

SCHEDULES

SCHEDULE 8

Section 60.

PROVISIONS ARISING OUT OF REMOVAL OF CROWN IMMUNITIES FROM HEALTH SERVICE BODIES

PART I

AMENDMENTS CONTINUING CERTAIN STATUTORY EXEMPTIONS

The Employers' Liability (Compulsory Insurance) Act 1969

- 1 In section 3 of the Employers' Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance), in subsection (2) after the words “subsection (1)(a) above” there shall be inserted—

“(a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978; and
(b)”.

The Vehicles (Excise) Act 1971

- 2 In section 7 of the Vehicles (Excise) Act 1971 (miscellaneous exemptions from duty), after subsection (4) there shall be inserted the following subsection—

“(4A) A mechanically propelled vehicle shall not be chargeable with any duty under this Act at a time when it is used or kept on a road by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990 or a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978.”

The Copyright, Designs and Patents Act 1988

- 3 At the end of section 48 of the Copyright, Designs and Patents Act 1988 (material communicated to the Crown in the course of public business) there shall be added the following subsection—

“(6) In this section “the Crown” includes a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978; and the reference in subsection (1) above to public business shall be construed accordingly.”

The Road Traffic Act 1988

- 4 In section 144 of the Road Traffic Act 1988 (exceptions from requirement of third-party insurance or security) in subsection (2) after paragraph (d) there shall be inserted the following paragraphs—

- “(da) to a vehicle owned by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, at a time when the vehicle is being driven under the owner’s control,
- (db) to an ambulance owned by a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978, at a time when a vehicle is being driven under the owner’s control”.

PART II

CONSEQUENTIAL AMENDMENTS

The Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947

- 5 In the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (procedure for authorising compulsory purchases), after paragraph 10 there shall be inserted the following paragraph—

- “10A In paragraphs 9 and 10 of this Schedule “statutory undertakers” include—
- (a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and
- (b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;
- but in relation to a health service body, as so defined, any reference in those paragraphs to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for use by the Secretary of State for use or occupation by that body.”

The Town and Country Planning Act 1971

- 6 In section 128 of the Town and Country Planning Act 1971 (use and development of consecrated land and burial grounds) after subsection (4) there shall be inserted the following subsection—

- “(4A) In the case of land—
- (a) which has been acquired by the Secretary of State under subsection (1) of section 87 of the National Health Service Act 1977 or to which, by virtue of subsection (6) of that section, this section applies as if it had been so acquired, and
- (b) which is held, used or occupied by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990,

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subsection (1) or, as the case may be, subsection (4) above shall apply with the omission of paragraph (a) and, in paragraph (b), of the words “in any other case”.”

The Town and Country Planning (Scotland) Act 1972

- 7 In section 118 of the Town and Country Planning (Scotland) Act 1972 (provisions as to churches and burial grounds), after subsection (1) there shall be inserted the following subsection—

“(1A) In the case of land—

- (a) which has been acquired by the Secretary of State under section 79(1) of the National Health Service (Scotland) Act 1978; and
- (b) which is held, used or occupied by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990),

subsection (1) of this section shall apply with the omission of paragraph (a) and, in paragraph (b), of the words “in any other case”.”

The Acquisition of Land Act 1981

- 8 (1) At the end of section 16 of the Acquisition of Land Act 1981 (statutory undertakers' land excluded from compulsory purchase) there shall be added the following subsection—

“(3) In the preceding provisions of this section “statutory undertakers” include—

- (a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and
- (b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;

but in relation to a health service body, as so defined, any reference in those provisions to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for acquisition by the Secretary of State for use or occupation by that body”.

- (2) In section 17 of that Act (local authority and statutory undertakers' land) at the end of subsection (2) there shall be inserted the following subsection—

“(2A) Subsection (3) of section 16 above applies in relation to subsections (1) and (2) above as it applies in relation to the preceding provisions of that section.”

The Value Added Tax Act 1983

- 9 In section 27 of the Value Added Tax Act 1983 (application to Crown), in subsection (4) after the words “Minister of the Crown” there shall be inserted the words “including a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990”.

The Housing Act 1988

- 10 In Schedule 2 to the Housing Act 1988 (grounds for possession of dwelling-houses let on assured tenancies), at the end of Ground 16 (dwelling-house let in

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consequence of employment by the landlord) there shall be added the following paragraph—

“For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.”

The Housing (Scotland) Act 1988

- 11 In Schedule 5 to the Housing (Scotland) Act 1988 (grounds for possession of houses let on assured tenancies) at the end of Ground 17 (house let in consequence of employment by the landlord) there shall be added the following paragraph—

“For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.”

PART III

TRANSITIONAL PROVISIONS

- 12 In this Part of this Schedule—
- (a) “the appointed day” means the day appointed for the coming into force of subsection (1) of section 60 of this Act;
 - (b) “functional health service land” means land which for the time being falls within paragraph (a) or paragraph (b) of that subsection;
 - (c) “health service body” has the same meaning as in that section; and
 - (d) “NHS trust” means such a trust established under Part I of this Act or the National Health Service (Scotland) Act 1978.

The Building (Scotland) Act 1959

- 13 (1) Notwithstanding section 60(1) of this Act, where, on or after the appointed day, relevant work is carried out by or on behalf of a health service body or an NHS trust—
- (a) in relation to a building which is, immediately before the appointed day, a Crown building within the meaning of section 26(3) of the Building (Scotland) Act 1959 (application to the Crown); or
 - (b) in constructing a building which, if it had been constructed before the appointed day, would have been a Crown building within the meaning of that provision,

Part II of that Act shall apply to the relevant work as if it were being carried out before the appointed day.

- (2) In sub-paragraph (1) above, “relevant work” means work in respect of which, before the appointed day, a health service body has granted a certificate that the detail design has been completed.

The Medicines Act 1968

- 14 (1) In any case where—

- (a) before the appointed day, a health service body or an NHS trust has made an application for a licence under Part II of the Medicines Act 1968 or any such application as is referred to in section 36 of that Act (applications for clinical trial and animal test certificates), and
- (b) the application was accompanied by a declaration under paragraph (a) or paragraph (b) of sub-paragraph (2) below, and
- (c) the application has not been determined before the appointed day,
- then, on and after the appointed day and until the application is determined, the health service body or NHS trust concerned shall be treated for all purposes as if it held a licence or, as the case may be, a certificate of the description applied for.
- (2) The declarations referred to in sub-paragraph (1)(b) above are,—
- (a) in the case of a health service body, that, at the date of the application, the body was carrying on activities which, after the appointed day, it would be unlawful to carry on except in accordance with a licence or certificate of the description applied for; and
- (b) in the case of an NHS trust, that the trust has been established to assume responsibility for the ownership and management of a hospital or other establishment or facility and, at the date of the application, a health service body was carrying on at that hospital, establishment or facility activities which it is unlawful for the NHS trust to carry on except in accordance with a licence or certificate of the description applied for.
- (3) For the purposes of sub-paragraph (1) above, an application is determined when the licensing authority—
- (a) grant a licence or, as the case may be, certificate to the applicant (whether or not in accordance with the application); or
- (b) notify the applicant of their refusal to grant a licence or certificate on the application.
- (4) Expressions used in sub-paragraphs (1) to (3) above have the same meaning as in sections 18 to 22 of the Medicines Act 1968 (applications for, and grant of, licences), including, where applicable, any of those sections as applied by subsection (3) of section 36 of that Act in relation to applications falling within subsection (1) of that section.

The Fire Precautions Act 1971

- 15 (1) Without prejudice to the continuing validity on and after the appointed day of any fire certificate issued before that day in accordance with subsection (3) of section 40 of the Fire Precautions Act 1971 (certain functions in relation to premises occupied or owned by the Crown exercisable by a fire inspector instead of by the fire authority), any application made, notice issued or other thing done before the appointed day to or by a fire inspector in relation to premises held, used or occupied by a health service body, shall be treated on and after that day as if made, issued or done to or by a fire authority.
- (2) Expressions used in sub-paragraph (1) above have the same meaning as in the Fire Precautions Act 1971.

The Town and Country Planning Act 1971

- 16 (1) This paragraph applies if—

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- (a) before the appointed day, notice of any proposed development has been given to a local planning authority in accordance with arrangements relating to development by government departments; and
 - (b) the development relates to land which, at the time the notice was given, was functional health service land; and
 - (c) the proposed development has not been carried out before the appointed day.
- (2) So far as relates to the carrying out of the development of which notice was given as mentioned in sub-paragraph (1)(a) above, for the purposes of the arrangements referred to in that paragraph and of the Town and Country Planning Act 1971,—
- (a) the carrying out of the development shall continue to be regarded as being by or on behalf of the Crown; and
 - (b) so long as the interest of the Secretary of State in the land referred to in sub-paragraph (1)(b) above continues on and after the appointed day to be held in fact by the Secretary of State or an NHS trust, that interest shall be regarded as continuing to be an interest of, or held on behalf of, the Crown.
- (3) Subject to paragraph 12 above, expressions used in sub-paragraphs (1) and (2) above have the same meaning as in the Town and Country Planning Act 1971.

The Town and Country Planning (Scotland) Act 1972

- 17 (1) This paragraph applies if—
- (a) before the appointed day, notice of any proposed development has been given to a planning authority in accordance with arrangements relating to development by government departments; and
 - (b) the development relates to land which, at the time the notice was given, was functional health service land; and
 - (c) the proposed development has not been carried out before the appointed day.
- (2) So far as relates to the carrying out of the development of which notice was given as mentioned in sub-paragraph (1)(a) above, for the purposes of the arrangements referred to in that paragraph and of the Town and Country Planning (Scotland) Act 1972—
- (a) the carrying out of the development shall continue to be regarded as being by or on behalf of the Crown; and
 - (b) so long as the interest of the Secretary of State in the land referred to in sub-paragraph (1)(b) above continues on and after the appointed day to be held in fact by the Secretary of State or an NHS trust, that interest shall be regarded as continuing to be an interest of, or held on behalf of, the Crown.
- (3) Subject to paragraph 12 above, expressions used in sub-paragraphs (1) and (2) above have the same meaning as in the Town and Country Planning (Scotland) Act 1972.

The Building Act 1984

- 18 (1) If, immediately before the appointed day, approved work is proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) the fact that, on or after the appointed day, the work may be carried out by or on behalf of a health service body or an NHS trust shall not prevent it continuing to be regarded for the purposes of Part I of the Building Act 1984 as work carried out by a Crown authority.

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- (2) Subject to sub-paragraph (3) below, expressions used in sub-paragraph (1) above have the same meaning as in section 44 of the Building Act 1984 (application of Part I to Crown).
- (3) Any reference in sub-paragraph (1) above to approved work is a reference to work in respect of which, before the appointed day, either a contract for carrying it out was entered into or all necessary design certificates were signed in accordance with arrangements relating to compliance with the substantive requirements of building regulations by Regional and District Health Authorities and certain Special Health Authorities.

The Housing Act 1988 and the Rent Act 1977

- 19 (1) This paragraph applies to a tenancy—
 - (a) which was entered into before the appointed day; and
 - (b) which is of land in England or Wales which, immediately before the appointed day, was functional health service land.
- (2) If and so long as the interest of the landlord under a tenancy to which this paragraph applies continues on and after the appointed day to belong in fact either to the Secretary of State or to an NHS trust, it shall be taken to belong to a government department for the purposes of—
 - (a) paragraph 11 of Schedule 1 to the Housing Act 1988 (Crown tenancies entered into after the commencement of Part I of that Act not to be assured tenancies); or
 - (b) section 13 of the Rent Act 1977 (earlier Crown tenancies not to be protected tenancies).
- (3) Expressions used in sub-paragraphs (1) and (2) above have the same meaning as in Part I of the Housing Act 1988 or, as the case may require, the Rent Act 1977.

The Housing (Scotland) Act 1988 and the Rent (Scotland) Act 1984

- 20 (1) This paragraph applies to a tenancy—
 - (a) which was entered into before the appointed day; and
 - (b) which is of land in Scotland which, immediately before the appointed day, was functional health service land.
- (2) If and so long as the interest of the landlord under a tenancy to which this paragraph applies continues on and after the appointed day to belong in fact either to the Secretary of State or to an NHS trust, it shall be taken to belong to a government department for the purposes of—
 - (a) paragraph 10 of Schedule 4 to the Housing (Scotland) Act 1988 (Crown tenancies entered into after the commencement of that Schedule not to be assured tenancies); or
 - (b) section 4 of the Rent (Scotland) Act 1984 (earlier Crown tenancies not to be protected tenancies).
- (3) Expressions used in sub-paragraphs (1) and (2) above have the same meaning as in Part II of the Housing (Scotland) Act 1988 or, as the case may be, the Rent (Scotland) Act 1984.