

## SCHEDULES

### SCHEDULE 14

#### ABOLITION OF NHS TRUSTS IN ENGLAND: CONSEQUENTIAL AMENDMENTS

##### PART 1

###### AMENDMENTS OF THE NATIONAL HEALTH SERVICE ACT 2006

- 1 The National Health Service Act 2006 is amended as follows.
- 2 In section 4(2) (definition of “high security psychiatric services”), omit “and paragraph 15 of Schedule 4 (NHS trusts)”.
- 3 In section 8(2) (bodies to whom Secretary of State may give directions), omit paragraph (c).
- 4 In section 9 (NHS contracts), omit subsection (3).
- 5 In section 40 (power of Secretary of State to give financial assistance to NHS foundation trusts), for subsection (4) substitute—
  - “(4) For the purposes of subsection (3), an agreement is an externally financed development agreement if it is certified as such by the Secretary of State.
  - (4A) The Secretary of State may give a certificate under subsection (4) if—
    - (a) in the opinion of the Secretary of State, the purpose or main purpose of the agreement is the provision of facilities or services in connection with the discharge by the NHS foundation trust of any of its functions, and
    - (b) a person proposes to make a loan to, or provide any other form of finance for, another party in connection with the agreement.
  - (4B) In subsection (4A)(b), “another party” means any party to the agreement other than the NHS foundation trust.”
- 6 In section 42 (public dividend capital), after subsection (1) insert—
  - “(1A) The reference in subsection (1) to an NHS trust is a reference to an NHS trust which was established under section 25 of this Act before its repeal by section 179 of the Health and Social Care Act 2012.”
- 7 In section 51 (trust funds and trustees), omit subsection (4).
- 8 In section 56 (mergers of NHS foundation trusts)—
  - (a) in subsection (1)(b) (as amended by section 168(1)(a)), omit “or an NHS trust established under section 25”, and
  - (b) in subsection (1A) (as inserted by section 168(2)), omit “(that is an NHS foundation trust)”.

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- 9 In section 56A (acquisitions of NHS foundation trusts) (as inserted by section 169)  
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- (a) in subsection (1)(b), omit “or an NHS trust established under section 25”,
  - (b) in subsection (2), omit “(that is an NHS foundation trust)”, and
  - (c) in subsection (3), omit paragraph (a) (and the following “and”).
- 10 In section 57 (mergers, acquisitions and separation of NHS foundation trusts) (as amended by sections 172 and 173(2)(a))—
- (a) in subsection (3)(a), omit “, an NHS trust established under section 25”,
  - (b) in subsection (4), omit “or an NHS trust established under section 25”, and
  - (c) omit subsection (5).
- 11 In section 65(1) (interpretation for provisions about NHS foundation trusts), in the definition of “health service body”, omit “an NHS trust,”.
- 12 In section 65A(1) (application of trust special administration regime), omit paragraph (a).
- 13 (1) Omit section 65B (appointment of trust special administrator in relation to NHS trust).
- (2) In consequence of that repeal, omit section 174(2) of this Act.
- 14 Omit section 65C (suspension of directors of NHS trust).
- 15 (1) Section 65F (special administrator’s draft report) is amended as follows.
- (2) In subsection (1), for “the Secretary of State”, in each place it appears, substitute “the regulator”.
- (3) In subsection (2)(b)—
- (a) omit “goods or”, and
  - (b) for “the Secretary of State” substitute “the regulator”.
- (4) After subsection (2) insert—
- “(2A) The administrator may not provide the draft report to the regulator under subsection (1)—
- (a) without having obtained from each commissioner a statement that the commissioner considers that the recommendation in the draft report would achieve the objective set out in section 65DA, or
  - (b) where the administrator does not obtain a statement to that effect from one or more commissioners (other than the Board), without having obtained a statement to that effect from the Board.
- (2B) Where the Board decides not to provide to the administrator a statement to that effect, the Board must—
- (a) give a notice of the reasons for its decision to the administrator and to the regulator;
  - (b) publish the notice;
  - (c) lay a copy of it before Parliament.
- (2C) In subsection (2A), “commissioner” means a person to which the trust provides services under this Act.”
- (5) In subsection (3), for “the Secretary of State” substitute “the regulator”.

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- (6) Omit subsections (4) to (7).
- (7) In consequence of those repeals, omit section 176(2) of this Act.
- 16 In section 65G (consultation plan), in subsection (4), omit “In the case of an NHS foundation trust,”.
- 17 (1) Section 65H (consultation on draft report) is amended as follows.
- (2) In subsection (7)—
- (a) in paragraph (b), omit “goods or”, and
- (b) in paragraphs (c) and (d), for “the Secretary of State” substitute “the regulator”.
- (3) In subsection (10), for “The Secretary of State” substitute “The regulator”.
- (4) After that subsection insert —
- “(10A) The Secretary of State may direct the regulator as to persons from whom it should direct the administrator under subsection (10) to request or seek a response.”
- (5) Omit subsections (12) and (13).
- (6) In consequence of those repeals, omit section 176(7) of this Act.
- 18 (1) Section 65I (administrator’s final report) is amended as follows.
- (2) In subsection (1), for “the Secretary of State”, in each place it appears, substitute “the regulator”.
- (3) In subsection (3), for “the Secretary of State” substitute “the regulator”.
- (4) Omit subsection (4).
- (5) In consequence of that repeal, omit section 176(8) of this Act.
- 19 (1) Section 65J (power to extend time limits) is amended as follows.
- (2) In subsection (2), for “the Secretary of State”, in each place it appears, substitute “the regulator”.
- (3) Omit subsection (5).
- (4) In consequence of that repeal, omit section 176(9) of this Act.
- 20 (1) Omit section 65K (decision on action to take in relation to the trust) and the preceding cross-heading.
- (2) In consequence of those repeals, omit section 177(1) of this Act.
- 21 (1) Section 65KA (regulator’s decision in case of NHS foundation trust) is amended as follows.
- (2) In subsection (1), omit “relating to an NHS foundation trust”.
- (3) In subsection (5), for “the trust” substitute “the NHS foundation trust in question”.
- (4) For the title to that section substitute “The regulator’s decision”.

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- (5) Before that section, insert as a cross-heading “Action by the regulator and the Secretary of State”.
- 22 (1) Section 65L (trusts coming out of administration) is amended as follows.
- (2) In subsection (1)—
- (a) for “65K” substitute “65KB(2) or 65KD(2) or (9)”, and
  - (b) for “the trust” substitute “the NHS foundation trust in question”.
- (3) In subsection (2)—
- (a) for “The Secretary of State” substitute “The regulator”, and
  - (b) for “and directors” substitute “, directors and governors”.
- (4) Omit subsections (2A), (2B) and (6).
- (5) In consequence of the repeal of subsections (2A) and (2B) of that section, omit section 177(3) of this Act.
- 23 (1) Section 65M (replacement of special administrator) is amended as follows.
- (2) In subsection (1), for “the Secretary of State”, in each place it appears, substitute “the regulator”.
- (3) In subsection (2), for “the Secretary of State” substitute “the regulator”.
- (4) Omit subsection (3).
- (5) In consequence of that repeal, omit section 178(1) of this Act.
- 24 (1) Section 65N (guidance) is amended as follows.
- (2) In subsection (1), for “The Secretary of State” substitute “The regulator”.
- (3) Omit subsection (4).
- (4) In consequence of that repeal, omit section 178(3) of this Act.
- 25 In section 66 (intervention orders) (as amended by paragraph 8(1) of Schedule 21), in subsection (1), omit paragraph (a) and the “and” following it.
- 26 In section 68 (default powers) (as amended by paragraph 10(1) of Schedule 21), in subsection (1), omit paragraph (a).
- 27 (1) In section 70(1) (transfer of residual liabilities of certain NHS bodies), omit “an NHS trust or”.
- (2) For the title to section 70 substitute “Transfer of residual liabilities of Special Health Authorities”.
- 28 In section 71 (schemes for meeting losses etc. of certain health bodies) (as amended by paragraph 18 of Schedule 4)—
- (a) in subsection (2), omit paragraph (c),
  - (b) in subsections (3) and (6), omit “NHS trust,”, and
  - (c) in subsection (5), omit “(c),”.
- 29 In section 77 (Care Trusts) (as amended by section 200)—
- (a) in subsection (1)(a) omit “an NHS Trust or”, and
  - (b) in subsections (10) and (12) omit “NHS trust or”.

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- 30 Omit sections 78 and 79 (directed partnership arrangements).
- 31 In section 185(2) (charges for more expensive supplies), omit “an NHS trust”.
- 32 In section 186(2) (charges for repairs and replacements in certain cases), omit “an NHS trust”.
- 33 In section 196(3) (bodies to which provisions about protection from fraud etc. relate), omit paragraph (d).
- 34 In section 217(1) (supplementary provisions about trusts), omit paragraph (h).
- 35 In section 242 (public involvement and consultation)—
- (a) in subsection (1)(b), for “relevant Welsh bodies” substitute “NHS trusts”,
  - (b) in subsection (1A), in the definition of “relevant English body”, omit paragraph (c),
  - (c) in that subsection, omit the definition of “relevant Welsh body”, and
  - (d) in subsection (2), for “relevant Welsh body” substitute “NHS trust”.
- 36 In section 272 (orders, regulations, rules and directions)—
- (a) in subsection (3), omit paragraph (e), and
  - (b) omit subsection (5).
- 37 In section 275 (interpretation), in subsection (1), in the definition of “NHS trust”, for “includes” substitute “means”.
- 38 In section 276 (index of defined expressions), omit the entry for “NHS trust order”.
- 39 (1) Schedule 15 (accounts and audit) is amended as follows.
- (2) In paragraph 1—
    - (a) in sub-paragraph (1) omit paragraphs (d) and (e), and
    - (b) omit sub-paragraph (3).
  - (3) In paragraph 4(1), omit paragraph (b) and the “or” which precedes it.
  - (4) In paragraph 5—
    - (a) in sub-paragraph (1) for “neither a Special Health Authority nor NHS Direct” substitute “not a Special Health Authority”, and
    - (b) in sub-paragraph (3) for “NHS body that is a Special Health Authority or NHS Direct” substitute “Special Health Authority”.
  - (5) In paragraph 6—
    - (a) in sub-paragraph (1) for “an NHS body that is a Special Health Authority or NHS Direct” substitute “a Special Health Authority”, and
    - (b) in sub-paragraph (3) for “body” substitute “Special Health Authority”.
- 40 In consequence of the repeal of section 56(6) by section 168(6) of this Act, omit paragraph 84 of Schedule 5 to the Health and Social Care Act 2008.