

SCHEDULES

SCHEDULE 21

Section 297

AMENDMENTS RELATING TO RELATIONSHIPS BETWEEN THE HEALTH SERVICES

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

- 1 The National Health Service (Scotland) Act 1978 is amended as follows.
- 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—

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- (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.
- (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—

- (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.”
- 3 (1) Section 17C (personal medical or dental services) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for the words from “the Board by” to the end substitute “the Board by a Local Health Board”, and
- (b) in paragraph (b), for the words from “exercisable by” to “the Authority” substitute “exercisable by a Local Health Board in relation to an agreement made under section 50 of the National Health Service (Wales) Act 2006 to be exercisable on behalf of the Local Health Board”.
- (3) In subsection (6), for the first definition substitute—
- ““Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;”.
- (4) In consequence of the amendments made by sub-paragraphs (2) and (3), omit paragraph 12 of Schedule 3 to the National Health Service Reform and Health Care Professions Act 2002, and the cross-heading which precedes it.
- 4 In section 17D (persons with whom agreements under section 17C may be made), in subsection (2), in paragraph (b) of the definition of “NHS employee”—
- (a) in sub-paragraph (ii) omit “a Primary Care Trust or”,
- (b) in sub-paragraph (iii)—
- (i) after “NHS trust” insert “within the meaning of the National Health Service Act (Wales) 2006”, and
- (c) omit the words from “and in this paragraph” to the end.

National Health Service Act 2006 (c. 41)

- 5 The National Health Service Act 2006 is amended as follows.
- 6 In section 9 (NHS contracts), in subsection (4)—
- (a) after paragraph (f) insert—
- “(fa) a Special Health Board constituted under that section,”,
- and
- (b) after paragraph (n) insert—
- “(na) the Scottish Ministers,
- (nb) Healthcare Improvement Scotland.”.
- 7 After section 10 (provision about NHS contracts entered into by a body in Northern Ireland) insert—

“10A Provision for bodies in Scotland

- (1) Subsection (2) applies where the Scottish Ministers are, or a body mentioned in paragraph (f), (fa), (h), (l) or (nb) of section 9(4) is, a party or prospective party to an arrangement or proposed arrangement which—
- (a) falls within the definition of NHS contract in section 9(1), and

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- (b) also falls within the definition of NHS contract in section 17A of the National Health Service (Scotland) Act 1978.
 - (2) Subsections (5) to (13) of section 9 apply in relation to the 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 Secretary of State and the Scottish Ministers acting jointly.
 - (3) Subsection (4) applies (and subsection (2) does 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 the definition of NHS contract in section 9(1), and
 - (b) also falls within the definition of NHS contract in section 17A of the National Health Service (Scotland) Act 1978 and the definition of NHS contract in section 7(1) of the National Health Service (Wales) Act 2006.
 - (4) Subsections (5) to (13) of section 9 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; and
 - (b) 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.
 - (5) In subsections (3) and (4), “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—
 - (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.”
- 8 (1) In section 66 (intervention orders), for subsection (1) substitute—
- “(1) This section applies to—
- (a) NHS trusts, and
 - (b) Special Health Authorities.”
- (2) Until the commencement of section 33 of this Act, subsection (1) of section 66 of the National Health Service Act 2006 has effect as if it included a reference to Strategic Health Authorities.
- (3) Until the commencement of section 34 of this Act, subsection (1) of section 66 of the National Health Service Act 2006 has effect as if it included a reference to Primary Care Trusts.
- 9 (1) Section 67 (effect of intervention orders) is amended as follows.

- (2) In subsection (1)—
- (a) in paragraph (a) omit “or Local Health Board, or a member of the board of directors of an NHS trust”, and
 - (b) in paragraph (b)—
 - (i) omit “or Local Health Board,” and
 - (ii) in that paragraph omit “, or an executive director of an NHS trust”.
- (3) In subsection (7)(a) omit “(or in the case of an NHS trust to the membership of its board of directors)”.
- 10 (1) In section 68 (default powers), for subsection (1) substitute—
- “(1) This section applies to—
- (a) NHS trusts established under section 25, and
 - (b) Special Health Authorities.”
- (2) Until the commencement of section 33 of this Act, subsection (1) of section 68 of the National Health Service Act 2006 has effect as if it included a reference to Strategic Health Authorities.
- (3) Until the commencement of section 34 of this Act, subsection (1) of section 68 of the National Health Service Act 2006 has effect as if it included a reference to Primary Care Trusts.
- 11 In section 78 (directed partnership arrangements), in subsection (3)—
- (a) in paragraph (c) after “NHS trusts” insert “established under section 25”, and
 - (b) omit paragraph (d).

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

- 12 The National Health Service (Wales) Act 2006 is amended as follows.
- 13 In section 7 (NHS contracts), in subsection (4)—
- (a) omit paragraph (a),
 - (b) omit paragraph (b),
 - (c) before paragraph (c) insert—
 - “(ba) the National Health Service Commissioning Board,
 - (bb) a clinical commissioning group,”
 - (d) after paragraph (f) insert—
 - “(fa) a Special Health Board constituted under that section,”
 - (e) omit paragraph (j), and
 - (f) after paragraph (n) insert—
 - “(na) the Scottish Ministers,
 - (nb) Healthcare Improvement Scotland,”.
- 14 After section 8 insert—

“8A Provision for bodies in Scotland

- (1) Subsection (2) applies where the Scottish Ministers are, or a body mentioned in paragraph (f), (fa), (h), (l) or (nb) of section 7(4) is, a party or prospective party to an arrangement or proposed arrangement which—
 - (a) falls within the definition of NHS contract in section 7(1), and
 - (b) also falls within the definition of NHS contract in section 17A of the National Health Service (Scotland) Act 1978.
- (2) Subsections (5) to (13) of section 7 apply in relation to the arrangement or proposed arrangement with the substitution for references to the Welsh Ministers—
 - (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 Welsh Ministers and the Secretary of State acting jointly, and
 - (b) for all other purposes, of references to the Welsh Ministers and the Scottish Ministers acting jointly.
- (3) Subsection (4) applies (and subsection (2) does 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 the definition of NHS contract in section 7(1), and
 - (b) also falls within the definition of NHS contract in section 17A of the National Health Service (Scotland) Act 1978 and the definition of NHS contract in section 9(1) of the National Health Service Act 2006.
- (4) Subsections (5) to (13) of section 7 apply in relation to the 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 Welsh Ministers—
 - (a) where the cross-border Special Health Authority is exercising functions in relation to Wales only, of references to the Welsh Ministers and the Scottish Ministers acting jointly, and
 - (b) where the Authority is exercising functions in relation to England and Wales, of references to the Welsh Ministers and the Secretary of State acting concurrently with each other and jointly with the Scottish Ministers.
- (5) In subsections (3) and (4), “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—
 - (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.”

15 In section 10 (Welsh Ministers’ arrangements with other bodies), in subsection (4) omit paragraph (b).

- 16 In section 13 (exercise of Local Health Board functions), in subsection (3)—
- (a) omit paragraph (a), and
 - (b) before paragraph (b) insert—
 - “(aa) the National Health Service Commissioning Board,
 - (ab) clinical commissioning groups,”.
- 17 In section 17 (plans for improving health etc), in subsection (6)—
- (a) in paragraph (g)—
 - (i) after “between” insert “the National Health Service Commissioning Board, clinical commissioning groups,”,
 - (ii) omit “Strategic Health Authorities,”,
 - (iii) omit “Primary Care Trusts,”, and
 - (iv) for “section 24 of the National Health Service Act 2006 (c. 41)” substitute “the preparation of joint health and wellbeing strategies under section 116A of the Local Government and Public Involvement in Health Act 2007”, and
 - (b) in paragraph (h)—
 - (i) after “provision by” insert “the National Health Service Commissioning Board, clinical commissioning groups,”,
 - (ii) omit “Strategic Health Authorities,”,
 - (iii) omit “Primary Care Trusts”, and
 - (iv) for “section 24 of the National Health Service Act 2006 (c. 41)” substitute “joint health and wellbeing strategies under section 116A of the Local Government and Public Involvement in Health Act 2007”.
- 18 In section 22 (special health authorities), omit subsection (6).
- 19 In section 26 (intervention orders), in subsection (1) after “other than” insert “the National Health Service Commissioning Board, clinical commissioning groups and”.
- 20 In section 27 (effect of intervention orders), in subsection (1)—
- (a) omit “Strategic Health Authority,” in each place it occurs, and
 - (b) omit “Primary Care Trust,” in each place it occurs.
- 21 In section 28 (default powers), in subsection (1) after “other than” insert “the National Health Service Commissioning Board, clinical commissioning groups and”.
- 22 In section 34 (power of local authorities to make payments), in subsection (1)—
- (a) after “payments to” insert “the National Health Service Commissioning Board, a clinical commissioning group”,
 - (b) omit “a Strategic Health Authority,”, and
 - (c) omit “a Primary Care Trust”.
- 23 In section 36 (directed partnership arrangements), in subsection (3)—
- (a) omit paragraph (a), and
 - (b) omit paragraph (b).
- 24 (1) Section 38 (supply of goods and services by the Welsh Ministers) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a) omit “or by a Primary Care Trust”, and

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- (b) in paragraph (b) omit “, a Primary Care Trust”.
- (3) In subsection (6) omit “, a Primary Care Trust” in each place it occurs.
- (4) In subsection (7), in paragraph (d) omit “, Primary Care Trusts”.
- 25 In section 39 (conditions of supply under section 38), in subsection (3), omit “Primary Care Trusts,”.
- 26 In section 41 (duty to provide primary medical services), omit subsection (4).
- 27 (1) Section 51 (persons with whom agreements for provision of primary medical services may be made) is amended as follows.
 - (2) In subsection (1)(g), omit “Primary Care Trust or”.
 - (3) In subsection (3), in paragraph (b) of the definition of “NHS employee”, omit “Primary Care Trust or”.
- 28 In section 56 (primary dental services), omit subsection (4).
- 29 (1) Section 65 (persons with whom agreements for provision of primary dental services may be made) is amended as follows.
 - (2) In subsection (1)(g), omit “Primary Care Trust or”.
 - (3) In subsection (3), in paragraph (b) of the definition of “NHS employee”, omit “Primary Care Trust or”.
- 30 In section 106 (provision about regulations under section 105), in subsection (2)—
 - (a) omit paragraph (e), and
 - (b) after paragraph (e) insert—
 - “(f) a list corresponding to a list mentioned in any of paragraphs (a) to (d) prepared by the National Health Service Commissioning Board under or by virtue of the National Health Service Act 2006,”
- 31 (1) Section 115 (national disqualification) is amended as follows.
 - (2) In subsection (1)—
 - (a) omit paragraph (e),
 - (b) after that paragraph insert—
 - “(f) the lists corresponding to the lists mentioned in paragraphs (a) to (d) prepared by the National Health Service Commissioning Board under or by virtue of the National Health Service Act 2006,”
 - (c) after “such lists prepared by each Local Health Board” insert “and the National Health Service Commissioning Board”, and
 - (d) omit “and each Primary Care Trust”.
 - (3) In subsection (6)—
 - (a) in paragraph (a)—
 - (i) omit “or Primary Care Trust”, and
 - (ii) before “may include” insert “or the National Health Service Commissioning Board”, and
 - (b) in paragraph (b)—
 - (i) omit “and each Primary Care Trust”, and

- (ii) after “included” insert “, and the National Health Service Commissioning Board,”.
- 32 In section 131 (payment of travelling expenses), in paragraph (c) omit “, and, in such cases as may be prescribed, to a Primary Care Trust,”.
- 33 In section 144 (persons and bodies about which provision is made), in subsection (2) for “section 22(6)” substitute “section 206(1)”.
- 34 In section 161 (transfers of trust property), in subsection (2)(c)—
- (a) after “for” insert “the National Health Service Commissioning Board or a clinical commissioning group,”, and
 - (b) omit “a Primary Care Trust,”
- 35 (1) Section 162 (transfer of functions and property to or from special trustees) is amended as follows.
- (2) In subsection (1)—
- (a) after the first “by” insert “the National Health Service Commissioning Board, a clinical commissioning group,”, and
 - (b) omit “a Primary Care Trust,”.
- (3) In subsection (3)(a)—
- (a) after “for” insert “the National Health Service Commissioning Board or a clinical commissioning group,”, and
 - (b) omit “a Primary Care Trust,”.
- 36 In section 181 (payment for medical examination before application for admission to hospital under the Mental Health Act), in subsection (2)(b)—
- (a) omit “a Primary Care Trust,”, and
 - (b) before “NHS trust” insert “an”.
- 37 In section 197 (university clinical teaching and research), in subsection (2)(a)—
- (a) after “exercisable by” insert “the National Health Service Commissioning Board,”,
 - (b) after “a” insert “clinical commissioning group,”,
 - (c) omit “a Strategic Health Authority,”, and
 - (d) omit “Primary Care Trust,”.
- 38 (1) In section 206 (interpretation), in subsection (1)—
- (a) before the definition of “dental practitioner” insert—

““clinical commissioning group” means a body established under section 14D of the National Health Service Act 2006,”
 - (b) after the definition of “modifications” insert—

““NHS body” means—

 - (a) a Special Health Authority,
 - (b) an NHS trust,
 - (c) an NHS foundation trust,
 - (d) a Local Health Board,
 - (e) the National Health Service Commissioning Board, and
 - (f) a clinical commissioning group.”
 - (c) omit the definition of “Primary Care Trust”, and
 - (d) omit the definition of “Strategic Health Authority”.

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- (2) Until the commencement of section 34 of this Act, the definition of “NHS body” in section 206(1) of the National Health Service (Wales) Act 2006 has effect as if it included a reference to a Primary Care Trust.
- 39 In Schedule 2 (Local Health Boards), in paragraph 9—
- (a) omit “Strategic Health Authorities and”,
 - (b) omit “under paragraph 7(8) of Schedule 2 to the National Health Service Act 2006 (c. 41) and”, and
 - (c) for “that Act” substitute “the National Health Service Act 2006”.
- 40 (1) Schedule 3 (NHS trusts) is amended as follows.
- (2) In paragraph 5(1)(f) omit “Primary Care Trust,”.
 - (3) In paragraph 6—
 - (a) omit “Strategic Health Authority,” in each place it occurs, and
 - (b) omit “, Primary Care Trust” in each place it occurs.
 - (4) In paragraph 7, in sub-paragraph (3) omit “Strategic Health Authority”.
 - (5) In paragraph 8 omit “, Primary Care Trust” in each place it occurs.
 - (6) In paragraph 9—
 - (a) in sub-paragraph (1)—
 - (i) omit “a Strategic Health Authority,” and
 - (ii) omit “a Primary Care Trust,”
 - (b) in sub-paragraph (3)—
 - (i) omit “Strategic Health Authority,” and
 - (ii) omit “Primary Care Trust,”
 - (c) in sub-paragraph (6)—
 - (i) omit “a Strategic Health Authority,” and
 - (ii) omit “a Primary Care Trust,” and
 - (d) in sub-paragraph (7)—
 - (i) omit “Strategic Health Authority,” in each place it occurs,
 - (ii) omit “or belong to a Primary Care Trust”, and
 - (iii) omit “Primary Care Trust,”.
 - (7) In paragraph 18—
 - (a) omit “Strategic Health Authority,” and
 - (b) omit “Primary Care Trust,”.
 - (8) In paragraph 30—
 - (a) omit “Strategic Health Authority,” and
 - (b) omit “Primary Care Trust,”.
- 41 (1) Schedule 5 (Special Health Authorities) is amended as follows.
- (2) In paragraph 3—
 - (a) in sub-paragraph (8)—
 - (i) omit “or to a Strategic Health Authority”, and
 - (ii) omit “, a Strategic Health Authority”, and
 - (b) in sub-paragraph (12)—

- (i) in paragraph (a) omit “or of a Strategic Health Authority”, and
 - (ii) in paragraph (b) omit “or by a Strategic Health Authority”.
- (3) In paragraph 13, for “a Strategic Health Authority” substitute “the National Health Service Commissioning Board”.
- 42 (1) Schedule 10 (further provision about Community Health Councils) is amended as follows.
- (2) In paragraph 2—
- (a) omit “, Strategic Health Authorities” in each place it occurs, and
 - (b) omit “, Primary Care Trusts” in each place it occurs.
- (3) In paragraph 3—
- (a) omit paragraph (b), and
 - (b) omit paragraph (c).

Health and Personal Social Services (Northern Ireland) Order 1991 (No. 194 (N.I. 1))

- 43 (1) Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991 (health and social services contracts) is amended as follows.
- (2) In paragraph (2)—
- (a) in sub-paragraph (g)—
 - (i) omit paragraph (i),
 - (ii) omit paragraph (ii), and
 - (iii) omit paragraph (iii),
 - (b) after that sub-paragraph insert—
 - “(ga) the National Health Service Commissioning Board;
 - (gb) clinical commissioning groups established under section 14D of the National Health Service Act 2006;
 - (gc) Special Health Authorities established under section 28 of that Act;
 - (gd) Special Health Authorities established under section 22 of the National Health Service (Wales) Act 2006;
 - (ge) Local Health Boards established under section 11 of that Act;
 - (gf) NHS trusts established under section 18 of that Act;”,
 - (c) in sub-paragraph (h) after paragraph (i) insert—
 - “(ia) Special Health Boards;”,
 - (d) after sub-paragraph (h) insert—
 - “(ha) Healthcare Improvement Scotland;”,
 - (e) omit sub-paragraph (i), and
 - (f) before sub-paragraph (j) insert—
 - “(ia) the National Institute for Health and Care Excellence;
 - (ib) the Health and Social Care Information Centre;”,
- (3) In paragraph (10) for “paragraph 2(g), (h), (i) or (j)” substitute “any of sub-paragraphs (g) to (gf), (h), (ha), (ia), (ib) and (j) of paragraph (2)”.