

**Changes to legislation:** National Health Service Act 2006, SCHEDULE 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 4

Section 25

#### NHS TRUSTS ESTABLISHED UNDER SECTION 25

##### Modifications etc. (not altering text)

- C1** Sch. 4 modified (temp.) (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 76](#); S.I. 2015/841, art. 3(x)

### PART 1

#### CONSTITUTION, ESTABLISHMENT, ETC

##### *Status*

- 1 Each NHS trust is a body corporate.
- 2 (1) An NHS trust must not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) An NHS trust's property must not be regarded as property of, or property held on behalf of, the Crown.

##### *Board of directors*

- 3 (1) Each NHS trust has a board of directors consisting of—
- (a) a chairman appointed by <sup>F1</sup>[<sup>F1</sup>NHS England], and
- (b) executive and non-executive directors.
- (2) Sub-paragraph (1)(b) is subject to paragraph 7(2).
- (3) An executive director is a director who is an employee of the NHS trust, and a non-executive director is a director who is not an employee of the NHS trust.
- (4) Sub-paragraph (3) is subject to any provision made by regulations under paragraph 4(1)(d).

##### Textual Amendments

- F1** Words in [Sch. 4 para. 3\(1\)\(a\)](#) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 59, 186(6); S.I. 2022/734, reg. 2(a), [Sch. \(with regs. 13, 29, 30\)](#)

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### *Regulations*

- 4 (1) The Secretary of State may by regulations make provision with respect to—
- (a) the qualifications for and the tenure of office of the chairman and directors of an NHS trust (including the circumstances in which they cease to hold, or may be removed from, office or may be suspended from performing the functions of the office),
  - (b) the persons by whom the directors and any of the officers must be appointed and the manner of their appointment,
  - (c) the maximum and minimum numbers of the directors,
  - (d) the circumstances in which a person who is not an employee of the NHS trust is nevertheless, on appointment as a director, to be regarded as an executive rather than a non-executive director,
  - (e) the proceedings of the NHS trust (including the validation of proceedings in the event of a vacancy or defect in appointment), and
  - (f) the appointment, constitution and exercise of functions by committees and sub-committees of the NHS trust (whether or not consisting of or including any members of the board).
- (2) Regulations under sub-paragraph (1) may, in particular, make provision to deal with cases where the post of any officer of an NHS 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.

### *Provision to be made by first NHS trust order*

- 5 (1) The first NHS trust order made in relation to any NHS trust must specify—
- (a) the name of the NHS trust,
  - (b) the functions of the NHS trust,
  - (c) the number of executive directors and non-executive directors,
  - (d) where the NHS trust has a significant teaching commitment, a provision to secure the inclusion in the non-executive directors referred to in paragraph (c) of a person appointed from a university with a medical or dental school specified in the order,
  - (e) the operational date of the NHS trust, and
  - (f) if a scheme is to be made under paragraph 8, the <sup>F2</sup>... Special Health Authority or Local Health Board which is to make the scheme.
- (2) The functions which may be specified in an NHS trust order include a duty to provide goods or services so specified at or from a hospital or other establishment or facility so specified.
- (3) For the purposes of sub-paragraph (1)(d), an NHS trust has a significant teaching commitment in the following cases—
- (a) if the NHS trust is established to provide services at a hospital or other establishment or facility which, in the opinion of the Secretary of State, has a significant teaching and research commitment, and
  - (b) in any other case, if the Secretary of State so provides in the order.
- (4) In a case where the order contains a provision made by virtue of sub-paragraph (1)(d) and a person who is being considered for appointment by virtue of that provision—
- (a) is employed by the university in question, and

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- (b) would also, apart from this sub-paragraph, be regarded as employed by the NHS trust,  
his employment by the NHS trust must be disregarded in determining whether, if appointed, he will be a non-executive director of the NHS trust.
- (5) The operational date of the NHS trust is the date on which it will begin to undertake the whole of the functions conferred on it.
- (6) An NHS trust order must specify the accounting date of the NHS trust.

#### Textual Amendments

- F2** Words in Sch. 4 para. 5(1)(f) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(2\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### *Temporary availability of staff etc.*

- 6 (1) An NHS trust order may require a <sup>F3</sup>... Special Health Authority <sup>F4</sup>... or Local Health Board to make staff, premises and other facilities available to an NHS trust pending the transfer or appointment of staff to or by the NHS trust and the transfer of premises or other facilities to the NHS trust.
- (2) An NHS trust order making provision under this paragraph may make provision with respect to the time when the functions of the <sup>F5</sup>... Special Health Authority <sup>F6</sup>... or Local Health Board under the provision are to come to an end.

#### Textual Amendments

- F3** Words in Sch. 4 para. 6(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(3\)\(a\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in Sch. 4 para. 6(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(3\)\(a\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Words in Sch. 4 para. 6(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(3\)\(b\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in Sch. 4 para. 6(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(3\)\(b\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### *Establishment of NHS trust prior to operational date*

- 7 (1) An NHS trust order may provide for the establishment of an NHS trust with effect from a date earlier than the operational date of the NHS trust and, during the period between that earlier date and the operational date, the NHS trust has such limited functions for the purpose of enabling it to begin to operate satisfactorily with effect from the operational date as may be specified in the order.
- (2) If an NHS trust order makes the provision referred to in sub-paragraph (1), then, at any time during the period referred to in that sub-paragraph, the NHS trust must be regarded as properly constituted (and may carry out its limited functions accordingly) notwithstanding that, at that time, all or any of the executive directors have not yet been appointed.

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- (3) If an NHS trust order makes the provision referred to in sub-paragraph (1), the order may require a <sup>F7</sup>... Special Health Authority or Local Health Board to discharge such liabilities of the NHS trust as—
- (a) may be incurred during the period referred to in that sub-paragraph, and
  - (b) are of a description specified in the order.

#### Textual Amendments

**F7** Words in [Sch. 4 para. 7\(3\)](#) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### *Transfer of staff to NHS trusts*

- 8 (1) This paragraph applies to any person who, immediately before an NHS trust's operational date—
- (a) is employed by a Special Health Authority <sup>F8</sup>... or Local Health Board to work solely at, or for the purposes of, a hospital or other establishment or facility which will become the responsibility of the NHS trust, or
  - (b) is employed by a Special Health Authority <sup>F8</sup>... or Local Health Board to work at, or for the purposes of, such a hospital, establishment or facility and is designated for the purposes of this paragraph by a scheme made by the Special Health Authority <sup>F8</sup>... or Local Health Board specified as mentioned in paragraph 5(1)(f).
- (2) Sub-paragraph (1) is subject to sub-paragraph (6).
- (3) A scheme under this paragraph does not have effect unless approved by the Secretary of State.
- (4) Subject to sub-paragraphs (9) to (11), the contract of employment between a person to whom this paragraph applies and the Special Health Authority <sup>F9</sup>... or Local Health Board by whom he is employed has effect from the operational date as if originally made between him and the NHS trust.
- (5) In particular—
- (a) all the rights, powers, duties and liabilities of the Special Health Authority <sup>F10</sup>... or Local Health Board under or in connection with a contract to which sub-paragraph (4) applies are by virtue of this paragraph transferred to the NHS trust on its operational date, and
  - (b) anything done before that date by or in relation to the Special Health Authority <sup>F10</sup>... or Local Health Board in respect of that contract or the employee is deemed from that date to have been done by or in relation to the NHS trust.
- (6) In any case where—
- (a) an NHS trust order provides for the establishment of an NHS trust with effect from a date earlier than the operational date of the NHS trust,
  - (b) on or after that earlier date but before its operational date the NHS trust makes an offer of employment by the NHS trust to a person who at that time is employed by a Special Health Authority <sup>F11</sup>... or Local Health Board to

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work (whether solely or otherwise) at, or for the purposes of, the hospital or other establishment or facility which will become the responsibility of the NHS trust, and

- (c) as a result of the acceptance of the offer, the person to whom it was made becomes an employee of the NHS trust,

sub-paragraphs (4) and (5) have effect in relation to that person's contract of employment as if he were a person to whom this paragraph applies and as if any reference in those sub-paragraphs to the operational date of the NHS trust were a reference to the date on which he takes up employment with the NHS trust.

- (7) Sub-paragraphs (4) and (5) do not affect any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only of the change in employer effected by this paragraph.

- (8) A scheme under this paragraph may designate a person either individually or as a member of a class or description of employees.

- (9) In the case of a person who falls within sub-paragraph (1)(b), a scheme under this paragraph may provide that, with effect from the NHS trust's operational date, his contract of employment (his “original contract”) must be treated, in accordance with the scheme, as divided so as to constitute—

- (a) a contract of employment with the NHS trust, and  
(b) a contract of employment with the Special Health Authority<sup>F12</sup>... or Local Health Board by whom he was employed before that date (the “transferor authority”).

- (10) Where a scheme makes provision as mentioned in sub-paragraph (9)—

- (a) the scheme must secure that the benefits to the employee under the two contracts referred to in that sub-paragraph, when taken together, are not less favourable than the benefits under his original contract,  
(b) this paragraph applies in relation to the contract referred to in sub-paragraph (9)(a) as if it were a contract transferred under this paragraph from the transferor authority to the NHS trust, and  
(c) so far as necessary to preserve any rights and obligations, the contract referred to in sub-paragraph (9)(b) must be regarded as a continuation of the employee's original contract.

- (11) Where, as a result of the provisions of this paragraph, by virtue of his employment during any period after the operational date of the NHS trust—

- (a) an employee has contractual rights against an NHS trust to benefits in the event of his redundancy, and  
(b) he also has statutory rights against the trust under Part 11 of the Employment Rights Act 1996 (c. 18) (redundancy payments),

any benefits provided to him by virtue of the contractual rights referred to in paragraph (a) must be taken as satisfying his entitlement to benefits under that Part of that Act.

#### Textual Amendments

- F8** Words in Sch. 4 para. 8(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(5\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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- F9** Words in Sch. 4 para. 8(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 22\(5\)\(b\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F10** Words in Sch. 4 para. 8(5) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 22\(5\)\(c\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F11** Words in Sch. 4 para. 8(6)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 22\(5\)\(d\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F12** Words in Sch. 4 para. 8(9)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 22\(5\)\(e\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

*Transfer of property and liabilities to NHS trusts*

- 9 (1) The Secretary of State may by order transfer, or provide for the transfer of, any of the property and liabilities of <sup>F13</sup> ... <sup>F14</sup> ... a Special Health Authority, a Local Health Board or the Secretary of State, to an NHS trust, with effect from any date as may be specified in the order.
- (2) An order under this paragraph may create or impose such new rights or liabilities in respect of what is transferred or what is retained as appear to the Secretary of State to be necessary or expedient.
- (3) Nothing in this paragraph affects the power of the Secretary of State or any power of a <sup>F15</sup> ... <sup>F16</sup> ... Special Health Authority or Local Health Board to transfer property or liabilities to an NHS trust otherwise than under sub-paragraph (1).
- (4) Stamp duty is not chargeable in respect of any transfer to an NHS trust effected by or by virtue of an order under this paragraph.
- (5) Where an order under this paragraph provides for the transfer—
- (a) of land held on lease from a third party, or
  - (b) of 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 notwithstanding that, apart from this sub-paragraph, it would have required his consent or concurrence.
- (6) “Third party” means a person other than the Secretary of State, <sup>F17</sup> ... <sup>F18</sup> ... a Special Health Authority or a Local Health Board.
- (7) Any property and liabilities which—
- (a) belong to, or are used or managed by, a <sup>F19</sup> ... Special Health Authority or Local Health Board <sup>F20</sup> ..., and
  - (b) will be transferred to an NHS trust by or by virtue of an order under this paragraph,
- must be identified by agreement between the <sup>F21</sup> ... <sup>F22</sup> ... Special Health Authority or Local Health Board and the NHS trust or, in default of agreement, by direction of the Secretary of State.
- (8) Where, for the purpose of a transfer pursuant to an order under this paragraph, it becomes necessary to apportion any property or liabilities, the order may contain such provisions as appear to the Secretary of State to be appropriate for the purpose.
- (9) Where any such property or rights fall within sub-paragraph (5), the order must contain such provisions as appear to the Secretary of State to be appropriate to safeguard the interests of third parties, including, where appropriate, provision for

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the payment of compensation of an amount to be determined in accordance with the order.

(10) In the case of any transfer made by or pursuant to an order under this paragraph, a certificate issued by the Secretary of State that any property specified in the certificate or any such interest in or right over any such property as may be so specified, or any right or liability so specified, is vested in the NHS trust specified in the order is conclusive evidence of that fact for all purposes.

(11) An order under this paragraph may include provision for matters to be settled by arbitration by a person determined in accordance with the order.

(12) Sub-paragraph (11) does not affect section 272(8).

#### Textual Amendments

- F13** Words in Sch. 4 para. 9(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(a\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F14** Words in Sch. 4 para. 9(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(a\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F15** Words in Sch. 4 para. 9(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(b\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F16** Words in Sch. 4 para. 9(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(b\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F17** Words in Sch. 4 para. 9(6) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(c\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F18** Words in Sch. 4 para. 9(6) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(c\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F19** Words in Sch. 4 para. 9(7)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(d\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F20** Words in Sch. 4 para. 9(7)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(d\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F21** Words in Sch. 4 para. 9(7) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(d\)\(iii\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** Words in Sch. 4 para. 9(7) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 22\(6\)\(d\)\(iii\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F23 ...

#### Textual Amendments

- F23** [Sch. 4 para. 10](#) and cross-heading omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), ss. 49, 186(6); S.I. 2022/734, reg. 2(a), [Sch.](#) (with regs. 13, 22, 29, 30)

F23<sup>10</sup> .....

#### *Pay and allowances*

11 (1) An NHS trust must pay—

- (a) to the chairman and any non-executive director of the NHS trust remuneration of an amount determined by the Secretary of State, not exceeding such amount as may be approved by the Treasury,



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- (b) to the chairman and any non-executive director of the NHS trust such travelling and other allowances as may be determined by the Secretary of State with the approval of the Treasury,
  - (c) to any member of a committee or sub-committee of the NHS trust who is not also a director such travelling and other allowances as may be so determined.
- (2) If an NHS trust so determines in the case of a person who is or has been a chairman of the NHS trust, the NHS trust must pay such pension, allowances or gratuities to or in respect of him as may be determined by the Secretary of State with the approval of the Treasury.
- (3) Different determinations may be made under sub-paragraph (1) or sub-paragraph (2) in relation to different cases or descriptions of cases.

### *[<sup>F24</sup>Accounts and audit*

#### **Textual Amendments**

**F24** Sch. 4 para. 11A and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. **87(2)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

- 11A (1) An NHS trust must keep proper accounts and proper records in relation to the accounts.
- (2) The Secretary of State may give an NHS trust directions as to the form in which its accounts must be kept.
- (3) An NHS trust must prepare, in respect of each financial year, annual accounts in such form as the Secretary of State may direct.
- (4) For the audit of the annual accounts, see the Local Audit and Accountability Act 2014 (and, in particular, section 4 of that Act).
- (5) The Comptroller and Auditor General may examine—
- (a) the annual accounts and any records relating to them, and
  - (b) any report on them by the auditor or auditors.
- (6) An NHS trust must send a copy of its audited annual accounts to NHS England by such date as NHS England may direct.
- (7) Nothing in sub-paragraph (1) has effect in relation to accounts relating to a charitable trust of which an NHS trust is a trustee.
- (8) Nothing in sub-paragraph (3) requires any accounts prepared by an NHS trust to include matters relating to a charitable trust of which it is a trustee.]

### *Reports and other information*

- 12 (1) For each accounting year an NHS trust must prepare and send to [<sup>F25</sup>NHS England] an annual report in such form as may be determined by [<sup>F25</sup>NHS England].
- [<sup>F26</sup>(1A) The annual report must, in particular, review the extent to which the NHS trust has exercised its functions in accordance with the plans published under—



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- (a) section 14Z52 (joint forward plans for integrated care board and its partners), and
- (b) section 14Z56 (joint capital resource use plan for integrated care board and its partners).]

[<sup>F27</sup>(1B) The annual report must, in particular, review the extent to which the NHS trust has exercised its functions consistently with NHS England's views set out in the latest statement published under section 13SA(1) (views about how functions relating to inequalities information should be exercised).]

- (2) At such time or times as may be prescribed, an NHS trust must hold a public meeting at which must be presented—
  - (a) its audited accounts and annual report, and
  - (b) any report on the accounts made pursuant to section 8 of the Audit Commission Act 1998 (c. 18) or paragraph 19 of Schedule 8 to the Government of Wales Act 2006 (c. 32).

<sup>F28</sup>(2A) . . . . .

- (3) In such circumstances and at such time or times as may be prescribed, an NHS trust must hold a public meeting at which such documents as may be prescribed must be presented.

#### Textual Amendments

- F25** Words in Sch. 4 para. 12(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 54(3)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 16(a), 29)
- F26** Sch. 4 para. 12(1A) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 4 para. 136**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 16(b), 29, 30)
- F27** Sch. 4 para. 12(1B) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 11(3)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F28** Sch. 4 para. 12(2A) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 7 para. 6**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### Modifications etc. (not altering text)

- C2** Sch. 4 para. 12(2)(b) modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 3 para. 10(4)(a)** (with Sch. 3 Pt. 1)

13[<sup>F29</sup>(1)] An NHS trust must furnish to the Secretary of State [<sup>F30</sup>or NHS England] such reports, returns and other information, including information as to its forward planning, as, and in such form as, [<sup>F31</sup>the Secretary of State or NHS England] may require.

[<sup>F32</sup>(2) An integrated care board may require any of its partner NHS trusts to provide it with any information that it requires.

- (3) Information required under sub-paragraph (2) must be provided in such form, and at such time or within such period, as may be specified by the integrated care board.]

#### Textual Amendments

- F29** Sch. 4 para. 13 renumbered as Sch. 4 para. 13(1) (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 25(4)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30, 33)

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- F30**

Words in Sch. 4 para. 13(1) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 54(3)(b)(i), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29)
- F31**

Words in Sch. 4 para. 13(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 54(3)(b)(ii), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29)
- F32**

Sch. 4 para. 13(2)(3) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 25(4)(b), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30, 33)

PART 2

POWERS AND DUTIES

General

- 14

(1)

An NHS trust may do anything which appears to it to be necessary or expedient for the purposes of or in connection with its functions.

(2)

In particular it may—

(a)

acquire and dispose of property,

(b)

enter into contracts, and

(c)

accept gifts of property (including property to be held on trust, either for the general or any specific purposes of the NHS trust or for any purposes relating to the health service).

(3)

The reference in sub-paragraph (2)(c) to specific purposes of the NHS trust includes a reference to the purposes of a specific hospital or other establishment or facility at or from which services are provided by the NHS trust.
- NHS contracts
- 15

(1)

In addition to carrying out its other functions, an NHS trust may, as the provider, enter into NHS contracts.

F33

(2)

.....

F33

(3)

.....

Textual Amendments

**F33**

Sch. 4 para. 15(2)(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 4 para. 22(7); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Research

16

An NHS trust may undertake and commission research and make available staff and provide facilities for research by other persons.

Training

17

An NHS trust may—

(a)

provide training for persons employed or likely to be employed by the NHS trust or otherwise in the provision of services under this Act, and

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- (b) make facilities and staff available in connection with training by a university or any other body providing training in connection with the health service.

*Joint exercise of functions*

- 18 An NHS trust may enter into arrangements for the carrying out, on such terms as the NHS trust considers appropriate, of any of its functions jointly with any <sup>F34</sup>... <sup>F35</sup>... Special Health Authority, Local Health Board or other NHS trust, or any other body or individual.

**Textual Amendments**

- F34** Words in Sch. 4 para. 18 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 22\(8\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F35** Words in Sch. 4 para. 18 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 22\(8\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

*Payment for accommodation or services*

- 19 (1) According to the nature of its functions, an NHS trust may make accommodation or services available for patients who give undertakings (or for whom undertakings are given) to pay any charges imposed by the NHS trust in respect of the accommodation or services.
- (2) An NHS trust may exercise the power conferred by sub-paragraph (1) only—
- (a) to the extent that its exercise does not to any significant extent interfere with the performance by the NHS trust of its functions or of its obligations under NHS contracts, and
  - (b) in circumstances specified in directions under section 8, with the Secretary of State's consent.

*Additional income*

- 20 (1) For the purpose of making additional income available in order better to perform its functions, an NHS trust has the powers specified in section 7(2) of the Health and Medicines Act 1988 (c. 49) (extension of powers of Secretary of State for financing the health service).
- (2) The power conferred by sub-paragraph (1) may be exercised only—
- (a) to the extent that its exercise does not to any significant extent interfere with the performance by the NHS trust of its functions or of its obligations under NHS contracts, <sup>F36</sup>...
  - (b) in circumstances specified in directions under section 8, with the consent of the Secretary of State [<sup>F37</sup>, and
  - (c) in circumstances specified in directions under section [27B](#), with the consent of NHS England.]

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### Textual Amendments

- F36** Word in Sch. 4 para. 20(2)(a) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. 55(4)(a)(i), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F37** Sch. 4 para. 20(2)(c) and word inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 55(4)(a)(ii), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### *Provision of accommodation and services outside England and Wales*

- 21 An NHS Trust may arrange for the provision of accommodation and services outside England and Wales.

### *Conferral of further powers by order*

- 22 The Secretary of State may by order confer specific powers on NHS trusts, further to those provided for by paragraphs 15 to 21.

### *Powers of NHS trusts to enter into externally financed development agreements*

- 23 (1) The powers of an NHS trust include power to enter into externally financed development agreements.
- (2) For the purposes of this paragraph, an agreement is an externally financed development agreement if it is certified as such in writing by the Secretary of State.
- (3) The Secretary of State may give a certificate under this paragraph if—
- (a) in his opinion the purpose or main purpose of the agreement is the provision of facilities or services in connection with the discharge by the NHS trust of any of its functions, and
  - (b) a person proposes to make a loan to, or provide any other form of finance for, another party in connection with the agreement.
- (4) If an NHS trust enters into an externally financed development agreement it may also, in connection with that agreement, enter into an agreement with a person who falls within sub-paragraph (3)(b) in relation to the externally financed development agreement.
- (5) “Another party” means any party to the agreement other than the NHS trust.
- (6) The fact that an agreement made by an NHS trust has not been certified under this paragraph does not affect its validity.

### *Agreements under section 92 or 107*

- 24 An NHS trust may provide services under an agreement made under section 92 (primary medical services) or section 107 (primary dental services) and may do so as a member of a qualifying body (within the meaning given by section 93 or section 108).

### *Staff*

- 25 (1) An NHS trust may employ such staff as it considers appropriate.

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- (2) An NHS trust may—
  - (a) pay its staff such remuneration and allowances, and
  - (b) employ them on such other terms and conditions, as it considers appropriate.
- (3) An NHS trust must—
  - (a) in exercising its powers under sub-paragraph (2), and
  - (b) otherwise in connection with the employment of its staff, act in accordance with regulations and any directions given by the Secretary of State [F38 and any directions given by NHS England under section 27B].
- (4) Before making any regulations under sub-paragraph (3), the Secretary of State must consult such bodies as he may recognise as representing persons who, in his opinion, are likely to be affected by the regulations.

#### Textual Amendments

**F38** Words in Sch. 4 para. 25(3) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 55(4)(b), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### *Pensions, etc.*

- 26 (1) An NHS trust may, for or in respect of such of its employees as it may determine, make arrangements for providing pensions, allowances or gratuities.
- (2) Such arrangements may include the establishment and administration, by the NHS trust or otherwise, of one or more pension schemes.
- (3) The reference in sub-paragraph (1) to pensions, allowances or gratuities to or in respect of employees of an NHS trust includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the NHS trust's employees who suffer loss of office or employment or loss or diminution of emoluments.
- (4) This paragraph does not affect the generality of paragraphs 14 and 25.

#### *Compulsory acquisition*

- 27 (1) An NHS trust may be authorised to purchase land compulsorily for the purposes of its functions by means of an order made by the NHS trust and confirmed by the Secretary of State.
- (2) Subject to sub-paragraph (3), the Acquisition of Land Act 1981 (c. 67) applies to the compulsory purchase of land under this paragraph.
- (3) No order may be made by an NHS trust under Part 2 of the Acquisition of Land Act 1981 with respect to any land unless the proposal to acquire the land compulsorily—
  - (a) has been submitted to the Secretary of State in such form and together with such information as he may require, and
  - (b) has been approved by him.

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### PART 3

#### DISSOLUTION

- 28 (1) The Secretary of State [<sup>F39</sup>or NHS England] may by order dissolve an NHS trust.
- [<sup>F40</sup>(1A) An order under this paragraph may be made by NHS England only with the approval of the Secretary of State.]
- (2) An order under this paragraph may be made—
- (a) on the application of the NHS trust concerned, or
  - (b) if the Secretary of State [<sup>F41</sup>or NHS England] considers it appropriate in the interests of the health service.
- (3) Except where it appears to the Secretary of State [<sup>F42</sup>or NHS England] necessary to make an order under this paragraph as a matter of urgency [<sup>F43</sup>or where the order is made following the publication of a final report under section 65I(3)], no such order may be made until after the completion of such consultation as may be prescribed.

#### Textual Amendments

- F39** Words in Sch. 4 para. 28(1) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 58(5)(a)(i)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F40** Sch. 4 para. 28(1A) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 58(5)(a)(ii)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F41** Words in Sch. 4 para. 28(2)(b) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 58(5)(a)(iii)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F42** Words in Sch. 4 para. 28(3) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 58(5)(a)(iii)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F43** Words in Sch. 4 para. 28(3) inserted (15.2.2010) by [Health Act 2009 \(c. 21\)](#), **ss. 18(10)**, 40(1); S.I. 2010/30, art. 3(b)

- 29 [<sup>F44</sup>(1) If an NHS trust is dissolved under paragraph 28, the Secretary of State or NHS England may by order transfer, or provide for the transfer of, the property and liabilities of the NHS trust to the Secretary of State or an NHS body; and such an order may include provisions corresponding to those of paragraph 9.]
- (2) The liabilities which may be transferred by virtue of sub-paragraph (1) to an NHS body include criminal liabilities.
- (3) An order under this paragraph may make provision in connection with the transfer of staff employed by or for the purposes of the NHS trust which is dissolved; and such an order may include provisions corresponding to those of paragraph 8, including provision for the making of a scheme by such <sup>F45</sup>... Special Health Authority, Local Health Board or other body as may be specified in the order.
- (4) No order may be made under this paragraph until after completion of such consultation as may be prescribed.

#### Textual Amendments

- F44** Sch. 4 para. 29(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 58(5)(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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**F45** Words in Sch. 4 para. 29(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 4 para. 22(9); S.I. 2013/160, art. 2(2) (with arts. 7-9)

30 (1) If an NHS trust is dissolved under paragraph 28, the Secretary of State or such other NHS trust,<sup>F46</sup> ...<sup>F47</sup> ... Special Health Authority or Local Health Board as he [<sup>F48</sup>or NHS England] may direct must undertake the responsibility for the continued payment of any such pension, allowances or gratuities as, by virtue of paragraph 11(2) or paragraph 26, would otherwise have been the responsibility of the NHS trust which has been dissolved.

(2) Sub-paragraph (1) does not affect the generality of paragraph 29.

#### Textual Amendments

**F46** Words in Sch. 4 para. 30(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 4 para. 22(10)(a); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F47** Words in Sch. 4 para. 30(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 4 para. 22(10)(b); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F48** Words in Sch. 4 para. 30(1) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 58(5)(c), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

31 [<sup>F49</sup>Subject to section 56AA,] an NHS trust may not be dissolved or wound up except in accordance with paragraph 28 or section 57.

#### Textual Amendments

**F49** Words in Sch. 4 para. 31 inserted (26.5.2015) by Deregulation Act 2015 (c. 20), ss. 96(8), 115(7); S.I. 2015/994, art. 6(r)

## PART 4

### MISCELLANEOUS

#### *Use and development of consecrated land and burial grounds*

32 Section 128 of the Town and Country Planning Act 1971 (c. 78) (use and development of consecrated land and burial grounds) applies to consecrated land and land comprised in a burial ground, within the meaning of that section, which an NHS trust holds for any of its purposes as if—

- (a) that land had been acquired by the NHS trust as mentioned in subsection (1) of that section, and
- (b) the NHS trust were a statutory undertaker, within the meaning of that Act.

#### *Instruments etc.*

33 (1) The fixing of the seal of an NHS trust must be authenticated by the signature—

- (a) of the chairman or of some other person authorised (whether generally or specifically) by the NHS trust for that purpose, and
- (b) of one other director.



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- (2) A document purporting to be duly executed under the seal of an NHS trust must be received in evidence and must, unless the contrary is proved, be taken to be so executed.
- (3) A document purporting to be signed on behalf of an NHS trust must be received in evidence and must, unless the contrary is proved, be taken to be so signed.

#### *Interpretation*

- 34 In this Schedule—
- “provide” includes manage,
  - “operational date” has the meaning given by paragraph 5(5).

**Changes to legislation:**

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

- Sch. 4 para. 24 and cross-heading substituted by [2022 c. 31 Sch. 3 para. 54](#)

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

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

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A-98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A-114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A-116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A-125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)