

2004 No. 696

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The Health and Social Care (Community Health and Standards) Act
2003 (Supplementary and Consequential Provision) (NHS Foundation
Trusts) Order 2004**

<i>Made</i>	- - - -	<i>10th March 2004</i>
<i>Laid before Parliament</i>		<i>11th March 2004</i>
<i>Coming into force</i>	- -	<i>in accordance with article 1</i>

The Secretary of State for Health, in exercise of the powers conferred on him by section 201 of the Health and Social Care (Community Health and Standards) Act 2003(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Health and Social Care (Community Health and Standards) Act 2003 (Supplementary and Consequential Provision) (NHS Foundation Trusts) Order 2004 and shall come into force —

- (a) for the purposes of the provisions specified in paragraph (2) and article 3(16) and Schedule 16, on 5th July 2004; and
 - (b) for all other purposes on 1st April 2004.
- (2) The provisions specified in this paragraph are the following paragraphs of Schedule 1 to the Order—
- (a) paragraphs 2, 6(3), 7(3)(iii), 8, 14, 19(3)(c), 23(3)(b), 27, 29, 33(3)(b), 36, 37(b), 39, 44(3);
 - (b) paragraph 45(3) in so far as it adds sub-paragraph (j) to regulation 3(1) of the Counter Fraud and Security Management Service Regulations 2003(b); and
 - (c) paragraphs 47(3)(a)(iv), 50(3)(b), 52(3), 53(3) and 54(3)(a).

Extent and application

2. The extent and application of any amendment made under article 3 is the same as that of the provision amended.

Supplementary and Consequential amendments

3.—(1) The enactments specified in Schedule 1 are amended as there specified.

(2) In the enactments specified in column 1 of Schedule 2, in the provisions specified in column 2, after “National Health Service Trust”, or as the case may be “National Health Service trust”, “NHS Trust” or “NHS trust”, in each place where it occurs unless otherwise specified in Schedule 2, there is inserted “or NHS foundation trust”.

(a) 2003 c.43 (“the Act”); the powers are exercisable by the appropriate authority, who is defined in section 199(2) of the Act in relation to Part 1 of the Act which makes provision for NHS foundation trusts, as the Secretary of State.
(b) S.I. 2002/3040.

(3) In the enactments specified in column 1 of Schedule 3, in the provisions specified in column 2, after “National Health Service Trust” or as the case may be “National Health Service trust”, or “NHS trust”, in each place where it occurs unless otherwise specified in column 2, there is inserted “, NHS foundation trust”.

(4) In the enactments specified in column 1 of Schedule 4, in the provisions specified in column 2, after “National Health Service Trust” or as the case may be “National Health Service trust” or “NHS Trust”, in each place where it occurs unless otherwise specified in column 2, there is inserted “, an NHS foundation trust”.

(5) In the enactments specified in column 1 of Schedule 5, in the provisions specified in column 2, for “or NHS trust” in each place where it occurs there is substituted “, NHS trust or NHS foundation trust”.

(6) In the enactments specified in column 1 of Schedule 6, in the provisions specified in column 2, in each place where it occurs for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”.

(7) In the enactments specified in column 1 of Schedule 7, in the provisions specified in column 2, after the entry relating to a “National Health Service Trust” or as the case may be “national health service trust” there is inserted—

““NHS foundation trust” has the same meaning as in section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

(8) In the enactments specified in column 1 of Schedule 8, in the provisions specified in column 2, there is inserted in the appropriate alphabetical position—

““NHS foundation trust” has the same meaning as in section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

(9) In the enactments specified in column 1 of Schedule 9, in the provisions specified in column 2, after “1978” there is added—

““or an NHS foundation trust” within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003”.

(10) In the enactments specified in column 1 of Schedule 10, in the provisions specified in column 2, for the definition of “health service body” there is substituted—

““health service body” means—

- (a) a body listed in section 4 of the National Health Service and Community Care Act 1990;
- (b) an NHS foundation trust;
- (c) the Independent Regulator of NHS Foundation Trusts;”.

(11) In the enactments specified in column 1 of Schedule 11, in the provisions specified in column 2, for the definition of “health service body” there is substituted—

““health service body” means—

- (a) a body listed in section 4 of the National Health Service and Community Care Act 1990;
- (b) an NHS foundation trust;”.

(12) In the enactments specified in column 1 of Schedule 12, in the provisions specified in column 2, after “director” there is inserted “or governor;”.

(13) In the enactments specified in column 1 of Schedule 13, in the provisions specified in column 2, for “a health service body” there is substituted “or, in the case of an NHS foundation trust the chairman, a governor or a non-executive director of, the health service body in question”.

(14) In the enactments specified in column 1 of Schedule 14, in the provisions specified in column 2, for “a health service body” there is substituted, “or, in the case of an NHS foundation trust his chairmanship, governorship, or non-executive directorship of, the health service body in question”.

(15) In the enactments specified in column 1 of Schedule 15, in the provisions specified in column 2, after “directors of;” there is inserted, “or in the case of an NHS foundation trust, the chairman, a governor or a non-executive director of” .

(16) In the enactments specified in column 1 of Schedule 16, in the provisions specified in column 2, there is inserted in the appropriate alphabetical position—

““Independent Regulator of NHS Foundation Trusts” means the body corporate established by section 2 of the Health and Social Care (Community Health and Standards) Act 2003;”.

(17) In the enactments specified in column 1 of Schedule 17, in the provisions specified in column 2, there is inserted—

“(5) In these Regulations, a reference to “NHS trust” shall be construed to include a reference to an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003 where the application for authorisation to become an NHS foundation trust was made by an NHS trust.”.

Signed by authority of the Secretary of State for Health

10th March 2004

John Hutton
Minister of State,
Department of Health

SCHEDULE 1

Article 3(1)

Amendments Supplementary and Consequential on Part 1 of the Health and Social Care (Community Health and Standards) Act 2003

Medicines (Pharmacy and General Sale – Exemption) Order 1980

1. In article 4A of the Medicines (Pharmacy and General Sale – Exemption) Order 1980(a) (exemption for the supply of medicinal products by national health service bodies), after paragraph (1)(c), there is inserted—

“(cc) an NHS foundation trust;”

Mental Health Act Commission Regulations 1983

2. In regulation 9 of the Mental Health Act Commission Regulations 1983(b) (application of regulations relating to membership), after “10(1)(a) to (e)” there is inserted “and (m)”.

Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations 1986

3. In paragraph 2(3) of the Schedule to the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations 1986(c) (exempted vehicles), in sub-paragraph (a) of the definition of “health service body”, after “National Health Service Act 1977)” there is added “or an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003”.

Housing (Right to Buy) (Prescribed Forms) Regulations 1986

4. In the list of public sector landlords at the end of the form set out in Schedule 1 to the Housing (Right to Buy) (Prescribed Forms) Regulations 1986(d) (form RTB1), after “National Health Service trusts” there is inserted “NHS foundation trusts”.

(a) S.I. 1980/1924; article 4A was inserted by S.I.2000/1919.

(b) S.I. 1983/894.

(c) S.I. 1986/1456; the definition of “health service body” was inserted by S.I.1998/2006.

(d) S.I. 1986/2194.

National Health Service (Charges to Overseas Visitors) Regulations 1989

5. In regulation 1(2) of the National Health Service (Charges to Overseas Visitors) Regulations 1989(a) (citation, commencement and interpretation), at the end of the definition of “services forming part of the health service”, after “private patients of NHS trusts”, there is added “or made available or provided by an NHS foundation trust to a patient other than for the purposes of the health service”.

Regional and District Health Authorities (Membership and Procedure) Regulations 1990

6.—(1) The Regional and District Health Authorities (Membership and Procedure) Regulations 1990(b) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body”, after sub-paragraph (f), there is added—

“and

(g) the Independent Regulator of NHS Foundation Trusts;”.

(3) In regulation 13(1) (disqualification for appointment), after sub-paragraph (i) there is added—

“;or

(j) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

National Health Service Trusts (Membership and Procedure) Regulations 1990

7.—(1) The National Health Service Trusts (Membership and Procedure) Regulations 1990(c) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body”, after paragraph (g) there is added—

“(h) the Independent Regulator of NHS Foundation Trusts;”.

(3) In regulation 11 (disqualification for appointment of chairman and non-executive directors)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (e) after “body” there is added “other than an NHS foundation trust”;

(ii) after sub-paragraph (e), there is inserted—

“(ee) he is a chairman, director or employee of an NHS foundation trust; or” and

(iii) after sub-paragraph (h) there is added—

“;or

(i) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”;

(b) in paragraph (3) for “the health service body”, there is substituted “or, in the case of an NHS foundation trust his chairmanship, governorship, or non-executive directorship of, the health service body in question”; and

(c) in paragraph (4) after “(1)(e)” there is inserted “or (1)(ee)”.

United Kingdom Transplant Support Service Authority Regulations 1991

8. In the opening words of regulation 8 of the United Kingdom Transplant Support Service Authority Regulations 1991(d) (application of regulations relating to membership and procedure), for “regulation 13(1)(a), (b), (c) and (e)”, there is substituted “regulation 13(1)(a) to (c), (e) and (j)”.

(a) S.I. 1989/306.

(b) S.I. 1990/1331; these regulations are revoked by S.I.1996/707, regulation 17(1), (2) and Schedule 4, except insofar as they are applied by S.I.1990/2648, S.I.1991/408, S.I.1991/1103, S.I.1991/2002, S.I.1993/586 and S.I.1993/2210.

(c) S.I. 1990/2024.

(d) S.I. 1991/408.

Children (Secure Accommodation) Regulations 1991

9. In regulation 7 of the Children (Secure Accommodation) Regulations 1991(a) (children to whom section 25 of the Act shall apply and have effect subject to modifications)—

- (a) in paragraph (1)(a) after “1990” there is inserted “, NHS foundation trusts”;
- (b) in paragraph (2)(a) after “1990” there is inserted “, an NHS foundation trust”; and
- (c) in paragraph (2)(b) after “National Health Service trusts” there is inserted “, NHS foundation trusts”.

Children (Secure Accommodation) (No. 2) Regulations 1991

10. In regulation 2(1) of the Children (Secure Accommodation) (No. 2) Regulations 1991(b) (applications to court-special cases), after “1990” there is inserted “, an NHS foundation trust”.

National Health Service (Pharmaceutical Services) Regulations 1992

11. In regulation 2(1) of the National Health Service (Pharmaceutical Services) Regulations 1992(c) (interpretation), in the definition of “prescription form” for “or an NHS trust” there is substituted “an NHS trust or NHS foundation trust”.

Housing (Right to Buy) (Prescribed Persons) Order 1992

12. In the Schedule to the Housing (Right to Buy) (Prescribed Persons) Order 1992(d) after “a National Health Service trust constituted under section 5 of the National Health Service and Community Care Act 1990”, there is inserted “an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003,”.

Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992

13. After regulation 7A(2)(a) of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992(e) (prescription for the purposes of jurisdiction), there is inserted—

- “(aa) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

National Blood Authority Regulations 1993

14. In regulation 6(1)(b) of the National Blood Authority Regulations 1993(f) (application of regulations relating to membership and procedure), after “13(1)(a) to (e)”, there is inserted “and (j)”.

Redundancy Payments (National Health Service) (Modification) Order 1993

15. In Schedule 1 to the Redundancy Payments (National Health Service) (Modification) Order 1993(g) (employment to which this order applies: employers immediately before the relevant event), after paragraph 2 there is inserted—

“2ZA

an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

(a) S.I. 1991/1505.
(b) S.I. 1991/2034.
(c) S.I. 1992/662.
(d) S.I. 1992/1703.
(e) S.I. 1992/2645; regulation 7A was inserted by S.I. 2001/161.
(f) S.I. 1993/586.
(g) S.I. 1993/3167.

National Health Service Pension Scheme Regulations 1995

16.—(1) The National Health Service Pension Scheme Regulations 1995(a) are amended as follows.

(2) In regulation A2 (interpretation)—

(a) in the definition of “employing authority” after paragraph (c) there is inserted—

“(cc) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003,” and

(b) in the definition of “NHS dental employee” before paragraph (aa) there is inserted—

“(zaa) an NHS foundation trust;”.

Family Health Services Appeal Authority Regulations 1995

17. In regulation 7(1)(e) of the Family Health Appeal Authority Regulations 1995(b) (disqualification for appointment), after “member” there is inserted “or governor”.

National Health Service (Injury Benefits) Regulations 1995

18. In regulation 2 of the National Health Service (Injury Benefits) Regulations 1995(c) (interpretation), in paragraph (1)—

(a) in the definition of “employing authority”, after paragraph (c) there is inserted—

“(cc) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;” and

(b) in the definition of “NHS dental employee”, before paragraph (aa), there is inserted—

“(zaa) an NHS foundation trust;”.

National Health Service Litigation Authority Regulations 1995

19.—(1) The National Health Service Litigation Authority Regulations 1995(d) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body” after “Health and Social Care Act 2001” there is added “or the Independent Regulator of NHS Foundation Trusts”.

(3) In regulation 7 (disqualification for appointment), in paragraph (1)—

(a) in sub-paragraph (e) “or” is omitted; and

(b) after sub-paragraph (e) there is inserted—

“(ee) he is a chairman, chief executive or non-executive director of an NHS foundation trust; or
” and

(c) after sub-paragraph (f) there is added—

“; or

(g) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

National Health Service (Clinical Negligence Scheme) Regulations 1996

20. In regulation 3(1) of the National Health Service (Clinical Negligence Scheme) Regulations 1996(e) (eligible bodies), after paragraph (a) there is inserted—

“(aa) an NHS foundation trust;”.

(a) S.I. 1995/300.
(b) S.I. 1995/622.
(c) S.I. 1995/866.
(d) S.I. 1995/2801.
(e) S.I. 1996/251.

National Health Service (Existing Liabilities Scheme) Regulations 1996

21. In regulation 3 of the National Health Service (Existing Liabilities Scheme) Regulations 1996(a) (eligible bodies)—

- (a) in paragraph (a)(iii) “or” is omitted; and
- (b) after paragraph (a)(iii) there is inserted—
“(iia) an NHS foundation trust, or”.

National Health Service (Appointment of Consultants) Regulations 1996

22. In regulation 2(1) of the National Health Service (Appointment of Consultants) Regulations 1996(b) (interpretation), in paragraph (a) of the definition of “lay member” for “or any NHS trust,” there is substituted “, NHS trust or NHS foundation trust,”.

Health Authorities (Membership and Procedure) Regulations 1996

23.—(1) The Health Authorities (Membership and Procedure) Regulations 1996(c) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body” after paragraph (e) there is added—

“and

(f) the Independent Regulator of NHS Foundation Trusts;”.

(3) In regulation 10 (disqualification for appointment) in paragraph (1)—

(a) after sub-paragraph (h), there is inserted—

“(hh) he is a chairman or non-executive director of an NHS foundation trust;” and

(b) after sub-paragraph (l), there is added—

“(m) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Employment Protection (Continuity of Employment of National Health Service Employees) (Modification) Order 1996

24. In article 1(2)(b) of the Employment Protection (Continuity of Employment of National Health Service Employees) (Modification) Order 1996(d) (citation, commencement and interpretation), after sub-paragraph (vii) there is inserted—

“(viii) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996

25. In regulation 6(2) of the Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996(e) (consultation), at the end of the definition of “appropriate NHS trust” there is added “and NHS foundation trust has the meaning given by section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003”.

Construction Contracts (England and Wales) Exclusion Order 1998

26. After article 3 of the Construction Contracts (England and Wales) Exclusion Order 1998(f) (agreements under statute), there is inserted—

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- (a) S.I. 1996/686.
 - (b) S.I. 1996/701.
 - (c) S.I. 1996/707.
 - (d) S.I. 1996/1023.
 - (e) S.I. 1996/2489.
 - (f) S.I. 1998/648.

“Other Agreements

3A.—(1) A construction contract is excluded from the operation of Part II if it is an externally financed development agreement entered into by an NHS foundation trust.

(2) In this article “externally financed development agreement” has the same meaning as in section 1 of the National Health Service (Private Finance) Act 1997 reading references in subsections (3) and (5) of that section to the trust as references to an NHS foundation trust.”.

National Institute for Clinical Excellence Regulations 1999

27. In regulation 5(1) of the National Institute for Clinical Excellence Regulations 1999(a) (disqualification for appointment), after sub-paragraph (e), there is added—

“; or

(f) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

National Health Service Estate Management and Health Building Agency Trading Fund Order 1999

28. In Schedule 1 to the National Health Service Estate Management and Health Building Agency Trading Fund Order 1999 (b) (funded operations), in paragraph (1)(ii) after “1990” there is inserted “or an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003”.

National Health Service Information Authority Regulations 1999

29. In regulation 3(1) of the National Health Service Information Authority Regulations 1999(c) (disqualification for appointment), after sub-paragraph (e), there is added—

“; or

(f) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

National Health Service (Liabilities to Third Parties Scheme) Regulations 1999

30. In regulation 3 of the National Health Service (Liabilities to Third Parties Scheme) Regulations 1999(d) (eligible bodies) after paragraph (a) there is inserted—

“(aa) an NHS foundation trust.”.

National Health Service (Property Expenses Scheme) Regulations 1999

31. In regulation 3 of the National Health Service (Property Expenses Scheme) Regulations 1999(e) (eligible bodies) after paragraph (a) there is inserted—

“(aa) an NHS foundation trust.”.

Motor Vehicles (Driving Licences) Regulations 1999

32. In regulation 9(6) of the Motor Vehicles (Driving Licences) Regulations 1999(f) (minimum ages for holding or obtaining licences), after sub-paragraph (b) there is inserted—

“(bb) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care Act 2003, or”.

(a) S.I. 1999/260.
(b) S.I. 1999/641.
(c) S.I. 1999/694.
(d) S.I. 1999/873.
(e) S.I. 1999/874.
(f) S.I. 1999/2864.

Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000

33.—(1) The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 (a) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body”, after paragraph (f) there is added—

“(g) the Independent Regulator of NHS Foundation Trusts;” .

(3) In regulation 5(1) (disqualification for appointment: chairman and non-officer members)—

(a) after sub-paragraph (f) there is inserted—

“(ff) he is a chairman or non-executive director of an NHS foundation trust; and”

(b) after sub-paragraph (j) there is added—

“;

(k) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Data Protection (Subject Access Modification) (Social Work) Order 2000

34. In the Schedule to the Data Protection (Subject Access Modification) (Social Work) Order 2000(b) (personal data to which this order applies), in paragraph 1—

(a) after sub-paragraph (l)(ii) there is inserted—

“(iiza) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;” and

(b) after sub-paragraph (m) there is inserted—

“(mm) data processed by an NHS foundation trust as referred to in sub-paragraph (l) (iiza) above in the exercise of any functions similar to any social services functions of a local authority;”.

NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000

35. In regulation 3 of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000(c) (prescribed NHS bodies and local authorities), in paragraph (1)—

(a) in sub-paragraph (b) “and” is omitted; and

(b) in sub-paragraph (c) after “trust” there is inserted—

“and

(d) an NHS foundation trust”.

National Treatment Agency Regulations 2001

36. In regulation 3(1) of the National Treatment Agency Regulations 2001(d) (disqualification for appointment), after sub-paragraph (f), there is added—

“;

(g) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

National Health Service Appointments Commission Regulations 2001

37. In regulation 3(1) of the National Health Service Appointments Commission Regulations 2001(a) (disqualification for appointment)—

(a) S.I. 2000/89.
(b) S.I. 2000/415.
(c) S.I. 2000/617.
(d) S.I. 2001/715.

- (a) after sub-paragraph (f), there is inserted—
 “(ff) he is a chairman or a non-executive director of an NHS foundation trust;” and
- (b) after sub-paragraph (j) there is added—
 “; or
- (k) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Immigration and Asylum Act 1999 (Part V Exemption: Educational Institutions and Health Sector Bodies) Order 2001

38. In Schedule 3 to the Immigration and Asylum Act 1999 (Part V Exemption: Educational Institutions and Health Sector Bodies) Order 2001(b) (health sector bodies), in paragraph 1, after sub-paragraph (b), there is inserted—

- “(bb) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

National Patient Safety Agency Regulations 2001

39. In regulation 3(1) of the National Patient Safety Agency Regulations 2001(c) (disqualification for appointment), after sub-paragraph (e) there is added—

- “;
- (f) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Care Homes Regulations 2001

40. In regulation 3(1) of the Care Homes Regulations 2001(d) (excepted establishments), after sub-paragraph (b)(ii) there is inserted—

- “or
- (iii) in an NHS foundation trust;”.

National Health Service (Compensation for Premature Retirement) Regulations 2002

41. In regulation 2(1) of the National Health Service (Compensation for Premature Retirement) Regulations 2002(e) (interpretation), in the definition of “employing authority”, after paragraph (b), there is inserted—

- “(bb) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

Statutory Paternity Pay and Statutory Adoption Pay (National Health Service Employees) Regulations 2002

42. In regulation 1(2) of the Statutory Paternity Pay and Statutory Adoption Pay (National Health Service Employees) Regulations 2002(f) (citation, commencement and interpretation), there is inserted in the appropriate alphabetical position—

- ““NHS trust” shall be construed to include a reference to an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003 where the application for authorisation to become an NHS foundation trust was made by an NHS trust.”.

(a) S.I. 2001/794.
 (b) S.I. 2001/1403.
 (c) S.I. 2001/1742.
 (d) S.I. 2001/3965.
 (e) S.I. 2002/1311.
 (f) S.I. 2002/2819.

Commission for Patient and Public Involvement in Health (Functions) Regulations 2002

43. In regulation 8(2) of the Commission for Patient and Public Involvement in Health (Functions) Regulations 2002 (a) (obtaining information) after sub-paragraph (c), there is inserted—

“(cc) an NHS foundation trust;”.

Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002

44.—(1) The Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002(b) are amended as follows.

(2) In regulation 1(3) (citation, commencement, application and interpretation) in the definition of “health service body” after paragraph (c) there is added—

“(d) the Independent Regulator of NHS Foundation Trusts;”.

(3) In regulation 5(1) (disqualification for appointment), after sub-paragraph (j) there is added—

“; or

(k) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Counter Fraud and Security Management Service Regulations 2002

45.—(1) The Counter Fraud and Security Management Service Regulations 2002(c) are amended as follows.

(2) In regulation 1(3) (citation, commencement, application and interpretation), in the definition of “health service body” after paragraph (c) there is added—

“and

(d) the Independent Regulator of NHS Foundation Trusts;”.

(3) In regulation 3(1) (disqualification for appointment) after sub-paragraph (h) there is added—

“;

(i) he is the chairman, chief executive or a non-executive director of an NHS foundation trust;

(j) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002

46.—(1) The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002(d) are amended as follows.

(2) In regulation 1(3) (citation, commencement, application and interpretation), there is inserted in the appropriate alphabetical and numerical position—

(a) ““the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003”;

(b) ““authorisation” means an authorisation given by the Independent Regulator of NHS Foundation Trusts under section 6 of the 2003 Act”; and

(c) ““protected goods or services” means in relation to an NHS foundation trust, goods or services which that trust is required by virtue of section 14(4) of the 2003 Act to provide under the terms of its authorisation.”.

(3) In regulation 4 (consultation of committees by local NHS bodies)—

(a) at the end of the heading there is added “other than NHS foundation trusts”; and

(a) S.I. 2002/3007.

(b) S.I. 2002/3038.

(c) S.I. 2002/3040.

(d) S.I. 2002/3048.

(b) in paragraph (1) after “local NHS body” there is inserted “other than an NHS foundation trust.”.

(4) After regulation 4 there is inserted—

“4A. Consultation of Committees by NHS foundation trusts

(1) This regulation applies where—

- (a) an NHS foundation trust proposes to make an application to the Independent Regulator of NHS Foundation Trusts (“the regulator”), to vary the terms of its authorisation; and
- (b) that application if successful would result in a substantial variation of the provision by an NHS foundation trust of protected goods or services in the area of a local authority.

(2) Where this regulation applies the NHS foundation trust shall consult the overview and scrutiny committee of the local authority referred to in paragraph (1)(b).

(3) Subject to any directions issued under regulation 10, an overview and scrutiny committee which has been consulted by an NHS foundation trust pursuant to paragraph (1), may make comments on the proposed application by such date as may be specified by the NHS foundation trust.

(4) In any case where an overview and scrutiny committee is not satisfied that consultation on any application referred to in paragraph (1) has been adequate in relation to content or time allowed it may report to the regulator in writing and the regulator may require the NHS foundation trust to carry out such consultation, or such further consultation with the overview and scrutiny committee as it considers appropriate.

(5) In any case where an overview and scrutiny committee considers that the proposed application would not be in the interests of the health service in the area of the committee’s local authority, it may report to the regulator in writing and the regulator shall have regard to the report in accordance with section 9(2) of the 2003 Act.”.

Health Protection Agency (Yr Asiantaeth Diogelu Iechyd) Regulations 2003

47.—(1) The Health Protection Agency (Yr Asiantaeth Diogelu Iechyd) Regulations 2003(a) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body”, after paragraph (h) there is added—

- “(hh) an NHS foundation trust,
- (hhh) the Independent Regulator of NHS Foundation Trusts.”.

(3) In regulation 3 (disqualification for appointment)—

(a) in paragraph (1)—

- (i) in sub-paragraph (d) after “NRPB”, in the first place that it occurs, there is inserted “and in the case of an NHS foundation trust as a governor of a trust,”;
- (ii) in sub-paragraph (h)(iii) “or” is omitted; and
- (iii) after sub-paragraph (h)(iii) there is inserted—
 - “(iiia) an NHS foundation trust;”;
- (iv) after sub-paragraph (h) there is added—

“or;

- (i) he is the chairman or other member of the Independent Regulator of NHS Foundation Trusts.”; and

(b) for paragraph (3) there is substituted—

“(3) For the purposes of paragraph (1)(c) a person shall not be treated as having been in paid employment by reason only of his having been—

- (a) the chairman or member or director of the NRPB or a health service body other than an NHS foundation trust; or

(a) S.I. 2003/506.

- (b) the chairman, a governor or non-executive director of an NHS foundation trust.”.

New Schools (General) (England) Regulations 2003

48. In Schedule 1 to the New Schools (General) (England) Regulations 2003(a) (appointment of temporary community governors at community special schools or foundation special schools), in paragraph 2(1)(a)—

- (a) “either” is omitted; and
(b) after sub-paragraph (ii) there is inserted—
“or
(iii) the NHS foundation trust;”.

Mental Health (Correspondence of Patients, Patient Advocacy and Liaison Services) Regulations 2003

49. In regulation 2 of the Mental Health (Correspondence of Patients, Patient Advocacy and Liaison Services) Regulations 2003(b) (patient advocacy and liaison service)—

- (a) in paragraph (a), “or” is omitted; and
(b) after paragraph (a), there is inserted—
“(aa) an NHS foundation trust; or”.

Patients’ Forums (Membership and Procedure) Regulations 2003

50.—(1) The Patients’ Forums (Membership and Procedure) Regulations 2003(c) are amended as follows.

(2) In regulation 1(3) (citation, commencement, application and interpretation), in the definition of “health service body” after paragraph (c) there is added—

“(d) the Independent Regulator of NHS Foundation Trusts;”.

(3) In regulation 4(1) (disqualification for appointment)—

- (a) after sub-paragraph (d) there is inserted—

“(dd) he is a member of the board of directors or an employee of the NHS foundation trust for which the Forum is established;” and

(ddd) he is a member of the board of governors of an NHS foundation trust, unless the Patients’ Forum in question is specified in the constitution of that trust as a partnership organisation;”
and

- (b) after sub-paragraph (m), there is added—

“;

(n) he is the chairman or another member of the Independent Regulator of NHS foundation Trusts.”.

Patients’ Forums (Functions) Regulations 2003

51.—(1) The Patients’ Forums (Functions) Regulations 2003(d) are amended as follows.

(2) In regulation 3 (entry and inspection of premises)—

- (a) in paragraph (3) after sub-paragraph (d) there is inserted—

“(dd) NHS foundation trusts;” and

- (b) in paragraph (4)(a), for “(d)” there is substituted “(dd)”.

(a) S.I. 2003/1558.

(b) S.I. 2003/2042.

(c) S.I. 2003/2123.

(d) S.I. 2003/2124.

- (3) In regulation 5 (obtaining information) after paragraph (3)(b), there is inserted—
“(bb) an NHS foundation trust;”.
- (4) In regulation 8(5) (annual and other reports) for sub-paragraphs (a) and (b) there is substituted—
“(a) in the case of an NHS trust or a Primary Care Trust—
(i) the Strategic Health Authority responsible for the performance management of that trust; and
(ii) a relevant overview and scrutiny committee (within the meaning given in section 15(9) of the Act); and
(b) in the case of an NHS foundation trust—
(i) the Independent Regulator of NHS Foundation Trusts; and
(ii) a relevant overview and scrutiny committee (within the meaning given in section 15(9) of the Act).”.

NHS Professionals Special Health Authority Regulations 2003

- 52.**—(1) The NHS Professionals Special Health Authority Regulations 2003(a) are amended as follows.
(2) In regulation 1(3) (citation, commencement, application and interpretation), in the definition of “health service body” after paragraph (f) there is added—
“(ff) the Independent Regulator of NHS Foundation Trusts;”.
- (3) In regulation 3(1) (disqualification for appointment), after sub-paragraph (h) there is added—
“; ”
(i) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Commission for Social Care Inspection (Membership) Regulations 2003

- 53.**—(1) The Commission for Social Care Inspection (Membership) Regulations 2003(b) are amended as follows.
(2) In regulation 1(3) (citation, commencement, application and interpretation), in the definition of “health service body” after paragraph (d) there is inserted—
“(dd) the Independent Regulator of NHS Foundation Trusts;”.
- (3) In regulation 4(1) (disqualification for appointment or from holding office) after sub-paragraph (m) there is added—
“; or ”
(n) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts.”.

Commission for Healthcare Audit and Inspection (Membership) Regulations 2003

- 54.**—(1) The Commission for Healthcare Audit and Inspection (Membership) Regulations 2003(c) are amended as follows.
(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “health service body” after paragraph (c) there is inserted—
“(cc) the Independent Regulator of NHS Foundation Trusts;”.
- (3) In regulation 4 (disqualification for appointment or from holding office), —
(a) in paragraph (1) after sub-paragraph (l) there is added—
“; or ”

(a) S.I. 2003/3060.
(b) S.I. 2003/3190.
(c) S.I. 2003/3279.

- (m) he is the chairman or another member of the Independent Regulator of NHS Foundation Trusts”; and
- (b) in paragraph (3)—
- (i) in sub-paragraph (a) after “body” there is added “other than an NHS foundation trust”; and
- (ii) after sub-paragraph (a) there is inserted—
- (aa) the chairman, or a governor or a non-executive director of an NHS foundation trust, or”.

Crime and Disorder Strategies (Prescribed Descriptions) (England) Order 2004

55. In article 2 of the Crime and Disorder Strategies (Prescribed Descriptions) (England) Order 2004(a) after paragraph (2)(b) there is inserted—

“(bb) an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”.

SCHEDULE 2

Article 3(2)

Enactments where after “National Health Service Trust”, “National Health Service trust”, “NHS Trust” or “NHS trust” there is inserted “or NHS foundation trust”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (Charges for Appliances) Regulations 1974 (b)	Regulation 6(3) in the first place “NHS trust” occurs
Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980 (c)	Schedule 1 in paragraph (c) of the entry relating to “a person other than an excepted person who carries on business consisting (wholly or partly) of supplying medicinal products in circumstances corresponding to retail sale”
Medicines (Pharmacy and General Sale Exemption) Order 1980 (d)	Schedule 3, Part II, in the entry in column 1 relating to an NHS trust
Mental Health Review Tribunal Rules 1983 (e)	Rule 7(e) Rule 8(2)(b)
National Health Service (Charges to Overseas Visitors) Regulations 1989 (f)	Regulation 1(2) in the definition of “treatment the need for which arose during the visit” Regulation 2 Regulation 4(a) Regulation 8
Family Health Services Authorities (Membership and Procedure) Regulations 1990 (g)	Regulation 1(2) in paragraph (a) of the definition of “health service body”
Regional and District Health Authorities (Membership and Procedure) Regulations 1990 (a)	Regulation 13(1)(g)

(a) S.I. 2004/118.

(b) S.I. 1974/284.

(c) S.I. 1980/1923; the entry in Schedule 1 was inserted by S.I. 2000/1918.

(d) S.I. 1980/1924; Schedule 3 was inserted by S.I. 2000/1919.

(e) S.I. 1983/942.

(f) S.I. 1989/306.

(g) S.I. 1990/1330; these regulations are revoked by S.I. 1996/707, regulation 17(1),(2) and Schedule 4, except in so far as they are applied by S.I. 1990/2648, S.I. 1991/408, S.I. 1991/1103, S.I. 1991/2002, S.I. 1993/586 and S.I. 1993/2210.

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (General Dental Services) Regulations 1992 (b)	Regulation 4(7)(a)(vii)
Dental Vocational Training Authority Regulations 1993 (c)	Regulation 5(1)(b)(iii)
Family Health Services Appeal Authority Regulations 1995 (d)	Regulation 7(1)(g)
National Health Service (Appointment of Consultants) Regulations 1996 (e)	Regulation 5(1)(e)(ii)
Welfare Food Regulations 1996 (f)	Regulation 2(1)(a) in the definition of “clinic”
National Health Service (Wheelchair Charges) Regulations 1996 (g)	Regulation 1(2) in the definition of “standard wheelchair” Regulation 1(2) in the definition of “user” Regulation 2(1)
Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996 (h)	Regulation 6(1) item 6 in the entry in column (3) relating to item 6(a) in the table Regulation 6(2) in the definition of “appropriate NHS trust” after “NHS trust”, and “National Health Service trust” in the first place that it occurs
National Health Service (Optical Charges and Payments) Regulations 1997 (i)	Regulation 1(2) in the definition of “responsible authority” Regulation 1(2) in the definition of “voucher” Regulation 8(5) Regulation 10 Regulation 11 Schedule 1 item 9 column 1 Schedule 1 item 10 column 1 Schedule 2 paragraph (1)(g)
Prescription Only Medicines (Human Use) Order 1997 (j)	Article 12A paragraph (1)(c) Article 12A paragraph (2)(c) Schedule 7 Part II in the entry relating to an NHS trust in column 1
Medical Act 1983 (Approved Medical Practices and Conditions of Residence) and National Health Service (General Medical Services) (Amendment) Regulations 1998 (k)	Regulation 3(2)
Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999 (l)	Regulation 2(2)(c) Regulation 3(4)(c)
Health Development Agency Regulations 1999 (m)	Regulation 3(1)(d)
Primary Care Trusts (Membership, Procedure and Administration Arrangements)	Regulation 5(4)(c)

(a) S.I. 1990/1331; these regulations are revoked by S.I.1996/707, regulation 17(1), (2) and Schedule 4, except insofar as they are applied by S.I.1990/2648, S.I.1991/408, S.I.1991/1103, S.I.1991/2002, S.I.1993/586 and S.I.1993/2210.

(b) S.I. 1992/661.

(c) S.I. 1993/2210.

(d) S.I. 1995/622.

(e) S.I. 1996/701.

(f) S.I. 1996/1434.

(g) S.I. 1996/1503.

(h) S.I. 1996/2489.

(i) S.I. 1997/818.

(j) S.I. 1997/1830; article 12A and Schedule 7 were inserted by S.I.2000/1917.

(k) S.I. 1998/1664.

(l) S.I. 1999/2337.

(m) S.I. 1999/3432.

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Regulations 2000(a)	
National Health Service (Charges for Drugs and Appliances) Regulations 2000(b)	Regulation 7(7)
Homeless Persons (Priority Need) (Wales) Order 2001(c)	Regulation 3(2)(d)(ii)
National Health Service Appointments Commission Regulations 2001(d)	Regulation 3(1)(j)
School Governance (Constitution) (England) Regulations 2003(e)	Schedule 3 paragraph 2(1)(b)
School Organisation Proposals by the Learning and Skills Council for England Regulations 2003(f)	Regulation 4(7)(c) Regulation 16(2)(e)
Strategic Health Authorities (Consultation on Changes) Regulations 2003(g)	Regulation 2(2)(b) Regulation 2(2)(f)
Patients' Forums (Membership and Procedure) Regulations 2003(h)	Regulation 2(1)
Patients' Forums (Functions) Regulations 2003(i)	Regulation 2(1) Regulation 2(2) Regulation 3(1)(b)

SCHEDULE 3

Article 3(3)

Enactments where after “National Health Service Trust”, “National Health Service trust” or “NHS trust” there is inserted “, NHS foundation trust”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (Venereal Diseases) Regulations 1974(j)	Regulation 2
Medicines (Pharmacy and General Sale-Exemption) Order 1980	Schedule 3 Part II in the entry in column 2 relating to a person who supplies medicinal products pursuant to an arrangement made with the Common Services Agency, a health authority, a Special Health Authority, an NHS Trust or a Primary Care Trust
Social Security (Claims and Payments) Regulations 1987(k)	Regulation 43(6)
National Health Service (Dental Charges) Regulations 1989(l)	Regulation 4(4) in the second place that “NHS trust” occurs
Children (Secure Accommodation) (No. 2) Regulations 1991(m)	Regulation 2(1) in the second place that it occurs
National Health Service (Optical Charges and Payments) Regulations 1997	Regulation 2(2)
Prescription Only Medicines (Human Use)	Schedule 7 Part II in the entry in column 2

(a) S.I. 2000/89.

(b) S.I. 2000/620.

(c) S.I. 2001/607 (W30).

(d) S.I. 2001/794.

(e) S.I. 2003/348.

(f) S.I. 2003/507.

(g) S.I. 2003/1617.

(h) S.I. 2003/2123.

(i) S.I. 2003/2124.

(j) S.I. 1974/29.

(k) S.I. 1987/1968; these regulations are revoked in so far as they relate to child benefit or guardian's allowance by S.I. 2003/4902.

(l) S.I. 1989/394.

(m) S.I. 1991/2034.

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Order 1997	relating to a person who supplies medicinal products pursuant to an arrangement made with the Common Services Agency, a Health Authority, a Special Health Authority, an NHS Trust or a Primary Care Trust
National Health Service (Vocational Training for General Medical Practice) Regulations 1997(a)	Regulation 14(3)(d)
Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000	Regulation 1(2) in paragraph (a) of the definition of “health service body”
National Health Service (Charges for Drugs and Appliances) Regulations 2000	Regulation 5(3) Regulation 5(6) Regulation 6(1) Regulation 6(3) Regulation 6(5) Regulation 10(3) Regulation 11
National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(b)	Regulation 12(1) in the second and fourth places that it occurs
Patients’ Forums (Membership and Procedure) Regulations 2003(c)	Regulation 2(3)(a)
Patients’ Forums (Functions) Regulations 2003	Regulation 7 Regulation 8(3)(a) and (c) Regulation 8(4) Regulation 8(6)
NHSU Regulations 2003(d)	Regulation 1(3) in paragraph (a) of the definition of “health service body”
NHS Professionals Special Health Authority Regulations 2003(e)	Regulation 1(3) in paragraph (a) of the definition of “health service body”
LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003(f)	Schedule 1 paragraph 9

SCHEDULE 4

Article 3(4)

Enactments where after “National Health Service Trust” or “National Health Service trust” or “NHS Trust”, there is inserted “, an NHS foundation trust”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Medicines (Pharmacy and General Sale – Exemption) Order 1980	Schedule 3 Part II in the entry in column 1 relating to a person who supplies medicinal products pursuant to an arrangement made with the Common Services Agency, a health authority, a Special Health Authority, an NHS trust or a Primary Care Trust

- (a) S.I. 1997/2817.
(b) S.I. 2003/2382.
(c) S.I. 2003/2123.
(d) S.I. 2003/2773.
(e) S.I. 2003/3060.
(f) S.I. 2003/3118 (W296).

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (Dental Charges) Regulations 1989	Regulation 5(4)
Family Health Services Authorities (Membership and Procedure) Regulations 1990	Regulation 6(1)(f)
National Health Service Trusts (Membership and Procedure) Regulations 1990	Regulation 1(2) in the definition of “health service body”
National Health Service Pension Scheme Regulations 1995(a)	Regulation A2 in paragraph (b) of the definition of “practitioner” Regulation B2(e) Regulation E3(4)(c) Regulation E4(4)(c) Regulation R11(1)(h)(i) and (ii)
National Health Service Litigation Authority Regulations 1995(b)	Regulation 1(2) in the definition of “health service body”
National Health Service (Appointment of Consultants) Regulations 1996	Regulation 5(1)(d)
Health Authorities (Membership and Procedure) Regulations 1996	Regulation 1(2) in paragraph (a) of the definition of “health service body” Regulation 10(1)(j)
Prescription Only Medicines (Human Use) Order 1997	Schedule 7 Part II in the entry in column 1 relating to a person who supplies medicinal products pursuant to an arrangement made with the Common Services Agency, a Health Authority, a Special Health Authority, an NHS trust or a Primary Care Trust
Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000	Regulation 5(1)(i)
National Health Service (Charges for Drugs and Appliances) Regulations 2000	Regulation 2(1) in the definition of “prescription form” Regulation 5(1)
Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(c)	Regulation 3(3)(a)
National Health Service (Travel Expenses and Remission of Charges) Regulations 2003	Regulation 3(1)(a)(ii) Regulation 12(1) in the first and third place that it occurs Regulation 12(2)

SCHEDULE 5

Article 3(5)

Enactments where for “or NHS trust” there is substituted “, NHS trust or NHS foundation trust”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (Charges for Appliances) Regulations 1974	Regulation 5 Regulation 6(1) Regulation 6(3)

- (a) S.I. 1995/300.
(b) S.I. 1995/2801.
(c) S.I. 2002/816.

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (Dental Charges) Regulations 1989	Regulation 6(4) Regulation 4(4)(b) Regulation 6(1) Regulation 8 Regulation 11(3)
Human Organ Transplants (Supply of Information) Regulations 1989(a)	The Schedule to the Regulations Part I paragraph 1 The Schedule to the Regulations Part II paragraph 1
National Care Standards Commission (Registration) Regulations 2001(b)	Schedule 2 paragraph 8
Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002(c)	Regulation 1(3) in paragraph (a) of the definition of “health service body”
Counter Fraud and Security Management Service Regulations 2002(d)	Regulation 1(3) in paragraph (a) of the definition of “health service body”
Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002(e)	Regulation 1(3) in the definition of “local NHS body”
Patients’ Forums (Membership and Procedure) Regulations 2003	Regulation 1(3) in paragraph (a) of the definition of “health service body”
Patients’ Forums (Functions) Regulations 2003	Regulation 8(1)

SCHEDULE 6

Article 3(6)

Enactments where for “or an NHS trust” there is substituted “, an NHS trust or an NHS foundation trust”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service (Dental Charges) Regulations 1989	Regulation 5(1)(b)
Human Organ Transplants (Supply of Information) Regulations 1989	Regulation 2(1)(a) Regulation 2(2)(a)
Regional and District Health Authorities (Membership and Procedure) Regulations 1990	Regulation 1(2) in paragraph (a) of the definition of “health service body”
Family Health Services Appeal Authority Regulations 1995	Regulation 1(2) in the definition of “health service body”
Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000	Regulation 1(2) in paragraph (e) of the definition of “nurse”

- (a) S.I. 1989/2108.
(b) S.I. 2001/3969.
(c) S.I. 2002/3038.
(d) S.I. 2002/3040.
(e) S.I. 2002/3048.

SCHEDULE 7

Article 3(7)

Enactments where after an entry relating to a “National Health Service Trust” or “national health service trust” there is inserted ““NHS foundation trust” has the same meaning as in section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003,”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
School Governance (Constitution) (England) Regulations 2003(a)	Schedule 3 paragraph 2(3)
New Schools (General) (England) Regulations 2003(b)	Schedule 1 paragraph 2(2)

SCHEDULE 8

Article 3(8)

Enactments where there is inserted in the appropriate alphabetical position ““NHS foundation trust” has the same meaning as in section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003;”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Medicines (Pharmacy and General Sale—Exemption) Order 1980	Article 1(2)(a)
Mental Health Review Tribunal Rules 1983	Rule 2(1)
National Health Service (Charges to Overseas Visitors) Regulations 1989	Regulation 1(2)
Human Organ Transplants (Supply of Information) Regulations 1989	Regulation 1(2)
Welfare Food Regulations 1996	Regulation 2(1)
Prescription Only Medicines (Human Use) Order 1997	Article 1(2)

SCHEDULE 9

Article 3(9)

Enactments where after “1978” there is added “or an NHS foundation trust within the meaning of section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Medicines (Sale or Supply)(Miscellaneous Provisions) Regulations 1980	Schedule 1 in the entry relating to a National Health Service trust
Litter Controls Areas Order 1991(c)	Article 2(1)(j)(xii)

(a) S.I. 2003/348.
 (b) S.I. 2003/1558.
 (c) S.I. 1991/1325.

SCHEDULE 10

Article 3(10)

Enactments where for the definition of “health service body” there is substituted
 ““health service body” means (a) a body listed in section 4 of the National
 Health Service and Community Care Act 1990; (b) an NHS foundation trust;
 (c) the Independent Regulator of NHS Foundation Trusts ;”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Institute for Clinical Excellence Regulations 1999 (a)	Regulation 1(2)
National Health Service Information Authority Regulations 1999 (b)	Regulation 1(2)
National Treatment Agency Regulations 2001 (c)	Regulation 1(2)
National Health Service Appointments Commission Regulations 2001 (d)	Regulation 1(3)
National Patient Safety Agency Regulations 2001 (e)	Regulation 1(3)

SCHEDULE 11

Article 3(11)

Enactments where for the definition of “health service body” there is substituted
 ““health service body” means (a) a body listed in section 4 of the National
 Health Service and Community Care Act 1990; (b) an NHS foundation trust;”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Health Development Agency Regulations 1999 (f)	Regulation 1(2)
National Clinical Assessment Authority Regulations 2000 (g)	Regulation 1(2)

SCHEDULE 12

Article 3(12)

Enactments where after “director” there is inserted “or governor”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
National Health Service Trusts (Membership and Procedure) Regulations 1990 (h)	Regulation 11(1)(d)
National Health Service Litigation Authority Regulations 1995 (i)	Regulation 7(1)(d)
National Institute for Clinical Excellence Regulations 1999	Regulation 5(1)(d)
National Health Service Information Authority Regulations 1999	Regulation 3(1)(d)

- (a)** S.I. 1999/260.
- (b)** S.I. 1999/694.
- (c)** S.I. 2001/715.
- (d)** S.I. 2001/794.
- (e)** S.I. 2001/1742.
- (f)** S.I. 1999/3432.
- (g)** S.I. 2000/2962.
- (h)** S.I. 1990/2024.
- (i)** S.I. 1995/2801.

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Health Development Agency Regulations 1999	Regulation 3(1) (e)
Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(a)	Regulation 5(1)(d)
National Clinical Assessment Authority Regulations 2000	Regulation 3(1)(d)
National Treatment Agency Regulations 2001	Regulation 3(1)(e)
National Health Service Appointments Commission Regulations 2001	Regulation 3(1)(h)
National Patient Safety Agency Regulations 2001	Regulation 3(1)(d)
Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002(b)	Regulation 5(1)(d)
Counter Fraud and Security Management Service Regulations 2002(c)	Regulation 3(1)(d)
Patients' Forums (Membership and Procedure) Regulations 2003(d)	Regulation 4(1)(b)
NHSU Regulations 2003(e)	Regulation 3(1)(d)
NHS Professionals Special Health Authority Regulations 2003(f)	Regulation 3(1)(d)
Commission for Social Care Inspection (Membership) Regulations 2003(g)	Regulation 4(1)(g) Regulation 4(1)(h)
Commission for Healthcare Audit and Inspection (Membership) Regulations 2003(h)	Regulation 4(1)(h) Regulation 4(1)(i)

SCHEDULE 13

Article 3(13)

Enactments where for “a health service body” there is substituted “or, in the case of an NHS foundation trust the chairman, a governor or a non-executive director of, the health service body in question”

<i>Title of Enactment</i>	<i>Provisions to be amended</i>
National Health Service Litigation Authority Regulations 1995	Regulation 7(3)
National Institute for Clinical Excellence Regulations 1999	Regulation 5(3)
National Health Service Information Authority Regulations 1999	Regulation 3(3)
Health Development Agency Regulations 1999	Regulation 3(3)
National Clinical Assessment Authority Regulations 2000	Regulation 3(3)
National Treatment Agency Regulations 2001	Regulation 3(3)
National Health Service Appointments Commission Regulations 2001	Regulation 3(3)
National Patient Safety Agency Regulations 2001	Regulation 3(3)

- (a) S.I. 2000/89.
(b) S.I. 2002/3038.
(c) S.I. 2002/3040.
(d) S.I. 2003/2123.
(e) S.I. 2003/2773.
(f) S.I. 2003/3060.
(g) S.I. 2003/3190.
(h) S.I. 2003/3279.

<i>Title of Enactment</i>	<i>Provisions to be amended</i>
Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002	Regulation 5(3)
Commission for Social Care Inspection (Membership) Regulations 2003	Regulation 4(3)

SCHEDULE 14

Article 3(14)

Enactments where for “a health service body” there is substituted “or, in the case of an NHS foundation trust his chairmanship, governorship, or non-executive directorship of, the health service body in question”

<i>Title of Enactment</i>	<i>Provisions to be amended</i>
Regional and District Health Authorities (Membership and Procedure) Regulations 1990(a)	Regulation 13(3)
Family Health Services Appeal Authority Regulations 1995(b)	Regulation 7(3)
Health Authorities (Membership and Procedure) Regulations 1996(c)	Regulation 10(3)
Primary Care Trust (Membership, Procedure and Administration Arrangements) Regulations 2000	Regulation 5(3)

SCHEDULE 15

Article 3(15)

Enactments where after “directors of,” there is inserted, “or in the case of an NHS foundation trust, the chairman, a governor or a non-executive director of”

<i>Title of Enactment</i>	<i>Provisions to be amended</i>
Patients’ Forums (Membership and Procedure) Regulations 2003	Regulation 4(2)
NHSU Regulations 2003	Regulation 3(3)
NHS Professionals Special Health Authority Regulations 2003	Regulation 3(3)

(a) S.I. 1990/1331; these regulations are revoked by S.I.1996/707, regulation 17(1), (2) and Schedule 4, except insofar as they are applied by S.I.1990/2648, S.I.1991/408, S.I.1991/1103, S.I.1991/2002, S.I.1993/586 and S.I.1993/2210.

(b) S.I. 1995/622.

(c) S.I. 1996/707.

SCHEDULE 16

Article 3(16)

Enactments where there is inserted in the appropriate alphabetical position
 ““Independent Regulator of NHS Foundation Trusts” means the body corporate
 established by section 2 of the Health and Social Care (Community Health and
 Standards) Act 2003”

<i>Title of Enactment</i>	<i>Provisions to be amended</i>
Regional and District Health Authorities (Membership and Procedure) Regulations 1990	Regulation 1(2)
National Health Service Trusts (Membership and Procedure) Regulations 1990	Regulation 1(2)
National Health Service Litigation Authority Regulations 1995	Regulation 1(2)
Health Authorities (Membership and Procedure) Regulations 1996	Regulation 1(2)
National Institute for Clinical Excellence Regulations 1999	Regulation 1(2)
National Health Service Information Authority Regulations 1999	Regulation 1(2)
Primary Care Trusts (Membership, Procedure and Administration) Regulations 2000	Regulation 1(2)
National Treatment Agency Regulations 2001	Regulation 1(2)
National Health Service Appointments Commission Regulations 2001	Regulation 1(3)
National Patient Safety Agency Regulations 2001	Regulation 1(3)
Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002	Regulation 1(3)
Counter Fraud and Security Management Service Regulations 2002	Regulation 1(3)
Health Protection Agency (Yr Asiantaeth Diogelu Iechyd) Regulations 2003	Regulation 1(2)
NHS Professionals Special Health Authority Regulations 2003	Regulation 1(3)

SCHEDULE 17

Article 3(17)

Enactment where there is inserted “(5) In these Regulations, a reference to
 “NHS trust” shall be construed to include a reference to an NHS foundation
 trust within the meaning of section 1(1) of the Health and Social Care
 (Community Health and Standards) Act 2003 where the application for
 authorisation to become an NHS foundation trust was made by an NHS trust.”

<i>Title of enactment</i>	<i>Provisions to be amended</i>
Statutory Sick Pay (National Health Service Employees) Regulations 1991(a)	Regulation 1
Statutory Maternity Pay (National Health Service (Employees) Regulations 1991(b)	Regulation 1

(a) S.I. 1991/589.

(b) S.I.1991/590.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes supplementary and consequential provision in relation to Part 1 of the Health and Social Care (Community Health and Standards) Act 2003 (“the Act”). Part 1 of the Act makes provision for the establishment of NHS foundation trusts.

“NHS foundation trusts” are defined in section 1 of the Act. NHS foundation trusts will be corporate bodies constituted in accordance with Schedule 1 to the Act and authorised under Part 1 of the Act by the Independent Regulator of NHS Foundation Trusts (established under section 2 of the Act). NHS foundation trusts will be authorised to provide goods and services for purposes relating to the provision of health care and the authorisation must secure that the principal purpose of the trust is the provision of goods and services for the purposes of the health service in England. However subject to the terms of their authorisation NHS foundation trusts may also operate in other parts of the United Kingdom.

Article 1 provides that with the exception of the provisions in paragraph (2), the amendments in this Order are to come into force on 1st April 2004.

The provisions which are listed in paragraph (2) all provide for the chairman or another member of the Independent Regulator of NHS Foundation Trusts to be disqualified from specified appointments to other bodies. These provisions are to come into force on 5th July 2004. The later date for commencement of these provisions reflects that the process of making permanent appointments to the Independent Regulator of NHS Foundation Trusts will not be complete until July 2004.

Article 2 provides that the extent and application of all of the amendments made by the Order is the same as that of the provision being amended.

Article 3(1) and Schedule 1 make supplementary and consequential provision to the specified instruments.

Article 3(2) to 3(17) and Schedules 2 to 17 provide for amendments which are common to more than one instrument.

In particular articles 3(7) to 3(9) and Schedules 7 to 9, provide for inserting definitions of NHS foundation trusts into the specified statutory instruments.

Article 3(10) and Schedule 10 amend the definition of “health service body” in the specified regulations which make provision for the membership and procedure of other health bodies including Special Health Authorities. The effect is to include NHS foundation trusts and the Independent Regulator of NHS Foundation Trusts in the definition of “health service body”. As a consequence of this amendment the provisions of those regulations in respect of disqualification from appointment to specified positions (for example of a person who has been dismissed within the previous five years otherwise than by reason of redundancy from paid employment with a health service body), will apply to NHS foundation trusts and the Independent Regulator of NHS Foundation Trusts in the similar way as they do for example to NHS trusts.

Article 3(11) and Schedule 11 amend the definition of “health service body” in the specified regulations which also make provision for the membership and procedure of two other Special Health Authorities. The effect is to include NHS foundation trusts in the definition of “health service body”. Similarly as a consequence of this amendment provisions of those regulations in respect of disqualification from appointment to specified positions will apply to NHS foundation trusts in the similar way as they do in respect of other bodies within the health service such as NHS trusts.

Article 3(12) and Schedule 12 amend the provision in the specified regulations to the effect that the provisions in those regulations which provide for the disqualification from appointment where a person’s tenure as the chairman, member or director of a health service body is terminated on the grounds set out in the regulation, will also apply where a person’s tenure as the governor of a health service body is terminated on those grounds. This reflects in particular that the constitution of NHS foundation trusts will include a board of governors.

Article 3(13) to (15) and Schedules 13 to 15 provide for amendments in respect of NHS foundation trusts, to the qualifications in the specified regulations of the meaning of paid employment.

Article 3(16) and Schedule 16 provide together with specific amendments in article 3(1) and Schedule 1 for the disqualification of members of the Independent Regulator of NHS Foundation Trusts from other positions in health bodies.

Article 3(17) and Schedule 17 and article 3(1) and Schedule 1 paragraph 42, provide for amendments to regulations in respect of statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay. These amendments have the effect that an employee of an NHS trust is not disadvantaged in respect of these statutory benefits where that NHS trust is authorised as an NHS foundation trust.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.