



National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART I

THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

Funding, audit and liabilities

20 Extension of functions etc. of Audit Commission to cover the health service

- (1) Part III of the Local Government Finance Act 1982 (the Audit Commission for Local Authorities in England and Wales—in this section referred to as “the Commission”) shall have effect subject to the amendments in Schedule 4 to this Act, being amendments—
 - (a) to extend the functions of the Commission to cover health authorities and other bodies established under this Act or the principal Act;
 - (b) to alter the title and constitution of the Commission to reflect its wider role; and
 - (c) to make provision consequential on or supplemental to the amendments referred to in paragraphs (a) and (b) above.
- (2) In section 98 of the principal Act (accounts and audit),—
 - (a) in subsection (1), in the words following paragraph (e) for the words from “appointed” to “Comptroller” there shall be substituted “appointed by the Audit Commission for Local Authorities and the National Health Service in England and Wales and the Comptroller”;
 - (b) after subsection (2A) of that section there shall be inserted the following subsection—

“(2B) So far as relates to allotted sums paid to the members of a fund-holding practice—

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- (a) accounts shall be kept in such form as the Secretary of State may with the approval of the Treasury direct;
 - (b) the Comptroller and Auditor General may examine the accounts and the records relating to them and any report of the auditor on them;
 - (c) in respect of each financial year, annual accounts in such form as the Secretary of State may with the approval of the Treasury direct shall be prepared and submitted to the relevant Family Health Services Authority; and
 - (d) in respect of each financial year, each Family Health Services Authority shall prepare, in such form as the Secretary of State may with the approval of the Treasury direct, and include in its own accounts, a summarised version of the accounts submitted to the Authority under paragraph (c) above.”;
- (c) subsection (3) (regulations of the Secretary of State with respect to audit) shall be omitted; and
 - (d) after subsection (4) there shall be inserted—
 - “(5) In subsection (2B) above “recognised fund-holding practice” and “allotted sum” have the same meaning as in section 15 of the National Health Service and Community Care Act 1990.”
- (3) If the person who is for the time being the auditor, within the meaning of Part III of the Local Government Finance Act 1982, in relation to the accounts of a health service body, within the meaning of that Part, has reason to believe that the body, or any officer of the body,—
- (a) is about to make, or has made, a decision which involves or would involve the incurring of expenditure which is unlawful, or
 - (b) is about to take, or has taken, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,
- he shall refer the matter forthwith to the Secretary of State.
- (4) It shall be the duty of the Commission to make, by such date as the Secretary of State may determine, an offer of employment by the Commission to each person employed in the civil service of the State in connection with the audit of the accounts of any of the bodies specified in section 98(1) of the principal Act whose name is notified to the Commission by the Secretary of State for the purposes of this subsection; and the terms of the offer must be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (5) An offer made in pursuance of subsection (4) above shall not be revocable during the period of three months beginning with the date on which it is made.
- (6) Where a person becomes an officer or servant of the Commission in consequence of subsection (4) above, then, for the purposes of the Employment Protection (Consolidation) Act 1978, his period of employment in the civil service of the State shall count as a period of employment by the Commission and the change of employment shall not break the continuity of the period of employment.
- (7) Where a person ceases to be employed as mentioned in subsection (4) above—
- (a) on becoming an officer or servant of the Commission in consequence of an offer made in pursuance of that subsection, or

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- (b) having unreasonably refused such an offer,
he shall not, on ceasing to be so employed, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having been retired on redundancy.
- (8) Without prejudice to any express amendment made by this Act, on and after the day appointed for the coming into force of this subsection, any reference in any enactment (including an enactment comprised in subordinate legislation) to the Audit Commission for Local Authorities in England and Wales shall be construed as a reference to the Audit Commission for Local Authorities and the National Health Service in England and Wales.