

SCHEDULES

SCHEDULE 21

AMENDMENTS RELATING TO RELATIONSHIPS BETWEEN THE HEALTH SERVICES

National Health Service (Scotland) Act 1978 (c. 29)

- 2 (1) Section 17A (NHS contracts) is amended as follows.
- (2) In subsection (1), in paragraph (b) for “(q)” substitute “(s)”.
- (3) In subsection (2)—
- (a) after paragraph (c) insert—
 - “(ca) the Scottish Ministers;”,
 - (b) for paragraph (f) substitute—
 - “(f) Local Health Boards established under section 11 of the National Health Service (Wales) Act 2006;”,
 - (c) for paragraph (ff) substitute—
 - “(fa) Special Health Authorities established under section 28 of the National Health Service Act 2006;
 - (fb) Special Health Authorities established under section 22 of the National Health Service (Wales) Act 2006;”,
 - (d) omit paragraph (h),
 - (e) before paragraph (k) insert—
 - “(ja) the National Health Service Commissioning Board;
 - (jb) clinical commissioning groups established under section 14D of the National Health Service Act 2006;”,
 - (f) in paragraph (k), for “section 5 of the National Health Service and Community Care Act 1990” substitute “section 18 of the National Health Service (Wales) Act 2006”,
 - (g) omit paragraph (ka),
 - (h) after paragraph (m) insert—
 - “(ma) the Welsh Ministers;”,
 - (i) after paragraph (p) omit the “and,”,
 - (j) after paragraph (q) insert—
 - “(r) the National Institute for Health and Care Excellence; and
 - (s) the Health and Social Care Information Centre;”,
- (4) After subsection (10) insert—
- “(11) Subsection (12) applies where a person mentioned in subsection (2)(fa), (ja), (jb), (m), (r) or (s) is a party or prospective party to an arrangement or proposed arrangement which—
 - (a) falls within subsection (1); and

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- (b) also falls within the definition of NHS contract in section 9 of the National Health Service Act 2006.
- (12) Subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement (except in so far as it relates to reserved matters within the meaning of the Scotland Act 1998) with the substitution for references to the Secretary of State of references to the Scottish Ministers and the Secretary of State acting jointly.
- (13) Subsection (14) applies where a person mentioned in subsection (2)(f), (fb), (k) or (ma) is a party or prospective party to an arrangement or proposed arrangement which—
 - (a) falls within subsection (1); and
 - (b) also falls within the definition of NHS contract in section 7 of the National Health Service (Wales) Act 2006.
- (14) Subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement with the substitution for references to the Secretary of State—
 - (a) in so far as the arrangement or proposed arrangement relates to reserved matters within the meaning of the Scotland Act 1998, of references to the Secretary of State and the Welsh Ministers acting jointly; and
 - (b) for all other purposes, of references to the Scottish Ministers and Welsh Ministers acting jointly.
- (15) Subsection (16) applies (and subsections (12) and (14) do not apply) where a cross-border Special Health Authority is a party or prospective party to an arrangement or proposed arrangement which—
 - (a) falls within subsection (1); and
 - (b) also falls within the definition of NHS contract in section 9 of the National Health Service Act 2006 and the definition of NHS contract in section 7 of the National Health Service (Wales) Act 2006.
- (16) Subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement (except in so far as it relates to reserved matters within the meaning of the Scotland Act 1998) with the substitution for references to the Secretary of State—
 - (a) where the cross-border Special Health Authority is exercising functions in relation to England only, of references to the Secretary of State and the Scottish Ministers acting jointly;
 - (b) where the Authority is exercising functions in relation to Wales only, of references to the Welsh Ministers and the Scottish Ministers acting jointly; and
 - (c) where the Authority is exercising functions in relation to England and Wales, of references to the Secretary of State and the Welsh Ministers acting concurrently with each other and jointly with the Scottish Ministers.
- (17) In subsections (15) and (16), “cross-border Special Health Authority” means a Special Health Authority which is established under the National Health Service Act 2006 and the National Health Service (Wales) Act 2006 by virtue of—

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- (a) paragraph 1(2) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006, or
- (b) the power under section 28 of the National Health Service Act 2006 and the power under section 22 of the National Health Service (Wales) Act 2006 being exercised together.”