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# Health Act 2009

## CHAPTER 21

### HEALTH ACT 2009

#### PART 1

##### QUALITY AND DELIVERY OF NHS SERVICES IN ENGLAND

#### CHAPTER 1

##### NHS CONSTITUTION

- 1 NHS Constitution
- 2 Duty to have regard to NHS Constitution
- 3 Availability and review of NHS Constitution
- 4 Other revisions of NHS Constitution
- 5 Availability, review and revision of Handbook
- 6 Report on effect of NHS Constitution
- 7 Regulations under section 3 or 4

#### CHAPTER 2

##### QUALITY ACCOUNTS

- 8 Duty of providers to publish information
- 9 Supplementary provision about the duty
- 10 Regulations under section 8

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### CHAPTER 3

#### DIRECT PAYMENTS

- 11 Direct payments for health care
- 12 Jurisdiction of Health Service Commissioner
- 13 Direct payments: minor and consequential amendments

### CHAPTER 4

#### INNOVATION

- 14 Innovation prizes

### PART 2

#### POWERS IN RELATION TO HEALTH BODIES

### CHAPTER 1

#### POWERS IN RELATION TO FAILING NHS BODIES IN ENGLAND

##### *De-authorisation of NHS foundation trusts*

- 15 De-authorisation of NHS foundation trusts

##### *Trust special administrators*

- 16 Trust special administrators: NHS trusts and NHS foundation trusts
- 17 Trust special administrators: Primary Care Trusts

##### *Consequential amendments*

- 18 Trust special administrators: consequential amendments

### CHAPTER 2

#### SUSPENSION

- 19 NHS and other health appointments: suspension

### PART 3

#### MISCELLANEOUS

##### *Tobacco*

- 20 Prohibition of advertising: exclusion for specialist tobacconists
- 21 Prohibition of tobacco displays etc
- 22 Power to prohibit sales from vending machines
- 23 Power to prohibit sales from vending machines: Northern Ireland
- 24 Tobacco: minor and consequential amendments

##### *Pharmaceutical services in England*

- 25 Pharmaceutical needs assessments
- 26 New arrangements for entry to pharmaceutical list

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- 27 Pharmaceutical lists: minor amendment
- 28 Breach of terms of arrangements: notices and penalties
- 29 LPS schemes: powers of Primary Care Trusts and Strategic Health Authorities

*Pharmaceutical services in Wales*

- 30 Pharmaceutical lists: minor amendment
- 31 Breach of terms of arrangements: notices and penalties
- 32 LPS schemes: powers of Local Health Boards

*Private patient income*

- 33 Private patient income of mental health foundation trusts

*Optical appliances*

- 34 Payments in respect of costs of optical appliances

*Adult social care*

- 35 Investigation of complaints about privately arranged or funded adult social care

*Disclosure of information*

- 36 Disclosure of information by Her Majesty's Revenue and Customs

**PART 4**

GENERAL

- 37 Power to make transitional and consequential provision etc
- 38 Repeals and revocations
- 39 Extent
- 40 Commencement
- 41 Short title

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Schedules

Schedule 1 — Direct payments: minor and consequential amendments

*National Assistance Act 1948 (c. 29)*

- 1 In section 24 of the National Assistance Act 1948 (authority...

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

- 2 In section 63(2)(bb) of the Health Services and Public Health...

*Mental Health Act 1983 (c. 20)*

- 3 In section 117 of the Mental Health Act 1983 (after-care),...

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

- 4 In section 2 of the Disabled Persons (Services, Consultation and...

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*Health and Social Care (Community Health and Standards) Act 2003 (c. 43)*

5 (1) In section 45 of the Health and Social Care...

*National Health Service Act 2006 (c. 41)*

6 The National Health Service Act 2006 is amended as follows....

7 In the following provisions, after “pilot scheme” insert “established...”

8 In section 134 (pilot schemes for local pharmaceutical services), in...

9 In section 246(3) (power to amend in relation to exempt...

10 In section 272(6) (instruments not to be made unless laid...

11 In section 276 (index of defined expressions) omit the entry...

*Safeguarding Vulnerable Groups Act 2006 (c. 47)*

12 The Safeguarding Vulnerable Groups Act 2006 is amended as follows....

13 In section 6 (regulated activity providers), after subsection (8B) insert

—...

14 (1) Section 21 (controlled activity relating to children) is amended...

15 (1) Section 59(1) (vulnerable adults) is amended as follows.

Schedule 2 — De-authorised NHS foundation trusts

After Schedule 8 to the National Health Service Act 2006...

Schedule 3 — NHS and other health appointments: suspension

Part 1 — AMENDMENTS OF ENACTMENTS

*Medicines Act 1968 (c. 67)*

1 (1) In Schedule 1A to the Medicines Act 1968 (provisions...

*Licensing (Alcohol Education and Research) Act 1981 (c. 28)*

2 (1) Schedule 1 to the Licensing (Alcohol Education and Research...

*Human Fertilisation and Embryology Act 1990 (c. 37)*

3 (1) Schedule 1 to the Human Fertilisation and Embryology Act...

*Health Protection Agency Act 2004 (c. 17)*

4 Schedule 1 to the Health Protection Agency Act 2004 (the...

5 (1) Paragraph 1 is amended as follows.

6 In paragraph 29, after sub-paragraph (2) insert—

*Human Tissue Act 2004 (c. 30)*

7 In Schedule 2 to the Human Tissue Act 2004 (the...

*Health Act 2006 (c. 28)*

8 (1) In Schedule 4 to the Health Act 2006 (the...

*National Health Service Act 2006 (c. 41)*

9 The National Health Service Act 2006 is amended as follows....

10 In Schedule 2 (Strategic Health Authorities), for paragraph 9(d) substitute—...

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- 11 In Schedule 6 (Special Health Authorities), for paragraph 5(d) substitute  
—...  
12 (1) Schedule 8 (Independent Regulator of NHS Foundation Trusts) is...  
13 (1) Schedule 19 (further provision about standing advisory committees)  
is...

*National Health Service (Wales) Act 2006 (c. 42)*

- 14 The National Health Service (Wales) Act 2006 is amended as...  
15 In Schedule 5 (Special Health Authorities established under  
section 22),...  
16 (1) Schedule 10 (further provision about community health councils)  
is...  
17 (1) Schedule 13 (further provision about standing advisory committees)  
is...

Part 2 — SUPPLEMENTARY

*Cross-border bodies*

- 18 (1) In relation to a cross-border body—

*Transitional provision*

- 19 The amendments made by this Schedule apply in relation to...

Schedule 4 — Tobacco: minor and consequential amendments

*Children and Young Persons (Protection from Tobacco) Act 1991 (c. 23)*

- 1 In section 5(3)(a) of the Children and Young Persons (Protection...

*Tobacco Advertising and Promotion Act 2002 (c. 36)*

- 2 The Tobacco Advertising and Promotion Act 2002 is amended as...  
3 (1) Section 6 (exclusion from advertising offence for specialist  
tobacconists)...  
4 (1) Section 8 (displays) is amended as follows.  
5 (1) Section 9 (prohibition of free distributions) is amended as...  
6 (1) Section 11 (brandsharing) is amended as follows.  
7 (1) Section 13 (enforcement) is amended as follows.  
8 (1) Section 14 (powers of entry etc.) is amended as...  
9 (1) Section 16 (penalties) is amended as follows.  
10 In section 17(1) (defences: burden of proof) after “6(1),” insert...  
11 (1) Section 19 (regulations) is amended as follows.  
12 In section 21(1) (interpretation), for the definition of “appropriate  
Minister”...  
13 In the Schedule (information society service providers), in paragraph  
1,...

Schedule 5 — Investigation of complaints about privately arranged or funded  
adult social care

Part 1 — NEW PART 3A FOR THE LOCAL GOVERNMENT ACT 1974

- 1 The Local Government Act 1974 (c. 7) is amended as...  
2 After Part 3 (local government administration) insert— Part 3A  
Investigation...

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- 3 After Schedule 5 (matters not subject to investigation) insert—  
Schedule...

Part 2 — MINOR AND CONSEQUENTIAL AMENDMENTS

*Local Government Act 1974 (c. 7)*

- 4 Part 3 of the Local Government Act 1974 is amended...  
5 (1) Section 23 (the Commission for Local Administration) is amended...  
6 In section 23A(1) (annual reports for representatives etc.), after  
“functions”...  
7 In section 26D(1)(a) (matters coming to attention of Local  
Commissioner),...  
8 (1) Section 29 (investigations under Part 3: further provisions) is...  
9 In section 30(1) (reports on investigations under Part 3), after...  
10 In section 32(2) (law of defamation), after paragraph (a) insert—...  
11 (1) Section 33ZA (collaborative working between Local Commissioners  
and Other...  
12 In Schedule 4 (the Commission), in paragraph 1, after sub-paragraph...

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

- 13 In section 18(1)(c) of the Health Service Commissioners Act 1993...

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

- 14 In section 76 of the Freedom of Information Act 2000...

*Scottish Public Services Ombudsman Act 2002 (2002 asp 11)*

- 15 In section 21(1)(d) of the Scottish Public Services Ombudsman Act...

Schedule 6 — Repeals and revocations

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