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## SCHEDULES

### SCHEDULE 2

#### NATIONAL HEALTH SERVICE TRUSTS

##### PART II

##### DUTIES, POWERS AND STATUS

##### *Specific duties*

- 6 (1) An NHS trust shall carry out effectively, efficiently and economically the functions for the time being conferred on it by an order under section 5(1) of this Act and by the provisions of this Schedule and, with respect to the exercise of the powers conferred by section 5(10) of this Act and paragraphs 10 to 15 below, shall comply with any directions given to it by the Secretary of State, whether of a general or a particular nature.
- (2) An NHS trust shall comply with any directions given to it by the Secretary of State with respect to all or any of the following matters—
- (a) the qualifications of persons who may be employed as officers of the trust;
  - (b) the employment, for the purpose of performing functions specified in the direction, of officers having qualifications or experience of a description so specified;
  - (c) the manner in which officers of the trust are to be appointed;
  - (d) prohibiting or restricting the disposal of, or of any interest in, any asset which, at the time the direction is given, the Secretary of State reasonably considers to have a value in excess of such sum as may be specified in an order under section 5(1) of this Act and in respect of which the Secretary of State considers that the interests of the National Health Service require that the asset should not be disposed of;
  - (e) compliance with guidance or directions given (by circular or otherwise) to [<sup>F1</sup>Health Authorities or Special Health Authorities], or particular descriptions of [Health Authorities or Special Health Authorities]; and
  - (f) the implementation of awards relating to the distinction or merit of medical practitioners or dental practitioners or any class or classes of such practitioners.

[<sup>F2</sup>and with any directions given to it under section 1(1A) of the <sup>M1</sup>Hospital Complaints Procedure Act 1985].

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#### Textual Amendments

- F1** Words in Sch. 2 para. 6(2)(e) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), Sch. 1 Pt. II para. 85(d)(i) (with Sch. 2 paras. 6, 16)
- F2** Words in Sch. 2 para. 6(2) inserted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), Sch. 1 Pt. II para. 85(d)(ii) (with Sch. 2 paras. 6, 16)

#### Marginal Citations

- M1** 1985 c. 42.

- 7 (1) For each accounting year an NHS trust shall prepare and send to the Secretary of State an annual report in such form as may be determined by the Secretary of State.
- (2) At such time or times as may be prescribed, an NHS trust shall hold a public meeting at which its audited accounts and annual report and any report on the accounts made pursuant to subsection (3) of section 15 of the <sup>M2</sup>Local Government Finance Act 1982 shall be presented.
- (3) In such circumstances and at such time or times as may be prescribed, an NHS trust shall hold a public meeting at which such document as may be prescribed shall be presented.

#### Marginal Citations

- M2** 1982 c. 32.

- 8 An NHS trust shall furnish to the Secretary of State such reports, returns and other information, including information as to its forward planning, as, and in such form as, he may require.
- 9 (1) An NHS trust shall be liable to pay—
- (a) to the chairman and any non-executive director of the trust remuneration of an amount determined by the Secretary of State, not exceeding such amount as may be approved by the Treasury;
  - (b) to the chairman and any non-executive director of the trust such travelling and other allowances as may be determined by the Secretary of State with the approval of the Treasury;
  - (c) to any member of a committee or sub-committee of the trust who is not also a director such travelling and other allowances as may be so determined.
- (2) If an NHS trust so determines in the case of a person who is or has been a chairman of the trust, the trust shall be liable to pay such pension, allowances or gratuities to or in respect of him as may be determined by the Secretary of State with the approval of the Treasury.
- (3) Different determinations may be made under sub-paragraph (1) or sub-paragraph (2) above in relation to different cases or descriptions of cases.

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**Modifications etc. (not altering text)**

- C1** Sch. 2 para. 9(2): Treasury approval requirement continued (W.)(1.7.1999) by S.I. 1999/672, arts. 1(2), 2, Sch. 1

*Specific powers*

- 10 In addition to carrying out its other functions, an NHS trust may, as the provider, enter into NHS contracts.
- 11 An NHS trust may undertake and commission research and make available staff and provide facilities for research by other persons.
- 12 An NHS trust may—
- (a) provide training for persons employed or likely to be employed by the trust or otherwise in the provision of services under the principal Act; and
  - (b) make facilities and staff available in connection with training by a university or any other body providing training in connection with the health service.
- 13 An NHS trust may enter into arrangements for the carrying out, on such terms as seem to the trust to be appropriate, of any of its functions jointly with any [<sup>F3</sup>Health Authority or Special Health Authority], with another NHS trust or with any other body or individual.

**Textual Amendments**

- F3** Words in Sch. 2 para. 13 substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1) (3), Sch. 1 Pt. II para. 85(e) (with Sch. 2 paras. 6, 16)

- 14 According to the nature of its functions, an NHS trust may make accommodation or services or both available for patients who give undertakings (or for whom undertakings are given) to pay, in respect of the accommodation or services (or both) such charges as the trust may determine.

**Modifications etc. (not altering text)**

- C2** Sch 2 para. 14 extended (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199(1), Sch. 4 para. 85(a); S.I. 2004/759, art. 2

- 15 For the purpose of making additional income available in order better to perform its functions, an NHS trust shall have the powers specified in section 7(2) of the

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<sup>M3</sup>Health and Medicines Act 1988 (extension of powers of Secretary of State for financing the Health Service).

#### Marginal Citations

**M3** 1988 c. 49.

VALID FROM 29/11/2002

[<sup>F4</sup>15A An NHS Trust may arrange for the provision of accommodation and services outside England and Wales.]

#### Textual Amendments

**F4** Sch. 2 para. 15A inserted (29.11.2002) by S.I. 2002/2759, reg. 4

#### General powers

- 16 (1) Subject to Schedule 3 to this Act, an NHS trust shall have power to do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions, including in particular power—
- (a) to acquire and dispose of land and other property;
  - (b) to enter into such contracts as seem to the trust to be appropriate;
  - (c) to accept gifts of money, land or other property, including money, land or other property to be held on trust, either for the general or any specific purposes of the NHS trust or for all or any purposes relating to the health service; and
  - (d) to employ staff on such terms as the trust thinks fit.
- (2) The reference in sub-paragraph (1)(c) above to specific purposes of the NHS trust includes a reference to the purposes of a specific hospital or other establishment or facility [<sup>F5</sup>at or from which services are provided] by the trust.

#### Textual Amendments

**F5** Words in Sch. 2 para. 16(2) substituted (*retrospectively*) by 1999 c. 8, s. 13(8)(10); S.I. 1999/2540, art. 2(1)(a), Sch. 1; S.I. 1999/3184, art. 2(1), Sch. 1

- 17 (1) Without prejudice to the generality of paragraph 16 above, for or in respect of such of its employees as it may determine, an NHS trust may make such arrangements for providing pensions, allowances or gratuities as it may determine; and such arrangements may include the establishment and administration, by the trust or otherwise, of one or more pension schemes.

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- (2) The reference in sub-paragraph (1) above to pensions, allowances or gratuities to or in respect of employees of an NHS trust includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the trust's employees who suffer loss of office or employment or loss or diminution of emoluments.

*Status*

- 18 An NHS trust shall not be regarded as the servant or agent of the Crown or, except as provided by this Act, as enjoying any status, immunity or privilege of the Crown; and an NHS trust's property shall not be regarded as property of, or property held on behalf of, the Crown.

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