 (c. 53)

- 102 The Housing Grants, Construction and Regeneration Act 1996 is amended as follows.
- 103 In section 3 (ineligible applicants), in subsection (2)(f), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

The Education Act 1996 (c. 56)

- 104 The Education Act 1996 is amended as follows.
- 105 In section 332 (duty of Health Authority, a Primary Care Trust or National Health Service trust to notify parent etc.), in subsection (1), for “or a National Health Service trust” there is substituted “, a National Health Service trust or an NHS foundation trust”.

The Data Protection Act 1998 (c. 29)

- 106 The Data Protection Act 1998 is amended as follows.

107 In section 69 (meaning of “health professional”), in subsection (3), after paragraph (f) there is inserted—

“(fa) an NHS foundation trust;”.

The Health Act 1999 (c. 8)

108 The Health Act 1999 is amended as follows.

109 In section 31 (arrangements between NHS bodies and local authorities), in subsection (8), in the definition of “NHS body”, for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

The Care Standards Act 2000 (c. 14)

110 The Care Standards Act 2000 is amended as follows.

111 In section 42 (power to extend the application of Part 2), in subsection (2)(b)(ii), after “NHS trusts” there is inserted “, NHS foundation trusts”.

112 In section 121 (general interpretation), in subsection (1), in the definition of “National Health Service body”, after “National Health Service trust,” there is inserted “an NHS foundation trust.”.

The Freedom of Information Act 2000 (c. 36)

113 The Freedom of Information Act 2000 is amended as follows.

114 In Part 3 of Schedule 1 (National Health Service), after paragraph 40 there is inserted—

“40A An NHS foundation trust.”

The Health and Social Care Act 2001 (c. 15)

115 The Health and Social Care Act 2001 is amended as follows.

116 In section 7 (functions of overview and scrutiny committees)—

(a) in subsection (3)(b), at the end there is inserted “or to the Independent Regulator of NHS Foundation Trusts (“the regulator”);”

(b) in subsection (3)(c), at the end there is inserted “(including provision as to circumstances in which the relevant authority or the regulator may require consultation on those matters in accordance with the regulations);”

(c) in subsection (4), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

117 In section 28 (pilot schemes: local pharmaceutical services), in subsection (7), after “NHS trust” there is inserted “, an NHS foundation trust”.

118 In section 33 (NHS contracts), in subsection (1), after “body corporate” there is inserted “(other than an NHS foundation trust)”.

The Anti-terrorism, Crime and Security Act 2001 (c. 24)

119 The Anti-terrorism, Crime and Security Act 2001 is amended as follows.

120 In Schedule 4 (extension of existing disclosure powers), at the end of Part 1 there is inserted—

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

“53A Paragraph 8(1) of Schedule 5 to the Health and Social Care (Community Health and Standards) Act 2003.”

The International Development Act 2002 (c. 1)

- 121 The International Development Act 2002 is amended as follows.
- 122 In Schedule 1 (statutory bodies to which section 9 applies), there is inserted at the appropriate place—
- “An NHS foundation trust”.

The National Health Service Reform and Health Care Professions Act 2002 (c. 17)

- 123 The National Health Service Reform and Health Care Professions Act 2002 is amended as follows.
- 124 In section 23 (joint working with the prison service), in subsection (5), in the definition of “NHS bodies”, after “NHS trusts,” there is inserted “NHS foundation trusts,”.

The Adoption and Children Act 2002 (c. 38)

- 125 The Adoption and Children Act 2002 is amended as follows.
- 126 In section 8 (adoption support agencies), in subsection (2)(d), for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”.

The Nationality, Immigration and Asylum Act 2002 (c. 41)

- 127 The Nationality, Immigration and Asylum Act 2002 is amended as follows.
- 128 In section 133 (medical inspectors), in subsection (4)(a), after sub-paragraph (ii) there is inserted—
- “(ia) an NHS foundation trust,”.

The Community Care (Delayed Discharges etc.) Act 2003 (c. 5)

- 129 The Community Care (Delayed Discharges etc.) Act 2003 is amended as follows.
- 130 In section 1 (meaning of “NHS body” and “qualifying hospital patient”), in subsection (1), in paragraph (a) of the definition of “NHS body”, after “trust;” there is inserted—
- “(ab) an NHS foundation trust;”.