

HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Nhs Foundation Trusts

Miscellaneous

Section 38: Audit

136. This section introduces *Schedule 5* which sets out provisions relating to the audit of NHS foundation trusts' accounts.
137. *Paragraph 1* of the Schedule places a number of duties on auditors of NHS foundation trusts. They include a duty that, when auditing an NHS foundation trust's accounts, the auditor must be satisfied that they are prepared in accordance with directions and any relevant enactments, and that proper practices have been observed in their compilation. The auditor must also be satisfied that the trust has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
138. *Paragraph 2* gives the auditor rights of access to documents and information relating to the NHS foundation trust. The provision also gives auditors the power to require such explanation as is necessary to enable an audit to be properly completed. Failure to provide information, or to give an explanation related to audit matters, is an offence.
139. *Paragraphs 3 to 5* set out some provisions relating to auditors' reports on NHS foundation trusts, including requirements for submitting reports.
140. *Paragraph 6* requires the auditor to inform the Independent Regulator if an NHS foundation trust has or is about to incur unlawful expenditure or take action that is likely to be unlawful and cause a loss or deficiency.
141. *Paragraph 8* places restrictions on when auditors may disclose information relating to an NHS foundation trust. It is an offence to contravene these restrictions.