

*Status: Point in time view as at 31/01/2008. This version of this schedule contains provisions that are prospective.*

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## SCHEDULES

### SCHEDULE 9

Section 147

#### PART 2: MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Public Records Act 1958 (c. 52)*

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate places in Part 2 of the Table at the end of paragraph 3 insert the following entries— “ Commission for Healthcare Audit and Inspection ”; “ Commission for Social Care Inspection ”.

##### **Commencement Information**

- I1** Sch. 9 para. 1 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**  
**I2** Sch. 9 para. 1 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

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

- 2 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), after paragraph (bf) of paragraph 1 insert—  
“(bg) the Commission for Healthcare Audit and Inspection;  
(bh) the Commission for Social Care Inspection;”.

##### **Commencement Information**

- I3** Sch. 9 para. 2 in force at 1.4.2004 by [S.I. 2004/759](#), **art. 5(2)(b)**

##### *Parliamentary Commissioner Act 1967 (c. 13)*

- 3 In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments subject to investigation), at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection. ”; “ Commission for Social Care Inspection. ”

##### **Commencement Information**

- I4** Sch. 9 para. 3 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**  
**I5** Sch. 9 para. 3 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

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PROSPECTIVE

*Local Authority Social Services Act 1970 (c. 42)*

- 4 In the Local Authority Social Services Act 1970, in Schedule 1, insert at the end—

“Health and Social Care (Community  
Health and Standards) Act 2003

Section 114

Consideration of complaints.”

*Superannuation Act 1972 (c. 11)*

- 5 In Schedule 1 to the Superannuation Act 1972 (kinds of employment in relation to which pension schemes may be made), at the appropriate places in the list of “Other Bodies” insert the following entries— “ The Commission for Healthcare Audit and Inspection. ”; “ The Commission for Social Care Inspection. ”.

**Commencement Information**

**I6** Sch. 9 para. 5 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**

**I7** Sch. 9 para. 5 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

- 6 The CHAI and the CSCI must each pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as he may determine in respect of any increase attributable to paragraph 5 in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

**Commencement Information**

**I8** Sch. 9 para. 6 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**

**I9** Sch. 9 para. 6 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

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

- 7 In the House of Commons Disqualification Act 1975, in Part 2 of Schedule 1 (bodies of which all members are disqualified), at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection. ”; “ Commission for Social Care Inspection. ”.

**Commencement Information**

**I10** Sch. 9 para. 7 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**

**I11** Sch. 9 para. 7 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

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*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 8 In the Northern Ireland Assembly Disqualification Act 1975, in Part 2 of Schedule 1 (bodies of which all members are disqualified), at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection. ”; “ Commission for Social Care Inspection. ”.

**Commencement Information**

- I12** Sch. 9 para. 8 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), **art. 3(b)**  
**I13** Sch. 9 para. 8 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), **art. 5(b)**

*National Health Service Act 1977 (c. 49)*

- <sup>F19</sup> .....

**Textual Amendments**

- F1** Sch. 9 para. 9 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Children Act 1989 (c. 41)*

- <sup>F210</sup> .....

**Textual Amendments**

- F2** Sch. 9 para. 10 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 18 Pt. 5**; [S.I. 2007/935](#), **art. 5(ii)**

*Health Service Commissioners Act 1993 (c. 46)*

- 11 (1) The Health Service Commissioners Act 1993 has effect subject to the following amendments.
- (2) In section 4(4)(a), after “can be made” insert “ under section 113(1) or (2) of the Health and Social Care (Community Health and Standards) Act 2003 or ”.
- (3) In section 11, after subsection (1B) insert—
- “(1C) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under section 3(1E), he shall afford to the person or body whose maladministration is complained of an opportunity to comment on any allegations contained in the complaint.”
- (4) In section 12(1A), for “or (1C)” substitute “ (1C) or (1E) ”.
- (5) In section 14, after subsection (2D) insert—
- “(2E) In any case where the Health Service Commissioner for England conducts an investigation pursuant to a complaint under section 3(1E) he shall send a report of the results of the investigation—

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- (a) to the person who made the complaint;
  - (b) to any member of the House of Commons who to the Commissioner’s knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate);
  - (c) to the person or body whose maladministration is complained of;
  - (d) to any person or body whose action was complained of in the complaint made to the person or body whose maladministration is complained of;
  - (e) to the Secretary of State.
- (2F) In any case where the Health Service Commissioner for England decides not to conduct an investigation pursuant to a complaint under section 3(1E) he shall send a statement of his reasons—
- (a) to the person who made the complaint; or
  - (b) to any such member of the House of Commons as is mentioned in subsection (2E)(b).”
- (6) In section 14A, at the end insert—
- “(4) In any case where the Health Service Commissioner for Wales conducts an investigation pursuant to a complaint under section 3(1E) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint;
  - (b) to any Assembly member who to the Commissioner’s knowledge assisted in the making of the complaint (or if he is no longer an Assembly member to such other member as the Commissioner thinks appropriate);
  - (c) to the person or body whose maladministration is complained of;
  - (d) to any person or body whose action was complained of in the complaint made to the person or body whose maladministration is complained of;
  - (e) to the Assembly First Secretary.
- (5) In any case where the Health Service Commissioner for Wales decides not to conduct an investigation pursuant to a complaint under section 3(1E) he shall send a statement of his reasons—
- (a) to the person who made the complaint; or
  - (b) to any such member of the Assembly as is mentioned in subsection (4)(b).”
- (7) In section 14B—
- (a) for “14A(1)”, in each place, substitute “ 14A ”, and
  - (b) in subsection (2), for “or (1C)” substitute “ (1C) or (1E) ”.

**Commencement Information**

**I14** Sch. 9 para. 11 in force at 1.6.2004 by [S.I. 2004/759](#), [art. 7](#)

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*Audit Commission Act 1998 (c. 18)*

- 12 (1) The Audit Commission Act 1998 has effect subject to the following amendments.
- (2) In section 4, in subsection (7)—
- (a) in paragraph (a), after “bodies,” insert “ the Commission for Healthcare Audit and Inspection and ”;
  - (b) in paragraph (b), after “bodies,” insert “ the Commission for Social Care Inspection and ”; and
  - (c) in paragraph (c), after “case,” insert “ the National Assembly for Wales and ”.
- (3) At the end of that section insert—
- “(8) The Commission must obtain the agreement of the Commission for Healthcare Audit and Inspection before preparing or altering provisions of a code which—
- (a) are applicable to accounts which are or include accounts of health service bodies; and
  - (b) concern the function under section 5(1)(e).”.
- (4) In section 7—
- (a) in subsection (2)(a), for “such organisations” substitute “ the Commission for Healthcare Audit and Inspection and such other organisations ”; and
  - (b) in subsection (9), after paragraph (a) insert—  
“(aa) the Commission for Healthcare Audit and Inspection;”.
- (5) In section 33 (studies for improving economy etc in services), in subsection (6), at the end insert—
- “(d) in the case of a study which has a connection with English local authority social services (within the meaning of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003), also consult the Commission for Social Care Inspection; and
  - (e) in the case of a study which has a connection with Welsh local authority social services (within the meaning of that Part of that Act), also consult the National Assembly for Wales;”.
- (6) In that section, after subsection (6) insert—
- “(7) The following provisions of this section do not apply in relation to the bodies specified in subsection (8)—
- (a) subsection (1)(a);
  - (b) subsection (1)(b), so far as relating to management other than financial management;
  - (c) subsection (4).
- (8) Those bodies are—
- (a) any Primary Care Trust;
  - (b) any Strategic Health Authority;
  - (c) any NHS trust (within the meaning of the National Health Service Act 1977) all or most of whose hospitals, establishments and facilities are situated in England.”
- (7) In section 34(6), after paragraph (b) insert—

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- “(ba) in the case of a study which has a connection with any English local authority social service (within the meaning of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003), the Commission for Social Care Inspection;
- (bb) in the case of a study which has a connection with any Welsh local authority social service (within the meaning of that Part of that Act), the National Assembly for Wales;”.

<sup>F3</sup>(8) .....

<sup>F4</sup>(9) .....

(10) In section 49(1)—

(a) after paragraph (b) insert—

“(ba) to the Commission for Social Care Inspection for the purposes of its functions under Chapter 5 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003;

(bb) to the National Assembly for Wales for the purposes of its functions under Chapter 4 of that Part of that Act;”.

(b) in paragraph (c), at the end insert “or for the purposes of the functions of the Commission for Healthcare Audit and Inspection under Chapter 3 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003”.

#### Textual Amendments

**F3** Sch. 9 para. 12(8) repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 18 Pt. 11](#); S.I. 2008/172, art. 2(1)(u)(i)

**F4** Sch. 9 para. 12(9) repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 18 Pt. 10](#); S.I. 2008/172, art. 2(1)(u)(i)

#### Commencement Information

**I15** Sch. 9 para. 12 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 9](#)

#### *Government of Wales Act 1998 (c. 38)*

- 13 In Schedule 5 to the Government of Wales Act 1998, for paragraph 12A substitute—  
“12A The Commission for Healthcare Audit and Inspection.”

#### Commencement Information

**I16** Sch. 9 para. 13 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

#### *Protection of Children Act 1999 (c. 14)*

- 14 In section 2A of the Protection of Children Act 1999, in subsection (2), for paragraph (a) substitute—  
“(a) the Commission for Social Care Inspection;  
(aa) the Commission for Healthcare Audit and Inspection;”.

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**Commencement Information**

**I17** Sch. 9 para. 14 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

*Local Government Act 1999 (c. 27)*

15 In section 25(2) of the Local Government Act 1999, for paragraphs (e) to (g) substitute—

“(e) the Commission for Social Care Inspection;”.

**Commencement Information**

**I18** Sch. 9 para. 15 in force at 15.1.2007 for E. by [S.I. 2006/3397](#), [art. 5](#)

*Care Standards Act 2000 (c. 14)*

16 The Care Standards Act 2000 has effect subject to the following amendments.

**Commencement Information**

**I19** Sch. 9 para. 16 in force at 11.3.2004 for specified purposes by [S.I. 2004/759](#), [art. 5\(1\)\(b\)](#)

**I20** Sch. 9 para. 16 in force at 11.3.2004 for E. by [S.I. 2004/759](#), [art. 4\(1\)\(b\)](#)

**I21** Sch. 9 para. 16 in force at 1.4.2004 in so far as not already in force by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

17 In section 5, in paragraph (a), for “the National Care Standards Commission” substitute—

“(i) the CHAI, in the case of independent hospitals, independent clinics and independent medical agencies;

(ii) the CSCI, in the case of children’s homes, care homes, residential family centres, domiciliary care agencies, nurses agencies, fostering agencies, voluntary adoption agencies and adoption support agencies;”.

**Commencement Information**

**I22** Sch. 9 para. 17 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

18 (1) Section 8 is amended as follows.

<sup>F5</sup>(2) . . . . .

(3) At the end insert—

“(6) In this section, “Part II services” means services of the kind provided by persons registered under Part II, other than the provision of—

- (a) medical or psychiatric treatment, or
- (b) listed services (as defined in section 2).”

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#### Textual Amendments

**F5** Sch. 9 para. 18(2) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 18 Pt. 5**; [S.I. 2007/935](#), art. 5(ii)

#### Commencement Information

**I23** Sch. 9 para. 18 in force at 1.4.2004 by [S.I. 2004/759](#), art. 5(2)(b)

- 19 In section 10—
- (a) subsection (1) is omitted; and
  - (b) in subsection (6)(b), for “by the Commission” substitute “by the CHAI or the CSCI under this Act”.

#### Commencement Information

**I24** Sch. 9 para. 19 in force at 1.4.2004 by [S.I. 2004/759](#), art. 5(2)(b)

- 20 In section 11(4), for “the Commission” substitute “the CHAI or the CSCI”.

#### Commencement Information

**I25** Sch. 9 para. 20 in force at 1.4.2004 by [S.I. 2004/759](#), art. 5(2)(b)

- 21 In section 23(4)(d), after the second “or” insert “against a voluntary adoption agency or adoption support agency for an offence under”.

#### Commencement Information

**I26** Sch. 9 para. 21 in force at 1.4.2004 for E. by [S.I. 2004/759](#), art. 4(2)(b)

- 22 In section 29(1)—
- (a) for “the Commission”, in the first place, substitute “the CHAI or the CSCI (as appropriate)”, and
  - (b) for “the Commission”, in the second place, substitute “either the CHAI or the CSCI”.

#### Commencement Information

**I27** Sch. 9 para. 22 in force at 1.4.2004 by [S.I. 2004/759](#), art. 5(2)(b)

- 23 In section 31—
- (a) in subsection (6), for “powers” substitute “power”; and
  - (b) in subsection (7), for “the Commission” substitute “the CHAI or the CSCI”.

#### Commencement Information

**I28** Sch. 9 para. 23(a) in force at 1.4.2004 by [S.I. 2004/759](#), art. 5(2)(b)

**I29** Sch. 9 para. 23(b) in force at 11.3.2004 for specified purposes by [S.I. 2004/759](#), art. 5(1)(b)



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24 In section 36A for “the Commission”, in all places, substitute “ the CSCI ”.

**Commencement Information**

**I30** Sch. 9 para. 24 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(b\)](#)

25 In section 42, at the end insert—

“(5) Regulations under subsection (1) made by the Secretary of State may in particular specify whether, for the purposes of the application of this Part to any person, the registration authority is to be the CHAI or the CSCI.”

**Commencement Information**

**I31** Sch. 9 para. 25 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

<sup>F6</sup>26 .....

**Textual Amendments**

**F6** Sch. 9 para. 26 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5\(ii\)](#)

27 In section 51(1), for the words from “in relation to” to “registration authority” substitute “ in England in relation to which powers conferred by section 80 of the Health and Social Care (Community Health and Standards) Act 2003 may be exercised to pay to the CSCI ”.

**Commencement Information**

**I32** Sch. 9 para. 27 in force at 11.3.2004 for E. by [S.I. 2004/759](#), [art. 4\(1\)\(b\)](#)

**I33** Sch. 9 para. 27 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(b\)](#)

28 In section 55(3)(e)—

- (a) for “the Commission” substitute “ the CSCI ”;
- (b) for “section 31 or 46 of this Act” substitute “ section 31 of this Act or section 88 or 98 of the Health and Social Care (Community Health and Standards) Act 2003 ”.

**Commencement Information**

**I34** Sch. 9 para. 28 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(b\)](#)

29 In section 113, after subsection (1) insert—

“(1A) The powers conferred by this section are exercisable by the Secretary of State if he is satisfied that—

- (a) the CHAI or the CSCI has without reasonable excuse failed to discharge, or properly to discharge, any of its functions under this Act, or

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- (b) in discharging any of its functions under this Act the CHAI or the CSCI has without reasonable excuse failed to comply with any directions given by him in relation to those functions.”

**Commencement Information**

**I35** Sch. 9 para. 29 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

- 30 In section 121, in the Table in subsection (13), insert the following entries at the appropriate places— “ CHAI Section 5A ”; and “ CSCI Section 5B ”.

**Commencement Information**

**I36** Sch. 9 para. 30 in force at 1.4.2004 by [S.I. 2004/759](#), [art. 5\(2\)\(b\)](#)

*Freedom of Information Act 2000 (c. 36)*

- 31 In the Freedom of Information Act 2000, in Part 6 of Schedule 1, at the appropriate places insert the following entries— “ Commission for Healthcare Audit and Inspection, in respect of information held for purposes other than those of its functions exercisable by virtue of paragraph 5(a)(i) of the Care Standards Act 2000. ”; “ Commission for Social Care Inspection, in respect of information held for purposes other than those of its functions exercisable by virtue of paragraph 5(a)(ii) of the Care Standards Act 2000. ”.

**Commencement Information**

**I37** Sch. 9 para. 31 in force at 1.1.2004 for specified purposes for E. by [S.I. 2003/3346](#), [art. 3\(b\)](#)

**I38** Sch. 9 para. 31 in force at 8.1.2004 for specified purposes by [S.I. 2003/3346](#), [art. 5\(b\)](#)

*Adoption and Children Act 2002 (c. 38)*

F<sup>7</sup>32 .....

**Textual Amendments**

**F7** Sch. 9 para. 32 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5\(ii\)](#)

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