



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 1

#### NATIONAL HEALTH SERVICE

##### *Health service funding*

#### **<sup>F1</sup> Determination of allotments to and resource limits for Health Authorities and Primary Care Trusts**

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##### **Textual Amendments**

- F1** Ss. 1-4 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

#### **<sup>F2</sup> Payments relating to past performance**

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##### **Textual Amendments**

- F1** Ss. 1-4 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

#### **<sup>F3</sup> Supplementary payments to NHS trusts and Primary Care Trusts**

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**Textual Amendments**

**F1** Ss. 1-4 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F14 Public-private partnerships**

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**Textual Amendments**

**F1** Ss. 1-4 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**5 Income generation**

In section 7 of the Health and Medicines Act 1988 (c. 49) (additional powers for financing Health Service), after subsection (7) there shall be inserted—

“(7A) The power specified in paragraph (g) of subsection (2) above includes power for the Secretary of State—

- (a) to form, or participate in the forming of, companies,
- (b) to invest in companies (whether by acquiring assets, securities or rights or otherwise), and
- (c) to provide loans and guarantees and make other kinds of financial provision to or in respect of companies,

where it appears to him that to do so is calculated to facilitate, or to be conducive or incidental to, the exercise of any power conferred by that subsection.

(7B) In subsection (7A) above “companies” means companies within the meaning of the Companies Act 1985 (c. 6); and that subsection is without prejudice to—

- (a) the generality of paragraph (g) of subsection (2) above, and
- (b) any powers of the Secretary of State exercisable otherwise than by virtue of this section.”

**Commencement Information**

**II** S. 5 wholly in force at 12.9.2002; s. 5 not in force at Royal Assent, see s. 70(2); s. 5 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#); s. 5 in force for E. at 12.9.2002 by [S.I. 2002/2363](#), [art. 3](#)

*Terms of employment of health service employees*

**F26 Terms and conditions of employment by health service bodies**

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**Textual Amendments**

- F2** S. 6 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Local authority scrutiny of health service provision*

**7 Functions of overview and scrutiny committees**

(1) In section 21 of the Local Government Act 2000 (c. 22) (overview and scrutiny committees), in subsection (2), after paragraph (e) there shall be inserted—

“(f) in the case of the overview and scrutiny committee or committees of an authority to which section 7 of the Health and Social Care Act 2001 applies, to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning of that section) in the authority’s area, and to make reports and recommendations on such matters in accordance with the regulations.”

- <sup>F3</sup>(2) .....  
<sup>F3</sup>(3) .....  
<sup>F3</sup>(4) .....  
<sup>F3</sup>(5) .....

**Textual Amendments**

- F3** S. 7(2)-(5) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**Commencement Information**

- I2** S. 7 partly in force; s. 7 in force for certain purposes at 11.5.2001, see s. 70(2)  
**I3** S. 7 in force at 1.1.2003 for E. by [S.I. 2003/53](#), [art. 3\(a\)](#)  
**I4** S. 7 in force at 1.3.2007 in so far as not already in force, immediately before the National Health Service Act 2006 comes into force by [S.I. 2006/1407](#), [art. 1\(1\)](#), [Sch. 1 para. 8](#) (with [art. 4](#))

**<sup>F4</sup>8 Joint overview and scrutiny committees etc.**

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**Textual Amendments**

- F4** Ss. 8-13 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F4</sup>9 Overview and scrutiny committees: exempt information**

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**Textual Amendments**

**F4** Ss. 8-13 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F410 Application to the City of London**

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**Textual Amendments**

**F4** Ss. 8-13 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Public involvement and consultation*

**F411 Public involvement and consultation**

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**Textual Amendments**

**F4** Ss. 8-13 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Independent advocacy services*

**F412 Independent advocacy services**

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**Textual Amendments**

**F4** Ss. 8-13 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Intervention powers*

**F413 Intervention orders**

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**Textual Amendments**

**F4** Ss. 8-13 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

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## *Abolition of Medical Practices Committee and National Health Service Tribunal*

### **14 Abolition of Medical Practices Committee**

- <sup>F5</sup>(1) .....
- (2) On the date this section comes into force—
- (a) all property in the possession of the Medical Practices Committee, and
  - (b) all rights and liabilities to which the Medical Practices Committee is entitled or subject immediately before that date,
- shall be transferred to the Secretary of State.
- <sup>F5</sup>(3) .....
- (4) A certificate issued by the Medical Practices Committee under paragraph 1(3) of Schedule 10 to the [<sup>F6</sup>National Health Service Act 1977, prior to its repeal by the National Health Service (Consequential Provisions) Act 2006,] before the commencement of this section shall continue to have effect from then on as if it had been issued by the Secretary of State.

#### **Textual Amendments**

- F5** S. 14(1)(3) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)
- F6** Words in s. 14(4) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 215** (with Sch. 3 Pt. 1)

### <sup>F7</sup>**15 Vacancies for medical practitioners**

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#### **Textual Amendments**

- F7** S. 15 repealed (1.4.2004) by 2003 c. 43, s. 199(1)(4), **Sch. 14 Pt. 4**; S.I. 2004/288, **art. 6(2)(r)** (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, **art. 5(2)(r)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

### <sup>F8</sup>**16 Abolition of NHS Tribunal**

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#### **Textual Amendments**

- F8** S. 16 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

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*General and personal medical services, general dental services,  
general ophthalmic services and pharmaceutical services*

**F<sup>9</sup>17 Remuneration of general medical practitioners**

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**Textual Amendments**

- F9** S. 17 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 14 Pt. 4**; S.I. 2004/288, art. 6(2)(r) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(r) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**F<sup>10</sup>18 Out of hours medical services**

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**Textual Amendments**

- F10** S. 18 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), Sch. 11 para. 70, **Sch. 14 Pt. 4**; S.I. 2004/288, arts. 5(2)(y), 6(2)(r) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, arts. 4(2)(cc), 5(2)(r) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

**F<sup>11</sup>19 Enhanced criminal record certificates**

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**Textual Amendments**

- F11** S. 19 repealed (6.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 7(f)

**F<sup>12</sup>20 Medical, dental, ophthalmic and pharmaceutical etc. lists**

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**Textual Amendments**

- F12** S. 20 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F<sup>13</sup>21 Conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists**

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### Textual Amendments

**F13** S. 21 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

## 22 Dental corporations

[<sup>F14</sup>(1) The 1977 Act shall be amended as follows.

(2) In section 35 (arrangements for general dental services)—

(a) in subsection (1)—

(i) after “dental practitioners” there shall be inserted “ or dental corporations ”, and

(ii) after “dental practitioner” there shall be inserted “ or dental corporation ”,

(b) in subsection (2)—

(i) after “dental practitioner who” there shall be inserted “ , or dental corporation which, ”,

(ii) after “salary” there shall be inserted “ (or, in the case of a dental corporation, a fixed rate of remuneration) ”, and

(iii) in paragraph (b), after “practitioner” there shall be inserted “ or corporation ”, and

(c) after subsection (4) there shall be inserted—

“(5) In this Act, “dental corporation” means a body corporate which carries on the business of dentistry (within the meaning of section 40 of the Dentists Act 1984 (c. 24)).”

(3) In section 36 (regulations about general dental services)—

(a) in subsection (1)(a), after “dental practitioners” there shall be inserted “ and dental corporations ”,

(b) in subsection (1)(b), after “dental practitioner” there shall be inserted “ or dental corporation ”,

(c) in subsection (1)(d), after “dental practitioners” there shall be inserted “ and dental corporations ”, and

(d) in subsection (3), after “dental practitioner” there shall be inserted “ or dental corporation ”.

(4) In section 37 (Dental Practice Board), after subsection (1C) there shall be inserted—

“(2) In subsections (1A) and (1B), references to a dental practitioner include references to a dental corporation.”

(5) In section 128(1) (interpretation), in the appropriate place there shall be inserted—

““dental corporation” has the meaning given by section 35(5);”.]

### Textual Amendments

**F14** S. 22 repealed (1.4.2006 for E., 1.4.2006 for W. for specified purposes) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 4](#); S.I. 2005/2925, art. 11; S.I. 2006/345, art. 7(2)(1)

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**Commencement Information**

**I5** S. 22 wholly in force at 1.7.2002; s. 22 not in force at Royal Assent see s. 70(2); s. 22 in force for E. at 22.11.2001 by S.I. 2001/3738, arts. 1(3), 2(1), Sch. 1 Pt. I; s. 22 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

**<sup>F15</sup>23 Declaration of financial interests, gifts, etc.**

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**Textual Amendments**

**F15** Ss. 23-25 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**<sup>F15</sup>24 Supplementary lists**

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**Textual Amendments**

**F15** Ss. 23-25 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**<sup>F15</sup>25 Suspension and disqualification of practitioners**

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**Textual Amendments**

**F15** Ss. 23-25 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Personal medical services and personal dental services*

**26 PMS and PDS lists**

[<sup>F16</sup>(1) After section 28D of the 1977 Act there shall be inserted—

**“ Lists of persons who may perform personal medical services or personal dental services**

(1) The Secretary of State may make regulations providing for the preparation and publication [<sup>F17</sup>by each Primary Care Trust and] by each Health Authority of one or more lists of—

- (a) medical practitioners who may perform personal medical services in accordance with section 28C arrangements,



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- (b) dental practitioners who may perform personal dental services in accordance with section 28C arrangements.
- (2) Such a list is referred to in this section as a “services list”.
- (3) The regulations may, in particular, include provision as to—
- (a) the [<sup>F18</sup>Primary Care Trust or] Health Authority to which an application for inclusion in a services list is to be made,
  - (b) the procedure for applying for inclusion, including any information to be supplied to the [<sup>F18</sup>Primary Care Trust or] Health Authority (whether by the applicant or by arrangement with him),
  - (c) grounds on which the [<sup>F18</sup>Primary Care Trust or] Health Authority may, or must, refuse a person’s application for inclusion in a services list (including his unsuitability for inclusion in such a list), or on which they may defer their decision on the application,
  - (d) requirements with which a person included in a services list must comply (including the declaration of financial interests and of gifts and other benefits),
  - (e) grounds on which a [<sup>F18</sup>Primary Care Trust or] Health Authority may, or must, suspend or remove a person from a services list, the procedure for doing so, and the consequences of doing so,
  - (f) payments to or in respect of persons who are suspended from a services list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),
  - (g) the supply to the [<sup>F18</sup>Primary Care Trust or] Health Authority by an applicant for inclusion in a services list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
  - (h) circumstances in which a person included in a services list may not withdraw from it,
  - (i) criteria to be applied in making decisions under the regulations,
  - (j) appeals against decisions of [<sup>F19</sup>Primary Care Trusts and] Health Authorities under the regulations,
  - (k) the disclosure by a [<sup>F18</sup>Primary Care Trust or] Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a services list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—
- (a) a person’s inclusion in a services list to be subject to conditions determined by the [<sup>F20</sup>Primary Care Trust or] Health Authority,
  - (b) the [<sup>F20</sup>Primary Care Trust or] Health Authority to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from the list), and

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- (d) the review by the [<sup>F20</sup>Primary Care Trust or] Health Authority of their decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
  - (a) preventing any prejudice to the efficiency of the services to which the services list relates; or
  - (b) preventing any acts or omissions of the type described in section 49F(3)(a) below.
- (6) Regulations may provide—
  - (a) that no person may perform personal medical services in accordance with section 28C arrangements unless he is included in a medical list, a supplementary list under section 43D or a services list,
  - (b) that no person may perform personal dental services in accordance with section 28C arrangements unless he is included in a list referred to in section 36(1)(a), a supplementary list under section 43D or a services list.
- (7) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 49F to 49N below.
- (8) If the regulations provide under subsection (3)(e) or (4) that a [<sup>F21</sup>Primary Care Trust or] Health Authority may suspend or remove a person from a services list, they must include provision—
  - (a) requiring him to be given notice of any allegation against him;
  - (b) giving him the opportunity of putting his case at a hearing before the [<sup>F21</sup>Primary Care Trust or] Health Authority make any decision as to his suspension or removal; and
  - (c) requiring him to be given notice of the [<sup>F22</sup>decision of the Primary Care Trust or of the Health Authority] and the reasons for it and of any right of appeal under subsection (9) or (10).
- (9) If the regulations provide under subsection (3)(c) or (e) that a [<sup>F23</sup>Primary Care Trust or] Health Authority may refuse a person's application for inclusion in a services list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the FHSAA against the [<sup>F24</sup>decision of the Primary Care Trust or of the Health Authority] .
- (10) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the FHSAA against the [<sup>F25</sup>decision of the Primary Care Trust or of the Health Authority]—
  - (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to remove him from the services list for breach of condition,
  - (d) on any review of an earlier such decision of theirs.”
- (2) After section 8 of the National Health Service (Primary Care) Act 1997 (c. 46) there shall be inserted—

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## “ Services Lists

### **Lists of persons who may perform personal medical services or personal dental services**

- (1) The Secretary of State may make regulations providing for the preparation and publication by each Health Authority of one or more lists of—
  - (a) medical practitioners who may perform personal medical services in connection with the provision of such services under a pilot scheme,
  - (b) dental practitioners who may perform personal dental services in connection with the provision of such services under a pilot scheme.
- (2) Such a list is referred to in this section as a “services list”.
- (3) The regulations may, in particular, include provision as to—
  - (a) the Health Authority to which an application for inclusion in a services list is to be made,
  - (b) the procedure for applying for inclusion, including any information to be supplied to the Health Authority (whether by the applicant or by arrangement with him),
  - (c) grounds on which the Health Authority may, or must, refuse a person’s application for inclusion in a services list (including his unsuitability for inclusion in such a list), or on which they may defer their decision on the application,
  - (d) requirements with which a person included in a services list must comply (including the declaration of financial interests and of gifts and other benefits),
  - (e) grounds on which a Health Authority may, or must, suspend or remove a person from a services list, the procedure for doing so, and the consequences of doing so,
  - (f) payments to or in respect of persons who are suspended from a services list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),
  - (g) the supply to the Health Authority by an applicant for inclusion in a services list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
  - (h) circumstances in which a person included in a services list may not withdraw from it,
  - (i) criteria to be applied in making decisions under the regulations,
  - (j) appeals against decisions of Health Authorities under the regulations,
  - (k) the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a services list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—

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- (a) a person's inclusion in a services list to be subject to conditions determined by the Health Authority,
  - (b) the Health Authority to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from the list), and
  - (d) the review by the Health Authority of their decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the services list relates; or
  - (b) preventing any acts or omissions of the type described in section 49F(3)(a) of the 1977 Act.
- (6) Regulations may provide—
- (a) that no person may perform personal medical services unless he is included in a medical list, a supplementary list under section 43D of the 1977 Act or a services list,
  - (b) that no person may perform personal dental services unless he is included in a list referred to in section 36(1)(a) of the 1977 Act, a supplementary list under section 43D of that Act or a services list.
- (7) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 49F to 49N of the 1977 Act.
- (8) If the regulations provide under subsection (3)(e) or (4) that a Health Authority may suspend or remove a person from a services list, they must include provision—
- (a) requiring him to be given notice of any allegation against him;
  - (b) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his suspension or removal; and
  - (c) requiring him to be given notice of the Health Authority's decision and the reasons for it and of any right of appeal under subsection (9) or (10).
- (9) If the regulations provide under subsection (3)(c) or (e) that a Health Authority may refuse a person's application for inclusion in a services list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the Family Health Services Appeal Authority ("FHSAA") against the Health Authority's decision.
- (10) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the FHSAA against the Health Authority's decision—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to remove him from the services list for breach of condition,
  - (d) on any review of an earlier such decision of theirs."
- (3) In section 40(3) of the National Health Service (Primary Care) Act 1997 (c. 46) (interpretation) after "sections 28C" there shall be inserted " , 28DA ".]

**Status:** Point in time view as at 21/07/2008. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Health and Social Care Act 2001 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

- F16** S. 26 repealed (1.4.2006 for E., 1.4.2006 for W. for specified purposes) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 4](#); [S.I. 2005/2925](#), art. 11; [S.I. 2006/345](#), art. 7(2)(1)
- F17** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(a\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F18** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(b\)\(i\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F19** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(b\)\(ii\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F20** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(c\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F21** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(d\)\(i\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F22** Words in s. 26(1) substituted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(d\)\(ii\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F23** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(e\)\(i\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F24** Words in s. 26(1) substituted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(e\)\(ii\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))
- F25** Words in s. 26(1) substituted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), [Sch. 3 Pt. 2 para. 16\(2\)\(f\)](#); [S.I. 2002/2478](#), [art. 3\(1\)](#) (subject to art. 3(3))

### Commencement Information

- I6** S. 26 partly in force; s. 26 not in force at Royal Assent, see s. 70(2); s. 26(2) in force for E. at 31.5.2002 by [S.I. 2002/1095](#), [art. 2\(7\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170](#), [art. 3](#)); s. 26 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

## *The Family Health Services Appeal Authority*

### <sup>F26</sup>27 The Family Health Services Appeal Authority

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### Textual Amendments

- F26** S. 27 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

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## PART 2

### PHARMACEUTICAL SERVICES

#### CHAPTER 1

##### LOCAL PHARMACEUTICAL SERVICES

###### *Preparation and making of pilot schemes*

#### <sup>F27</sup> 28 Pilot schemes

.....

##### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

#### <sup>F27</sup> 29 Making pilot schemes

.....

##### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

#### <sup>F27</sup> 30 Designation of priority neighbourhoods or premises

.....

##### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

###### *Reviews, variation and termination of pilot schemes*

#### <sup>F27</sup> 31 Reviews of pilot schemes

.....

##### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

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**F27 32 Variation and termination of pilot schemes**

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**Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*NHS contracts and financial provisions*

**F27 33 NHS contracts**

.....

**Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F27 34 Funding of preparatory work**

.....

**Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**F27 35 Charges, recovery of payments and penalties**

.....

**Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*General*

**F27 36 Effect of the 1977 Act**

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*Status: Point in time view as at 21/07/2008. This version of this Act contains provisions that are prospective.*  
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#### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

### **<sup>F27</sup>37 Premises from which piloted services may be provided**

.....

#### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

### **<sup>F27</sup>38 Control of entry regulations**

.....

#### **Textual Amendments**

**F27** Ss. 28-38 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

#### *Assessing the result of pilot schemes*

### **39 Assessing pilot schemes**

- (1) The relevant authority may not bring section 40 into force unless satisfied that pilot schemes have shown that continuing to provide for the provision of local pharmaceutical services in accordance with provisions of the kind made by pilot schemes would be in the interests of the health service or any part of the health service (within the meaning of [<sup>F28</sup>section 206 of the National Health Service Act 2006]).
- (2) In determining whether to bring section 40 into force, the relevant authority must have regard, in particular, to the results of the reviews of pilot schemes conducted under [<sup>F29</sup>section 95 of the National Health Service (Wales) Act 2006].

#### **Textual Amendments**

**F28** Words in s. 39(1) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 216\(a\)](#) (with [Sch. 3 Pt. 1](#))

**F29** Words in s. 39(2) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 216\(b\)](#) (with [Sch. 3 Pt. 1](#))

#### **Commencement Information**

**I7** S. 39 wholly in force at 1.7.2002; s. 39 not in force at Royal Assent, see s. 70(2); s. 39 in force for E. at 8.3.2002 by [S.I. 2002/1095](#), [art. 2\(4\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended)



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(26.3.2002) by S.I. 2002/1170, art. 3); s. 39 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

*Provision for local pharmaceutical schemes*

**F30 40 Provision for LPS schemes**

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**Textual Amendments**

**F30** Ss. 40-43 repealed (coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Corresponding provision, etc.*

**F30 41 Corresponding provision and application of enactments**

.....

**Textual Amendments**

**F30** Ss. 40-43 repealed (coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**CHAPTER 2**

CHANGES TO EXISTING ARRANGEMENTS

*England and Wales*

**F30 42 Dispensing of NHS prescriptions and provision of pharmaceutical services**

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**Textual Amendments**

**F30** Ss. 40-43 repealed (coming into force in accordance with s. 8(4)-(6) of the amending Act) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F30 43 Remote provision of pharmaceutical, etc. services**

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**Status:** Point in time view as at 21/07/2008. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Health and Social Care Act 2001 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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### Textual Amendments

**F30** Ss. 40-43 repealed (coming into force in accordance with s. 8(4)-(6) of the amending Act) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

## PROSPECTIVE

### *Scotland*

#### 44 Dispensing of NHS prescriptions

- (1) Section 27 of the National Health Service (Scotland) Act 1978 (c. 29) (arrangements for provision of pharmaceutical services) shall be amended as follows.
- (2) In subsection (1), in paragraph (cc)—
  - (a) for “listed drugs and medicines and listed appliances” there shall be substituted “such drugs and medicines and such listed appliances as may be determined by the Scottish Ministers for the purposes of this paragraph”; and
  - (b) for “registered nurse, midwife or health visitor” there shall be substituted “person in accordance with such conditions, if any, as may be prescribed,”.
- (3) After that subsection there shall be inserted—
 

“(1A) The descriptions of persons which may be prescribed for the purposes of subsection (1)(cc) are the following, or any sub-category of such a description—

  - (a) persons who are registered by any board established under the Professions Supplementary to Medicine Act 1960 (c. 66);
  - (b) persons who are registered pharmacists;
  - (c) persons whose names are entered in a roll or record established by the General Dental Council by virtue of section 45 of the Dentists Act 1984 (c. 24) (dental auxiliaries);
  - (d) persons who are ophthalmic opticians;
  - (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21);
  - (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17);
  - (g) persons who are registered in the register of qualified nurses, midwives and health visitors maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997 (c. 24);
  - (h) persons who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8);
  - (i) any other description of persons which appears to the Scottish Ministers to be a description of persons whose profession is regulated by or under a provision of, or made under, Northern Ireland legislation and which the Scottish Ministers consider it appropriate to specify.

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- (1B) A determination under subsection (1)(cc) may—
- (a) make different provision for different cases;
  - (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered;
  - (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.”

**Commencement Information**

**I8** S. 44 not in force at Royal Assent, see s. 70(2); s. 44 in force for S. at 1.4.2002 by [S.S.I. 2002/75](#), [art. 2](#)

**PART 3**

**CARE TRUSTS AND PARTNERSHIP ARRANGEMENTS**

**<sup>F31</sup>45 Care Trusts**

.....

**Textual Amendments**

**F31** Ss. 45-48 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F31</sup>46 Directed partnership arrangements**

.....

**Textual Amendments**

**F31** Ss. 45-48 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F31</sup>47 Further provisions about directions in connection with directed partnership arrangements and Care Trusts**

.....

**Textual Amendments**

**F31** Ss. 45-48 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

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*Status: Point in time view as at 21/07/2008. This version of this Act contains provisions that are prospective.*  
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## **F31 48 Transfer of staff in connection with partnership arrangements**

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### **Textual Amendments**

**F31** Ss. 45-48 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

## **PART 4**

### SOCIAL CARE

#### *Nursing care*

## **49 Exclusion of nursing care from community care services**

- (1) Nothing in the enactments relating to the provision of community care services shall authorise or require a local authority, in or in connection with the provision of any such services, to—
- (a) provide for any person, or
  - (b) arrange for any person to be provided with, nursing care by a registered nurse.
- (2) In this section “nursing care by a registered nurse” means any services provided by a registered nurse and involving—
- (a) the provision of care, or
  - (b) the planning, supervision or delegation of the provision of care, other than any services which, having regard to their nature and the circumstances in which they are provided, do not need to be provided by a registered nurse.

### **Commencement Information**

- I9** S. 49 partly in force; s. 49 not in force at Royal Assent see s. 70(2); s. 49 in force for E. for certain purposes at 1.10.2001 by [S.I. 2001/3294](#), [arts. 1\(3\)](#), [3\(1\)](#); s. 49 in force for W. for certain purposes at 3.12.2001 by [S.I. 2001/3807](#), [arts. 1\(3\)](#), [2](#)
- I10** S. 49 in force at 1.4.2003 for E. in so far as not already in force by [S.I. 2003/850](#), [art. 2](#)
- I11** S. 49 in force at 24.1.2004 for W. in so far as not already in force by [S.I. 2004/103](#), [art. 4](#)

#### *Preserved rights*

## **50 Preserved rights: transfer to local authorities of responsibilities as to accommodation**

- (1) The following provisions, namely—
- (a) section 26A of the National Assistance Act 1948 (c. 29) (which prevents local authorities in England or Wales providing residential accommodation for persons who were in such accommodation on 31st March 1993), and

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- (b) section 86A of the Social Work (Scotland) Act 1968 (c. 49) (which makes corresponding provision for Scotland), shall cease to have effect on the appointed day.
- (2) For the purposes of this section a “qualifying person” is—
- (a) (in relation to any time before the appointed day) a person to whom section 26A(1) or section 86A(1) applies; or
- (b) (in relation to any later time) a person to whom either of those sections applied immediately before that day.
- (3) Where a qualifying person is immediately before the appointed day ordinarily resident in relevant premises in the area of a local authority (“the responsible authority”), that authority shall secure that—
- (a) as from that day, or
- (b) as soon thereafter as is reasonably practicable,
- the person is provided with such community care services with respect to his accommodation as appear to the authority to be appropriate having regard to his needs as assessed under section 47(1)(a) of the 1990 Act (assessment of needs for community care services in England or Wales) or section 12A(1)(a) of the 1968 Act (corresponding provision for Scotland).
- (4) Each local authority shall accordingly—
- (a) use their best endeavours to identify every person ordinarily resident in relevant premises in their area who is a qualifying person; and
- (b) carry out such a programme of assessments under section 47(1)(a) or 12A(1) (a) in respect of persons so identified as appears to the authority to be required for the purpose of enabling them to discharge their duty under subsection (3) in relation to such persons.
- (5) Where a person—
- (a) is a qualifying person immediately before the appointed day, and
- (b) is provided by the responsible authority with any community care services with respect to his accommodation in accordance with subsection (3),
- his existing arrangements shall, by virtue of this subsection, terminate on the date as from which he is provided with those services.
- (6) Where any such person is not provided with any such services as from the appointed day, any liability of his to make any payment under his existing arrangements in respect of any period (or part of a period) falling within the period beginning with the appointed day and ending with—
- (a) the date as from which he is provided with any such services, or
- (b) the date on which he notifies (or is in accordance with regulations to be treated as notifying) the responsible authority that he does not wish to be provided with any such services,
- shall instead be a liability of the responsible authority.
- (7) However, the responsible authority may, in respect of any payment made by them in pursuance of subsection (6), recover from the person such amount (if any) as may be prescribed; and any such amount shall be so recoverable in accordance with section 56 of the 1948 Act as if it were an amount due to the authority under that Act.

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(8) The provisions of subsections (3) to (7) do not apply, to such extent as may be prescribed, in relation to any person falling within any prescribed description of persons.

(9) Regulations may also—

- (a) prescribe the circumstances in which persons are to be treated as ordinarily resident in any premises for the purposes of this section;
- (b) for the purpose of prescribing any such amount as is mentioned in subsection (7), provide for any provision made by or under section 22 or 26 of the 1948 Act to apply with or without modifications.

(10) In this section—

“the appointed day” means the day appointed under section 70 for the coming into force of subsection (1);

“existing arrangements”, in relation to a person, means the arrangements for the provision of accommodation in the relevant premises mentioned in subsection (3), together with any arrangements for the provision of any services or facilities in connection with that accommodation;

“prescribed” means prescribed by regulations;

“relevant premises”—

- (a) in relation to England or Wales, has the same meaning as in section 26A of the 1948 Act;
- (b) in relation to Scotland, has the same meaning as in section 86A of the 1968 Act.

“the responsible authority” shall be construed in accordance with subsection (3).

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

- C1** S. 50(3)-(7) excluded (E.) (19.12.2001) by [S.I. 2001/3776, regs. 1\(3\), 2\(1\)](#)  
 S. 50(3)-(7) excluded (S.) (8.4.2002) by [The Preserved Rights \(Transfer to Responsible Authorities\) \(Scotland\) Regulations 2002 \(S.S.I. 2002/76\), reg. 2](#)
- C2** S. 50(7) modified (W.) (19.12.2001) by [S.I. 2001/3985, regs. 1\(3\), 3\(2\)](#)
- C3** S. 50(8) restricted (W.) (19.12.2001) by [S.I. 2001/3985, regs. 1\(3\), 2\(1\)](#)

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**Commencement Information**

- I12** S. 50 partly in force; s. 50 in force for certain purposes at 11.5.2001, see s. 70(2); s. 50(1) in force at 8.4.2002 by [S.I. 2001/3752, art. 2\(1\)](#); s. 50(2)-(7)(10) in force for E. and s. 50(8) in force for E. in so far as not already in force at 20.12.2001 by [S.I. 2001/3752, art. 2\(2\)](#); s. 50(2)-(10) in force for W. at 19.12.2001 by [S.I. 2001/3807, art. 3](#); s. 50(2)-(10) in force for S. at 1.4.2002 by [S.S.I. 2002/75, art. 2](#)

## 51 Preserved rights: disclosure of information

(1) For the purposes of this section a “claimant” is—

- (a) (in relation to any time before the appointed day) a person who is ordinarily resident in relevant premises and has a preserved right by virtue of which enhanced payments are being made to or in respect of him by way of income support or jobseeker’s allowance, or
- (b) (in relation to any later time) a person who fell within paragraph (a) immediately before that day.

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- (2) Any information—
- (a) held by, or by a person providing services to, the Secretary of State about a claimant, and
  - (b) relating to income support or jobseeker’s allowance,
- may be supplied, for qualifying purposes, to the local authority in whose area the relevant premises referred to in subsection (1) are situated or to any person providing services to, or authorised to exercise functions of, the authority.
- (3) Where information relating to a claimant is supplied to any authority or person (“the recipient”) in accordance with subsection (2), the information may be supplied by the recipient, for qualifying purposes—
- (a) to any local authority appearing to the recipient to be providing the claimant with community care services with respect to his accommodation; or
  - (b) to any person providing services to, or authorised to exercise functions of, any such local authority.
- (4) In subsections (2) and (3) “qualifying purposes”, in relation to information relating to a claimant, means—
- (a) purposes connected with the performance of functions under section 50 in relation to the claimant, or
  - (b) other purposes connected with the termination of his preserved right in consequence of section 52(1), or
  - (c) (in subsection (2)) any further supply of the information under subsection (3).
- (5) Where information relating to a particular person is supplied to any authority or person in accordance with subsection (2) or (3), section 123 of the Social Security Administration Act 1992 (c. 5) (unauthorised disclosure of information relating to particular persons) shall apply in relation to the disclosure of the information by—
- (a) the recipient of the information, or
  - (b) any officer or employee of the recipient,
- without lawful authority (within the meaning of that section) as it applies to any disclosure of information to which subsection (1) of that section applies.
- (6) In this section—
- “the appointed day”, “ordinarily resident” and “relevant premises” have the same meaning as they have for the purposes of section 50;
  - “preserved right” means a preserved right within the meaning of the Income Support (General) Regulations 1987 (S.I. 1987/1967).

## **52 Preserved rights: alignment of social security benefits**

- (1) The Secretary of State shall so exercise his powers under—
- (a) section 135(1) of the Social Security Contributions and Benefits Act 1992 (c. 4) (applicable amount in relation to income-related benefits), and
  - (b) section 4(5) of the Jobseekers Act 1995 (c. 18) (amount payable by way of jobseeker’s allowance),
- as to secure that any special provision made in exercise of those powers as respects income support or jobseeker’s allowance payable to or in respect of persons who have preserved rights ceases to have effect on the appointed day.
- (2) In this section—

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“the appointed day” means the day appointed under section 70 for the coming into force of section 50(1);

“preserved rights” means preserved rights within the meaning of the Income Support (General) Regulations 1987.

*Measures to increase availability of Part 3 accommodation*

### **53 Disregarding of resources when determining need for residential accommodation**

In section 21 of the 1948 Act (duties of local authorities to provide accommodation), for subsections (2A) and (2B) there shall be substituted—

“(2A) In determining for the purposes of paragraph (a) or (aa) of subsection (1) of this section whether care and attention are otherwise available to a person, a local authority shall disregard so much of the person’s resources as may be specified in, or determined in accordance with, regulations made by the Secretary of State for the purposes of this subsection.

(2B) In subsection (2A) of this section the reference to a person’s resources is a reference to his resources within the meaning of regulations made for the purposes of that subsection.”

#### **Commencement Information**

- I13** S. 53 partly in force; s. 53 not in force at Royal Assent see s. 70(2); s. 53 in force for E. at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, [Sch.](#)
- I14** S. 53 in force at 1.4.2003 for W. by [S.I. 2003/939](#), art. 2, [Sch. 1](#)

### **54 Funding by resident etc. of more expensive accommodation**

- (1) Regulations may make provision for and in connection with the making, in respect of the provision of Part 3 accommodation, of additional payments—
- (a) by persons for whom such accommodation is provided (“residents”); or
  - (b) by other persons (including persons liable to maintain residents by virtue of section 42 of the 1948 Act).
- (2) In this section “additional payments”, in relation to a resident, means payments which—
- (a) are made for the purpose of meeting all or part of the difference between the actual cost of his Part 3 accommodation and the amount that the local authority providing it would usually expect to pay in order to provide Part 3 accommodation suitable for a person with the assessed needs of the resident; and
  - (b) (in the case of additional payments by the resident) are made out of such of his resources as may be specified in, or determined in accordance with, regulations under subsection (1);
- and for this purpose “resources” has the meaning given by such regulations.
- (3) In this Part “Part 3 accommodation” means accommodation provided under sections 21 to 26 of the 1948 Act.



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### Commencement Information

- I15** S. 54 partly in force; s. 54 in force for certain purposes at 11.5.2001, see s. 70(2); s. 54 in force for E. at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, [Sch.](#)
- I16** S. 54 in force at 1.4.2003 for W. in so far as not already in force by [S.I. 2003/939](#), art. 2, [Sch. 1](#)

## 55 Power for local authorities to take charges on land instead of contributions

- (1) Where a person (“the resident”)—
- (a) is availing himself of Part 3 accommodation provided by a local authority, or is proposing to do so, and
  - (b) is liable, or would be liable, to pay for the accommodation (whether at the full standard rate determined in accordance with section 22(2) or 26(2) of the 1948 Act or at any lower rate),
- the local authority may enter into a deferred payment agreement with the resident.
- (2) The relevant authority may by directions require local authorities, where—
- (a) they provide or are to provide Part 3 accommodation for a person falling within subsection (1) (“the resident”), and
  - (b) any conditions specified in the directions are satisfied,
- to enter into a deferred payment agreement with the resident.
- (3) A “deferred payment agreement” is an agreement whereby—
- (a) during the exempt period the resident will not be required to make payment to the authority of any relevant contributions in respect of periods (or parts of periods) falling within the exempt period, but
  - (b) the total amount of the relevant contributions shall become payable to the authority on the day after the date on which the exempt period ends, and
  - (c) the resident will grant the authority a charge in their favour in respect of any land specified in the agreement in which he has a beneficial interest (whether legal or equitable) for the purpose of securing the payment to the authority of the total amount payable to them as mentioned in paragraph (b).
- (4) “The exempt period”, in relation to a deferred payment agreement, is the period beginning with the time when the agreement takes effect and ending—
- (a) 56 days after the date of the resident’s death, or
  - (b) with any earlier date which, in accordance with the agreement, the resident has specified in a notice given by him to the authority for the purposes of subsection (5)(b).
- (5) The provisions of any deferred payment agreement and any such charge as is mentioned in subsection (3)(c)—
- (a) shall be determined by the authority in accordance with any directions given by the relevant authority; but
  - (b) shall secure that the agreement and any such charge may be terminated by notice given to the authority by the resident on payment of the full amount which he is liable to pay as mentioned in subsection (3)(a) down to the date of the payment.
- (6) Where a deferred payment agreement is in force in respect of the resident—

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- (a) no interest shall accrue at any time on or before the date on which the exempt period ends in respect of any sum which he is liable to pay as mentioned in subsection (3)(a); but
- (b) as from the day after that date, any such sum shall bear interest at such reasonable rate as the relevant authority may direct or, if no such directions are given, as the authority may determine;

and accordingly any charge granted in pursuance of subsection (3)(c) shall secure payment to the authority of any interest falling due by virtue of paragraph (b) above.

- (7) Any reference in this section to relevant contributions is a reference to so much of the payments which the resident is liable to pay to an authority for Part 3 accommodation (including any payments which are additional payments for the purpose of section 54) as may be specified, or determined in accordance with, regulations made for the purposes of this subsection.
- (8) Any directions given by the relevant authority under this section shall be given to local authorities generally.

#### **Commencement Information**

- I17** S. 55 partly in force; s. 55 in force for certain purposes at 11.5.2001, see s. 70(2); s. 55(1)-(6)(8) in force for E. for certain purposes at 1.10.2001 by [S.I. 2001/3167](#), arts. 1(3), 2, [Sch.](#)
- I18** S. 55 in force at 1.4.2003 for W. by [S.I. 2003/939](#), art. 2, [Sch. 1](#)

## **56 Cross-border placements**

- (1) Regulations may make provision for and in connection with authorising a local authority to make arrangements under section 21 of the 1948 Act for a person to be provided with residential accommodation in Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man.
- (2) Regulations under this section may, in particular, make provision—
  - (a) specifying conditions which must be satisfied before a local authority make any arrangements in pursuance of the regulations in respect of a person;
  - (b) for the application of provisions of the 1948 Act in relation to—
    - (i) any such arrangements, or
    - (ii) the person in respect of whom any such arrangements are made, with or without modifications.

#### **Commencement Information**

- I19** S. 56 partly in force; s. 56 in force for certain purposes at 11.5.2001, see s. 70(2)

### *Direct payments*

## **57 Direct payments**

- (1) Regulations may make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person's consent, such payments to him as

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they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in paragraph (a) or (b) of that subsection.

[<sup>F32</sup>(1A) Regulations may make provision for and in connection with requiring or authorising the responsible authority in the case of a person (“P”) of a prescribed description—

- (a) who falls within subsection (2)(a), and
- (b) who falls within subsection (5A) or is reasonably believed by the authority to fall within that subsection,

to make, with the requisite consent, such payments as the authority may determine in accordance with the regulations to a suitable person other than P in respect of the other person's securing the provision for P of the service mentioned in subsection (2)(a).

(1B) In subsection (1A) “the requisite consent” means—

- (a) the consent of the other person; and
- (b) where the other person is not a surrogate of P but there is at least one person who is a surrogate of P, the consent also of a surrogate of P.

(1C) For the purposes of subsection (1A), a person (whether or not an individual) is “suitable” if—

- (a) that person is a representative of P;
- (b) that person is not a representative of P (or there is no-one who is a representative of P), but—
  - (i) a surrogate of P, and
  - (ii) the responsible authority,

consider that person to be a suitable person to receive the payments for the purpose of securing provision for P of the service concerned; or

- (c) that person is not a representative of P (or there is no-one who is a representative of P), and there is no-one who is a surrogate of P, but the responsible authority considers that person to be a suitable person to receive the payments for that purpose.]

(2) A person falls within this subsection if a local authority (“the responsible authority”) have decided—

- (a) under section 47 of the 1990 Act (assessment by local authorities of needs for community care services) that his needs call for the provision by them of a particular community care service (within the meaning of section 46 of that Act), or
- (b) under section 2(1) of the Carers and Disabled Children Act 2000 (c. 16) (services for carers) to provide him with a particular service under that Act.

(3) Regulations under this section may, in particular, make provision—

- (a) specifying circumstances in which the responsible authority are not required or authorised to make any payments under the regulations to a person [<sup>F33</sup>or in respect of a person], whether those circumstances relate to the person in question or to the particular service mentioned in paragraph (a) or (b) of subsection (2);
- (b) for any payments required or authorised by the regulations to be made to a person by the responsible authority (“direct payments”) to be made to that person (“the payee”) as gross payments or alternatively as net payments;
- (c) for the responsible authority to make for the purposes of subsection (4) or (5) such determination as to—

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- (i) the payee’s means [<sup>F34</sup>in the case of direct payments under subsection (1) or, in the case of direct payments under subsection (1A), the means of the person (“the beneficiary”) in respect of whom the payments are required or authorised to be made], and
  - (ii) the amount (if any) which it would be reasonably practicable for him to pay to the authority by way of reimbursement or contribution, as may be prescribed;
  - (d) as to the conditions falling to be complied with by the payee [<sup>F35</sup>in the case of direct payments under subsection (1), or by the payee or by the beneficiary in the case of direct payments under subsection (1A),] which must or may be imposed by the responsible authority in relation to the direct payments (and any conditions which may not be so imposed);
  - (e) specifying circumstances in which the responsible authority—
    - (i) may or must terminate the making of direct payments,
    - (ii) may require repayment (whether by the payee [<sup>F36</sup>in the case of direct payments under subsection (1), or by the payee or by the beneficiary in the case of direct payments under subsection (1A),] or otherwise) of the whole or part of the direct payments;
  - (f) for any sum falling to be paid or repaid to the responsible authority by virtue of any condition or other requirement imposed in pursuance of the regulations to be recoverable as a debt due to the authority;
  - (g) displacing functions or obligations of the responsible authority with respect to the provision of the service mentioned in subsection (2)(a) or (b) only to such extent, and subject to such conditions, as may be prescribed;
  - (h) authorising direct payments to be made to any prescribed person on behalf of the payee.
  - [<sup>F37</sup>(j) as to matters to which the responsible authority must, or may, have regard when making a decision for the purposes of a provision of the regulations;
  - (k) as to steps which the responsible authority must, or may, take before, or after, the authority makes a decision for the purposes of a provision of the regulations;
  - (l) specifying circumstances in which a person who has fallen within subsection (5A) but no longer does so (whether because of fluctuating capacity, or regaining or gaining of capacity) is to be treated, or may be treated, as falling within subsection (5A) for purposes of this section or for purposes of regulations under this section.]
- (4) For the purposes of subsection (3)(b) “gross payments” means payments—
- (a) which are made at such a rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned; but
  - (b) which may be made subject to the condition that the payee [<sup>F38</sup>in the case of direct payments under subsection (1), or the beneficiary in the case of direct payments under subsection (1A),] pays to the responsible authority, by way of reimbursement, an amount or amounts determined under the regulations.
- (5) For the purposes of subsection (3)(b) “net payments” means payments—
- (a) which are made on the basis that the payee will himself [<sup>F39</sup>in the case of direct payments under subsection (1), or the beneficiary will in the case of direct payments under subsection (1A),] pay an amount or amounts determined under the regulations by way of contribution towards the cost of securing the provision of the service concerned; and

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- (b) which are accordingly made at such a rate below that mentioned in subsection (4)(a) as reflects any such contribution by the payee [<sup>F40</sup> or (as the case may be) the beneficiary] .
- [<sup>F41</sup>(5A) A person falls within this subsection if the person lacks capacity, within the meaning of the Mental Capacity Act 2005, to consent to the making of direct payments.
- (5B) In this section “representative”, in relation to a person, means such other person (whether or not an individual) as may be prescribed.
- (5C) In this section “surrogate”, in relation to a person, means—
- (a) a deputy appointed for the person by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005, or
  - (b) a donee of a lasting power of attorney created by the person, whose powers, as deputy or donee, consist of or include such powers as may be prescribed.]
- (6) Regulations under this section shall provide that, where direct payments are made in respect of a service which, apart from the regulations, would be provided under section 117 of the Mental Health Act 1983 (c. 20) (after-care)—
- (a) the payments shall be made at the rate mentioned in subsection (4)(a); and
  - (b) subsection (4)(b) shall not apply.
- (7) Regulations made for the purposes of subsection (3)(a) may provide that direct payments shall not be made in respect of the provision of residential accommodation for any person for a period in excess of a prescribed period.
- [<sup>F42</sup>(7A) For the purposes of subsection (3)(d), the conditions that are to be taken to be conditions in relation to direct payments include, in particular, conditions in relation to—
- (a) the securing of the provision of the service concerned,
  - (b) the provider of the service,
  - (c) the person to whom payments are made in respect of the provision of the service, or
  - (d) the provision of the service.]
- (8) In this section “prescribed” means specified in or determined in accordance with regulations under this section.

#### Textual Amendments

- F32** S. 57(1A)-(1C) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(2\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F33** Words in s. 57(3)(a) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(a\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F34** Words in s. 57(3)(c)(i) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(b\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F35** Words in s. 57(3)(d) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(3\)\(c\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3

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- F36** Words in s. 57(3)(e)(ii) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(3\)\(c\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F37** S. 57(3)(j)-(l) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(3\)\(d\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F38** Words in s. 57(4)(b) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(4\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F39** Words in s. 57(5)(a) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(5\)\(a\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F40** Words in s. 57(5)(b) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(5\)\(b\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F41** S. 57(5A)-(5C) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(6\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3
- F42** S. 57(7A) inserted (21.7.2008 for specified purposes, 9.11.2009 for E. in so far as not already in force, 29.3.2011 for W. in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\), ss. 146\(7\), 170](#); S.I. 2009/2567, art. 3; S.I. 2011/986, art. 3

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

- C4** S. 57(3)-(5)(7) applied (with modifications) by 1989 c. 41, s. 17A(3) (as substituted (16.3.2003 for E. for specified purposes, 8.4.2004 for E. in so far as not already in force, 8.7.2004 for W. for specified purposes, 1.11.2004 for W. in so far as not already in force) by [Health and Social Care Act 2001 \(c. 15\), ss. 58, 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); S.I. 2003/850, art. 3(1)(b)(2)(a); S.I. 2004/1754, art. 2(1)(2)(c))
- C5** S. 57(4)(a) applied (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\), regs. 1\(b\), 6\(3\)\(a\)](#)
- C6** S. 57(4)(a) applied (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\), regs. 1\(b\), 6\(4\)\(a\)](#)
- C7** S. 57(4)(b) excluded (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\), regs. 1\(b\), 6\(4\)\(b\)](#)
- C8** S. 57(4)(b) excluded (W.) (1.11.2004) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(Wales\) Regulations 2004 \(S.I. 2004/1748\), regs. 1\(b\), 6\(3\)\(b\)](#)

#### **Commencement Information**

- I20** S. 57 partly in force; s. 57 in force for certain purposes at 11.5.2001, see s. 70(2)
- I21** S. 57 in force at 16.3.2003 for E. in so far as not already in force by [S.I. 2003/850, art. 3\(1\)\(a\)](#)
- I22** S. 57 in force at 1.11.2004 for W. in so far as not already in force by [S.I. 2004/1754, art. 2\(2\)\(b\)](#)

## **58 Direct payments in respect of children**

For section 17A of the Children Act 1989 (c. 41) there shall be substituted—

### **“17A Direct payments**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person's consent, such payments to him as they may determine in accordance

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with the regulations in respect of his securing the provision of the service mentioned in that subsection.

- (2) A person falls within this subsection if he is—
- (a) a person with parental responsibility for a disabled child,
  - (b) a disabled person with parental responsibility for a child, or
  - (c) a disabled child aged 16 or 17,
- and a local authority (“the responsible authority”) have decided for the purposes of section 17 that the child’s needs (or, if he is such a disabled child, his needs) call for the provision by them of a service in exercise of functions conferred on them under that section.
- (3) Subsections (3) to (5) and (7) of section 57 of the 2001 Act shall apply, with any necessary modifications, in relation to regulations under this section as they apply in relation to regulations under that section.
- (4) Regulations under this section shall provide that, where payments are made under the regulations to a person falling within subsection (5)—
- (a) the payments shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act (as applied by subsection (3)); and
  - (b) subsection (4)(b) of that section shall not apply.
- (5) A person falls within this subsection if he is—
- (a) a person falling within subsection (2)(a) or (b) and the child in question is aged 16 or 17, or
  - (b) a person who is in receipt of income support, working families’ tax credit or disabled person’s tax credit under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) or of an income-based jobseeker’s allowance.
- (6) In this section—
- “the 2001 Act” means the Health and Social Care Act 2001;
  - “disabled” in relation to an adult has the same meaning as that given by section 17(11) in relation to a child;
  - “prescribed” means specified in or determined in accordance with regulations under this section (and has the same meaning in the provisions of the 2001 Act mentioned in subsection (3) as they apply by virtue of that subsection).”

#### Commencement Information

- I23** S. 58 in force at 16.3.2003 for specified purposes for E. by [S.I. 2003/850, art. 3\(1\)\(b\)](#)  
**I24** S. 58 in force at 8.4.2004 for E. in so far as not already in force by [S.I. 2003/850, art. 3\(2\)\(a\)](#)  
**I25** S. 58 in force at 8.7.2004 for specified purposes for W. by [S.I. 2004/1754, art. 2\(1\)](#)  
**I26** S. 58 in force at 1.11.2004 for W. in so far as not already in force by [S.I. 2004/1754, art. 2\(2\)\(c\)](#)

### Supplementary

## 59 Interpretation of Part 4

- (1) In this Part—

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“the 1948 Act” means the National Assistance Act 1948 (c. 29);

“the 1968 Act” means the Social Work (Scotland) Act 1968 (c. 49);

“community care services”—

(a) in relation to England or Wales, has the meaning given by section 46(3) of the 1990 Act (local authority plans for community care services);

(b) in relation to Scotland, has the same meaning as in the 1968 Act;

“local authority”—

(a) in relation to England or Wales, has the meaning given by section 46(3) of the 1990 Act;

(b) in relation to Scotland, has the same meaning as in the 1968 Act;

“Part 3 accommodation” means (in accordance with section 54(3)) accommodation provided under sections 21 to 26 of the 1948 Act.

(2) In this Part any reference to Part 3 accommodation or to a local authority providing such accommodation shall be construed in accordance with section 21(5) or (6) of the 1948 Act, as the case may be.

(3) In this Part any reference (however expressed) to services provided by a local authority includes services which the authority arrange to provide, where they have power to do so.

## PART 5

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Patient information*

#### <sup>F43</sup>60 Control of patient information

.....

##### **Textual Amendments**

**F43** S. 60 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

#### <sup>F44</sup>61 Patient Information Advisory Group

.....

##### **Textual Amendments**

**F44** S. 61 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))



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### *Services for disabled people*

## **62 Reports to Parliament on services for disabled people**

(1) Section 11 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (c.33) shall be amended as follows.

(2) Before subsection (1) there shall be inserted—

“(1ZA) In this section, subsection (1ZB) extends to England and Wales only and subsection (1) extends to Scotland only.

(1ZB) The Secretary of State shall annually lay before Parliament—

- (a) a report containing such information as he considers appropriate with respect to the development of health and social services for persons with mental illness; and
- (b) a report containing such information as he considers appropriate with respect to the development of health and social services for persons with learning disability;

and each of those reports may contain such other information as the Secretary of State considers appropriate.”

(3) For subsection (2) there shall be substituted—

“(2) In this section—

“health service hospital” has the same meaning as in the 1978 Act, except that it does not include a State hospital;

“learning disability” means a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning.”

#### **Commencement Information**

**I27** S. 62 partly in force; s. 62 not in force at Royal Assent, see s. 70(2); s. 62 in force for E. and S. at 15.4.2002 by [S.I. 2002/1312](#), [art. 2](#)

### *Prescribing rights*

## **63 Extension of prescribing rights**

(1) The Medicines Act 1968 (c. 67) shall be amended as provided by subsections (2) to (7).

(2) In subsection (1) of section 58 (medicinal products on prescription), after paragraph (d) there shall be inserted “, and

- (e) other persons who are of such a description and comply with such conditions as may be specified in the order”.

(3) After subsection (1) of that section there shall be inserted—

“(1A) The descriptions of persons which may be specified in an order by virtue of subsection (1)(e) are the following, or any sub-category of such a description—

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- (a) persons who are registered by any board established under the Professions Supplementary to Medicine Act 1960 (c. 66);
- (b) persons who are pharmacists;
- (c) persons whose names are entered in a roll or record established by the General Dental Council by virtue of section 45 of the Dentists Act 1984 (c. 24) (dental auxiliaries);
- (d) persons who are registered in either of the registers of ophthalmic opticians kept under section 7(a) of the Opticians Act 1989 (c. 44);
- (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21);
- (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17);
- (g) persons who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8);
- (h) any other description of persons which appears to the appropriate Ministers to be a description of persons whose profession is regulated by or under a provision of, or made under, an Act of the Scottish Parliament or Northern Ireland legislation and which the appropriate Ministers consider it appropriate to specify.

(1B) Where an order under this section includes provision by virtue of subsection (1)(e), the order shall specify such conditions as are necessary to secure that any person who is an appropriate practitioner by virtue of the provision may prescribe, give directions or administer only in respect of human use.”

(4) In subsection (4)(a) of that section, after “health visitor,” there shall be inserted “ or is an appropriate practitioner by virtue of provision made under subsection (1)(e) of this section, ”.

(5) After subsection (4) of that section there shall be inserted—

“(4A) An order under this section may provide, in relation to a person who is an appropriate practitioner by virtue of subsection (1)(d) or (e), that such a person may—

- (a) give a prescription for a medicinal product falling within a description or class specified in the order;
- (b) administer any such medicinal product; or
- (c) give directions for the administration of any such medicinal product, only where he complies with such conditions as may be specified in the order in respect of the cases or circumstances in which he may do so.

(4B) An order under this section may provide, in relation to a condition specified by virtue of subsection (4A), for the condition to have effect subject to such exemptions as may be specified in the order.

(4C) Where a condition is specified by virtue of subsection (4A), any prescription or direction given by a person in contravention of the condition is not (subject to such exemptions or modifications as may be specified in the order by virtue of subsection (4)(a) of this section) given by an appropriate practitioner for the purposes of subsection (2)(a) or (b) of this section.”

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- (6) In subsection (5) of that section, after “subsection (4)(a)” there shall be inserted “ or (4B) ”.
- (7) In section 67 (offences under Part 2 of the Act)—
- (a) after subsection (1) there shall be inserted—
- “(1A) Any person who gives a prescription or directions or administers a medicinal product in contravention of a condition imposed by an order under section 58 of this Act by virtue of subsection (4A) of that section shall be guilty of an offence.
- (1B) Any person who—
- (a) is an appropriate practitioner by virtue of provision made under section 58(1) of this Act; and
- (b) gives a prescription or directions in respect of a medicinal product of a description or class in relation to which he is not an appropriate practitioner,
- shall be guilty of an offence.”;
- (b) in subsection (4), after “under”, there shall be inserted “ subsection (1A), (1B), ”.
- (8) Each of the powers to establish a committee conferred by subsection (2) or (3) of section 4 of the Medicines Act 1968 (c. 67) may, before the commencement of subsections (1) to (6) of this section, be exercised in relation to section 58 of that Act as if those subsections were in force.

**Commencement Information**

**I28** S. 63 wholly in force at 1.4.2002; s. 63 not in force at Royal Assent, see s. 70(2); s. 63 in force for certain purposes at 6.3.2002 and wholly in force at 1.4.2002 by [S.I. 2002/1095, art. 2\(1\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170, art. 3](#))

*Supplementary*

**64 Regulations and orders**

- (1) Any power under this Act to make any order or regulations shall (except in the case of regulations under section 65(3)(c)) be exercisable by statutory instrument.
- (2) A statutory instrument containing any order or regulations made by the Secretary of State under this Act other than—
- (a) an order under section 70(2), or
- (b) any regulations to which subsection (3) applies,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- <sup>F45</sup>(3) . . . . .
- (4) A statutory instrument containing any regulations made by the Scottish Ministers shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

<sup>F46</sup>(4A) A statutory instrument containing—

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- (a) regulations made by the Welsh Ministers under section 57, or
  - (b) regulations made by the Welsh Ministers under section 65 that make provision for the purposes of, in consequence of or for giving full effect to section 57,
- is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]
- (5) Any regulations made by virtue of section 65(3)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).
- (6) Any power under this Act to make any order or regulations may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
    - (iii) any such provision either unconditionally or subject to any specified condition.
- (7) Where any such power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.
- (8) Any such power includes power—
- (a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking enactments) as the authority making the order or regulations considers to be expedient; and
  - (b) to provide for a person to exercise a discretion in dealing with any matter.
- (9) Nothing in this Act shall be read as affecting the generality of subsection (8).

#### **Subordinate Legislation Made**

- P1** S. 64(6)(8) power partly exercised: 1.10.2001 and 1.12.2001 appointed for specified provisions by [S.I. 2001/3294](#), [arts. 1\(3\), 2-4](#), [Sch.](#)
- S. 64(6)(8) power partly exercised: different dates appointed for E. for specified provisions by [S.I. 2001/3738](#), [arts. 1\(3\), 2](#), [Schs. 1, 2](#)
- P2** S. 64(6) power partly exercised: 22.10.2001 appointed for specified provisions by [S.I. 2001/3619](#), [arts. 1\(3\), 2, 3](#)
- S. 64(6) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/3752](#), [arts. 1, 2, 3](#)
- S. 64(6) power partly exercised: 3.12.2001 and 19.12.2001 appointed for W. for specified provisions by [S.I. 2001/3807](#), [arts. 1\(3\), 2, 3](#)
- S. 64(6) power partly exercised: 19.12.2001 appointed for E. for specified provisions by [S.I. 2001/4149](#), [arts. 1\(3\), 2](#)

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### Textual Amendments

- F45** S. 64(3) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F46** S. 64(4A) inserted (21.7.2008 for specified purposes) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 146\(8\)](#), 170

## 65 Supplementary and consequential provision etc

- (1) The Secretary of State may by regulations make—
- (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,
- as he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) The provision which may be made under subsection (1) includes provision amending or repealing any enactment, instrument or document.
- (3) The power to make regulations under this section is also exercisable—
- (a) by the National Assembly for Wales, in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly;
  - (b) by the Scottish Ministers, in relation to provision that would be within the legislative competence of the Scottish Parliament;
  - (c) by the First Minister and deputy First Minister acting jointly, in relation to provision dealing with transferred matters (within the meaning of section 4(1) of the Northern Ireland Act 1998 (c. 47)).
- (4) Nothing in this Act shall be read as affecting the generality of subsection (1).

### Modifications etc. (not altering text)

- C9** S. 65 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 2 para. 1\(6\)\(c\)](#) (with [Sch. 3 Pt. 1](#))

## 66 Interpretation

In this Act (unless the context otherwise requires)—

**F47**  
...

“the 1990 Act” means the National Health Service and Community Care Act 1990 (c. 19);

**F47**  
...

“regulations” means regulations made by the relevant authority;

“the relevant authority” means—

- (a) in relation to England, the Secretary of State,
- (b) in relation to Wales, the National Assembly for Wales, and
- (c) in relation to Scotland (in connection with regulations under section 50), the Scottish Ministers.

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### Textual Amendments

- F47** Words in s. 66 omitted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 217](#) (with [Sch. 3 Pt. 1](#))

## 67 Minor and consequential amendments and repeals

- (1) The minor and consequential amendments specified in Schedule 5 shall have effect.
- (2) The enactments specified in Schedule 6 are repealed to the extent specified.

### Commencement Information

- I29** S. 67 partly in force; s. 67 not in force at Royal Assent, see s. 70(2); s. 67(1) in force for E. for certain purposes at 1.10.2001 and 1.12.2001 by [S.I. 2001/3294](#), [art. 4\(1\)](#), [Sch.](#) (subject to [art. 4\(2\)](#)); s. 67(1) in force for E. for certain purposes at 22.10.2001 by [S.I. 2001/3619](#), [art. 3](#); s. 67 in force for E. for certain purposes at 22.11.2001 and 14.12.2001 by [S.I. 2001/3738](#), [art. 2\(2\)-\(4\)](#), [Sch. 1 Pts. II, III](#), [Sch. 2](#) (subject to [art. 2\(5\)\(6\)](#)); s. 67 in force for certain purposes at 1.4.2002 by [S.I. 2002/1095](#), [art. 2\(3\)](#), [Sch.](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170](#), [art. 3](#)); s. 67(2) in force for certain purposes at 15.4.2002 by [S.I. 2002/1312](#), [art. 3](#); s. 67 in force for W. for certain purposes at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#); s. 67 in force for W. for certain purposes at 26.8.2002 by [S.I. 2002/1919](#), [art. 2\(1\)](#), [Sch. Pt. I](#) (subject to [art. 2\(2\)\(3\)](#)); s. 67(1) in force for W. for certain purposes at 26.8.2002 by [S.I. 2002/1919](#), [art. 3\(1\)](#), [Sch. Pt. II](#) (subject to [art. 3\(2\)](#), [Sch. Pt. III](#))
- I30** S. 67(1) in force at 1.1.2003 for specified purposes for E. by [S.I. 2003/53](#), [art. 3\(c\)](#)
- I31** S. 67(1) in force at 1.1.2003 for specified purposes for E. by [S.I. 2003/53](#), [art. 2\(b\)](#)
- I32** S. 67(1) in force at 1.2.2003 for specified purposes for E. by [S.I. 2003/53](#), [art. 4\(d\)](#)
- I33** S. 67(1) in force at 1.9.2003 for specified purposes for E. by [S.I. 2003/2245](#), [art. 2\(b\)](#)
- I34** S. 67(1) in force at 8.4.2004 for specified purposes for E. by [S.I. 2003/850](#), [art. 3\(2\)\(c\)](#)
- I35** S. 67(1) in force at 8.4.2004 for specified purposes for E. by [S.I. 2003/850](#), [art. 3\(2\)\(b\)](#)
- I36** S. 67(1) in force at 1.11.2004 for specified purposes for W. by [S.I. 2004/1754](#), [art. 2\(2\)\(d\)](#)
- I37** S. 67(1) in force at 1.4.2006 for specified purposes for E. by [S.I. 2006/481](#), [art. 2\(2\)\(c\)](#)
- I38** S. 67(2) in force at 1.2.2003 for specified purposes for E. by [S.I. 2003/53](#), [art. 4\(c\)](#)
- I39** S. 67(2) in force at 8.4.2004 for specified purposes for E. by [S.I. 2003/850](#), [art. 3\(2\)\(d\)](#)
- I40** S. 67(2) in force at 1.11.2004 for specified purposes for W. by [S.I. 2004/1754](#), [art. 2\(2\)\(e\)](#)
- I41** S. 67(2) in force at 1.4.2006 for specified purposes for E. by [S.I. 2006/481](#), [art. 3](#)

## 68 Powers of National Assembly for Wales under amended Acts

- (1) In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)), any reference to an Act which is amended by this Act shall (as from the time when the Act is so amended) be treated as referring to the Act as so amended.

<sup>F48</sup>(2) .....

<sup>F49</sup>(3) .....

- (4) [<sup>F50</sup>Subsection (1) does not affect] the power to make further Orders varying or omitting any such reference as is mentioned in that subsection.

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### Textual Amendments

- F48** S. 68(2) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with [Sch. 2 Pt. 1, Sch. 3 Pt. 1](#))
- F49** S. 68(3) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with [Sch. 2 Pt. 1, Sch. 3 Pt. 1](#))
- F50** Words in s. 68(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 218](#) (with [Sch. 3 Pt. 1](#))

## 69 Financial provisions

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State in consequence of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided by virtue of any other Act.

## 70 Short title, commencement and extent

- (1) This Act may be cited as the Health and Social Care Act 2001.
- (2) With the exception of—
  - (a) sections 59, 60, 61, 64 to 66, 68 and 69 and this section,
  - (b) Part 3 of Schedule 5, and
  - (c) any other provision of this Act so far as it confers any power to make an order or regulations under this Act which is exercisable by the Secretary of State,this Act does not come into force until such day as the relevant authority may by order appoint; and different days may be so appointed for different purposes.
- (3) In subsection (2), in its application in relation to—
  - (a) sections 14 to 17 and 27,
  - (b) sections 50(1), 51 and 52,
  - (c) sections 62 (except so far as extending to Wales) and 63, and
  - (d) any repeals consequential on any provisions falling within paragraph (a) or (b),the reference to the relevant authority shall be read as a reference to the Secretary of State.
- (4) In subsection (2), in its application in relation to—
  - (a) section 44, and
  - (b) the provisions of section 50(2) to (10) so far as relating to Scotland (and not within subsection (2)(c)),the reference to the relevant authority shall be read as a reference to the Scottish Ministers.
- (5) Subject to subsections (6) to (8), this Act extends to England and Wales only.
- (6) The following provisions, namely—
  - (a) sections 50 to 52 and 59,
  - (b) sections 63 to 66, and

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- (c) this section,  
also extend to Scotland.
- (7) The following provisions, namely—
- (a) sections 63 to 65, and
  - (b) this section,
- also extend to Northern Ireland.
- (8) The extent of any amendment or repeal made by this Act is the same as that of the enactment amended or repealed.
- (9) Subsection (8) does not apply in relation to any amendment or repeal relating to section 115 of the Police Act 1997, and any such amendment or repeal extends to England and Wales only.
- (10) The Secretary of State may by order provide that so much of this Act as extends to England and Wales is to apply to the Isles of Scilly with such modifications (if any) as are specified in the order; but otherwise this Act does not extend there.

#### **Subordinate Legislation Made**

- P3** S. 70(2) power partly exercised: 1.8.2001 appointed for E. for specified provisions by [S.I. 2001/2804](#), [arts. 1\(3\), 2](#)
- S. 70(2) power partly exercised: 1.10.2001 appointed for E. for specified provisions by [S.I. 2001/3167](#), [arts. 1\(3\), 2](#), [Sch.](#)
- S. 70(2) power partly exercised: 1.10.2001 and 1.12.2001 appointed for E. for specified provisions by [S.I. 2001/3294](#), [arts. 1\(3\), 2-4](#), [Sch.](#)
- S. 70(2) power partly exercised: 22.10.2001 appointed for E. for specified provisions by [S.I. 2001/3619](#), [arts. 1\(3\), 2, 3](#)
- S. 70(2) power partly exercised: different dates appointed for E. for specified provisions by [S.I. 2001/3738](#), [arts. 1\(3\), 2](#), [Schs. 1, 2](#)
- S. 70(2) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/3752](#), [arts. 1, 2, 3](#)
- S. 70(2) power partly exercised: 3.12.2001 and 19.12.2001 appointed for W. for specified provisions by [S.I. 2001/3807](#), [arts. 1\(3\), 2, 3](#)
- S. 70(2) power partly exercised: 19.12.2001 appointed for E. for specified provisions by [S.I. 2001/4149](#), [arts. 1\(3\), 2](#)
- S. 70(2) power partly exercised: 1.4.2002 appointed for S. for specified provisions by [{S.I. 2002/75}](#), art. 2
- S. 70(2) power partly exercised: different dates appointed for specified provisions by [{S.I. 2002/1095}](#), art. 2 (with arts. 3, 4) (as amended by [{SI 2002/1170}](#), arts. 2, 3)
- S. 70(2) power partly exercised: 15.4.2002 appointed for specified provisions by [{S.I. 2002/1312}](#), arts. 2, 3
- S. 70(2) power partly exercised: different dates appointed for W. for specified provisions by [{S.I. 2002/1475}](#), art. 2, [Sch.](#)
- S. 70(2) power partly exercised: 26.8.2002 appointed for W. for specified provisions by [{S.I. 2002/1919}](#), arts. 2, 3, [Sch. Pts. I-III](#)
- S. 70(2) power partly exercised: different dates appointed for E. for specified provisions by [{S.I. 2002/2363}](#), arts. 2, 3



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