



Health and Care Act 2022

2022 CHAPTER 31

PART 1

HEALTH SERVICE IN ENGLAND: INTEGRATION, COLLABORATION AND OTHER CHANGES

Miscellaneous

86 Special Health Authorities: removal of 3 year limit

- (1) In the National Health Service Act 2006—
 - (a) omit section 28A (three year limit for special health authorities);
 - (b) in section 272(6), omit paragraph (zc).
- (2) In the NHS Counter Fraud (Establishment, Constitution, and Staff and Other Transfer Provisions) Order 2017 ([S.I. 2017/958](#))—
 - (a) in article 2, omit the definition of “the abolition date”;
 - (b) omit Part 4 (including Schedule 3) (abolition of the authority).
- (3) In consequence of subsection (1), in the Health and Social Care Act 2012, omit section 48.

87 Tidying up etc provisions about accounts of certain NHS bodies

- (1) After section 29 of the National Health Service Act 2006 insert—

“29A Special Health Authorities: accounts and audit

- (1) In this section a reference to a Special Health Authority is to a Special Health Authority which—
 - (a) performs functions only or mainly in respect of England, or
 - (b) neither performs functions only or mainly in respect of England, nor performs functions only or mainly in respect of Wales.

Status: This is the original version (as it was originally enacted).

- (2) A Special Health Authority must keep proper accounts and proper records in relation to the accounts.
 - (3) The Secretary of State may give a Special Health Authority directions as to the form in which its accounts must be kept.
 - (4) A Special Health Authority must prepare, in respect of each financial year, annual accounts in such form as the Secretary of State may direct.
 - (5) A Special Health Authority must send copies of any annual accounts prepared by it under subsection (4)—
 - (a) to the Secretary of State, by such date as the Secretary of State may direct, and
 - (b) to the Comptroller and Auditor General, as soon as is reasonably practicable following the end of the financial year in question.
 - (6) The Comptroller and Auditor General must examine, certify and report on the annual accounts.
 - (7) The Special Health Authority must lay before Parliament—
 - (a) a copy of the annual accounts, and
 - (b) the Comptroller and Auditor General’s report on them.
 - (8) Nothing in subsection (2) requires any annual accounts prepared by a Special Health Authority to include matters relating to a charitable trust of which it is a trustee.
 - (9) Nothing in subsection (4) has effect in relation to accounts relating to a charitable trust of which the Special Health Authority is a trustee.”
- (2) In Schedule 4 to that Act (NHS trusts), after paragraph 11 insert—

“Accounts and audit

- 11A (1) An NHS trust must keep proper accounts and proper records in relation to the accounts.
- (2) The Secretary of State may give an NHS trust directions as to the form in which its accounts must be kept.
 - (3) An NHS trust must prepare, in respect of each financial year, annual accounts in such form as the Secretary of State may direct.
 - (4) For the audit of the annual accounts, see the Local Audit and Accountability Act 2014 (and, in particular, section 4 of that Act).
 - (5) The Comptroller and Auditor General may examine—
 - (a) the annual accounts and any records relating to them, and
 - (b) any report on them by the auditor or auditors.
 - (6) An NHS trust must send a copy of its audited annual accounts to NHS England by such date as NHS England may direct.
 - (7) Nothing in sub-paragraph (1) has effect in relation to accounts relating to a charitable trust of which an NHS trust is a trustee.

(8) Nothing in sub-paragraph (3) requires any accounts prepared by an NHS trust to include matters relating to a charitable trust of which it is a trustee.”

(3) In consequence of subsections (1) and (2)—

- (a) in section 6(3)(b) of the National Audit Act 1983, omit “Schedule 15 to the National Health Service Act 2006 or”;
- (b) in the National Health Service Act 2006, omit—
 - (i) section 232 and the italic heading before it;
 - (ii) section 277(3)(n);
 - (iii) Schedule 15;
- (c) in section 57(2A) of the Local Electoral Administration and Registration Services (Scotland) Act 2006, omit “(apart from in Schedule 15)”.

88 Meaning of “health” in NHS Act 2006

In section 275(1) of the National Health Service Act 2006 (interpretation), at the appropriate place insert—

““health” includes mental health;”.

89 Repeal of spent powers to make transfer schemes etc

(1) In the Health and Social Care Act 2012, omit—

- (a) sections 300 and 301;
- (b) section 308(3)(i);
- (c) Schedules 22 and 23.

(2) For section 302 of that Act substitute—

“302 Transfer schemes in respect of previously transferred property

- (1) This section applies in relation to any property, rights or liabilities transferred under a property transfer scheme made under section 300(1) (before its repeal) from a Primary Care Trust, a Strategic Health Authority or the Secretary of State to a Special Health Authority or a qualifying company.
- (2) The Secretary of State may make a scheme for the transfer of any such property, rights or liabilities from the Special Health Authority or qualifying company to any of the following—
 - (a) a Minister of the Crown;
 - (b) NHS England;
 - (c) an integrated care board;
 - (d) an NHS trust;
 - (e) an NHS foundation trust;
 - (f) a qualifying company.
- (3) The things that may be transferred under a scheme under this section include—
 - (a) property, rights and liabilities that could not otherwise be transferred;

Status: This is the original version (as it was originally enacted).

- (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities, except where transfer is to a Minister of the Crown.
- (4) A transfer scheme under this section may make supplementary, incidental, transitional and consequential provision and may in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee.
- (5) A transfer scheme under this section may make provision for the shared ownership or use of property.
- (6) A transfer scheme under this section may provide—
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect.
- (7) In this section references to the transfer of property include references to the grant of a lease.
- (8) In this section “qualifying company” means—
- (a) a company which is formed under section 223 of the National Health Service Act 2006 and wholly or partly owned by the Secretary of State or NHS England, or
 - (b) a subsidiary of a company which is formed under that section and wholly owned by the Secretary of State.”
- (3) In Schedule 1 to the Public Records Act 1958 (bodies the records of which are public records), in Part 1 of the Table at the end of paragraph 3, omit “or section 300 of the Health and Social Care Act 2012”.

90 Abolition of Local Education and Training Boards

- (1) The committees of Health Education England called Local Education and Training Boards are abolished.
- (2) In consequence, the Care Act 2014 is amended as follows.
- (3) In section 100 (objectives, priorities and outcomes), in subsection (4)—
 - (a) after paragraph (a), insert “and”;
 - (b) omit paragraph (c) and the “and” before it.
- (4) Omit sections 103 to 107 and the italic heading before them (local functions).

Status: This is the original version (as it was originally enacted).

(5) In section 108 (tariffs), in subsection (9), omit “an LETB or”.

(6) In section 119 (interpretation and supplementary provision), in the table in subsection (1), omit the entries relating to the following—

“appointment criteria”;

“commissioner of health services”;

“LETB”.

(7) In Schedule 5 (Health Education England)—

(a) in paragraph 9, in sub-paragraph (3), omit “(including a committee which HEE is required to appoint under section 103(1) (LETBs))”;

(b) in paragraph 13—

(i) in sub-paragraph (2), omit “(but see sub-paragraph (5))”;

(ii) omit sub-paragraph (5);

(c) in paragraph 26, in sub-paragraph (2)—

(i) omit paragraph (a);

(ii) in paragraph (b), omit “other”;

(d) in paragraph 27, in sub-paragraph (2)—

(i) omit paragraph (a) and the “and” at the end;

(ii) in paragraph (b), omit “other”.

(8) Omit Schedule 6 (local education and training boards).

91 Hospital patients with care and support needs: repeals etc

(1) In the Care Act 2014—

(a) for section 74 substitute—

“74 Discharge of hospital patients with care and support needs

(1) Where a relevant trust is responsible for an adult hospital patient and considers that the patient is likely to require care and support following discharge from hospital, the relevant trust must, as soon as is feasible after it begins making any plans relating to the discharge, take any steps that it considers appropriate to involve—

(a) the patient, and

(b) any carer of the patient.

(2) In performing the duty under subsection (1), a relevant trust must have regard to any guidance issued by NHS England.

(3) For the purposes of this section, a relevant trust is responsible for a hospital patient if the relevant trust manages the hospital.

(4) In this section—

“adult” means a person aged 18 or over;

Status: This is the original version (as it was originally enacted).

“carer” means an individual who provides or intends to provide care for an adult, otherwise than by virtue of a contract or as voluntary work;

“relevant trust” means—

(a) an NHS trust established under section 25 of the National Health Service Act 2006, or

(b) an NHS foundation trust.”;

(b) omit Schedule 3 (assessment notices etc in relation to the discharge of hospital patients with care and support needs).

(2) The Community Care (Delayed Discharges etc) Act 2003 is repealed.

(3) In consequence of subsection (1)—

(a) in section 14 of the Coronavirus Act 2020, omit subsection (8);

(b) the Care and Support (Discharge of Hospital Patients) Regulations 2014 ([S.I. 2014/2823](#)) are revoked.

(4) In consequence of subsection (2)—

(a) in Schedule 1 to the Local Authority Social Services Act 1970, omit the entry relating to the Community Care (Delayed Discharges etc) Act 2003;

(b) in the Children Act 1989—

(i) in section 17ZA(6)(b), omit sub-paragraph (iii);

(ii) in section 17ZD(8)(b), omit sub-paragraph (iii);

(c) in Schedule 2 to the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), in Table 1—

(i) in the English language text, omit the entry relating to the Community Care (Delayed Discharges etc) Act 2003;

(ii) in the Welsh language text, omit the entry relating to Deddf Gofal Cymunedol (Rhyddhau Gohiriedig etc) 2003.