



National Health Service Act 2006

2006 CHAPTER 41

PART 13 U.K.

MISCELLANEOUS

Independent advocacy services

248 Independent advocacy services E+W

- (1) The Secretary of State must arrange, to such extent as he considers necessary to meet all reasonable requirements, for the provision of independent advocacy services.
- (2) “Independent advocacy services” are services providing assistance (by way of representation or otherwise) to individuals making or intending to make—
 - (a) a complaint under a procedure operated by a health service body or independent provider,
 - (b) a complaint under section 113(1) or (2) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43),
 - (c) a complaint to the Health Service Commissioner for England or the Public Services Ombudsman for Wales,
 - (d) a complaint of a prescribed description which relates to the provision of services as part of the health service and—
 - (i) is made under a procedure of a prescribed description, or
 - (ii) gives rise, or may give rise, to proceedings of a prescribed description.
- (3) In subsection (2)—

“health service body” means—

 - (a) in relation to England, a body which, under section 2(1) of the Health Service Commissioners Act 1993 (c. 46), is subject to investigation by the Health Service Commissioner for England,
 - (b) in relation to Wales, a Welsh health service body (within the meaning of the Public Services Ombudsman (Wales) Act 2005 (c. 10)),

“independent provider” means—

Status: Point in time view as at 01/03/2007.

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- (a) in relation to England, a person who, under section 2B(1) of the Health Service Commissioners Act 1993, is subject to investigation by the Health Service Commissioner for England,
 - (b) in relation to Wales, a person who is an independent provider in Wales (within the meaning of the Public Services Ombudsman (Wales) Act 2005).
- (4) The Secretary of State may make such other arrangements as he considers appropriate for the provision of assistance to individuals in connection with complaints relating to the provision of services as part of the health service.
- (5) In making arrangements under this section the Secretary of State must have regard to the principle that the provision of services under the arrangements should, so far as practicable, be independent of any person who is—
- (a) the subject of a relevant complaint, or
 - (b) involved in investigating or adjudicating on such a complaint.
- (6) The Secretary of State may make payments to any person in pursuance of arrangements under this section.
- (7) The Secretary of State may direct a Patients' Forum established for a Primary Care Trust to exercise any of his functions under this section so far as they relate to independent advocacy services provided to—
- (a) persons in the area of the Primary Care Trust, or
 - (b) persons to whom services have been provided by or under arrangements with the Primary Care Trust.
- (8) If the Secretary of State does so—
- (a) the functions of that Patients' Forum must be taken to include those functions, but
 - (b) the Patients' Forum may not make any arrangements with itself under this section.

Joint working with the prison service

249 Joint working with the prison service E+W

- (1) In exercising their respective functions, NHS bodies (on the one hand) and the prison service (on the other) must co-operate with one another with a view to improving the way in which those functions are exercised in relation to securing and maintaining the health of prisoners.
- (2) The Secretary of State may by regulations make provision for or in connection with enabling prescribed NHS bodies (on the one hand) and the prison service (on the other) to enter into prescribed arrangements in relation to the exercise of—
- (a) prescribed functions of the NHS bodies, and
 - (b) prescribed health-related functions of the prison service,
- if the arrangements are likely to lead to an improvement in the way in which those functions are exercised in relation to securing and maintaining the health of prisoners.
- (3) The arrangements which may be prescribed include arrangements—
- (a) for or in connection with the establishment and maintenance of a fund—

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- (i) which is made up of contributions by one or more NHS bodies and by the prison service, and
 - (ii) out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and prescribed health-related functions of the prison service,
- (b) for or in connection with the exercise by an NHS body on behalf of the prison service of prescribed health-related functions of the prison service in conjunction with the exercise by the NHS body of prescribed functions of the NHS body,
 - (c) for or in connection with the exercise by the prison service on behalf of an NHS body of prescribed functions of the NHS body in conjunction with the exercise by the prison service of prescribed health-related functions of the prison service,
 - (d) as to the provision of staff, goods or services in connection with any arrangements mentioned in paragraph (a), (b) or (c),
 - (e) as to the making of payments by the prison service to an NHS body in connection with any arrangements mentioned in paragraph (b),
 - (f) as to the making of payments by an NHS body to the prison service in connection with any arrangements mentioned in paragraph (c).
- (4) Any arrangements made by virtue of this section do not affect the liability of NHS bodies, or of the prison service, for the exercise of any of their functions.
- (5) “The prison service” means the Minister of the Crown exercising functions in relation to prisons (within the meaning of the Prison Act 1952 (c. 52)); and “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

Standing advisory committees

250 Secretary of State's standing advisory committees E+W

- (1) The Secretary of State may by order establish standing advisory committees for the purpose of advising him on such of the services provided under this Act as may be specified in the order.
- (2) A standing advisory committee consists of persons appointed by the Secretary of State after consultation with such representative organisations as he recognises for the purpose.
- (3) A standing advisory committee must advise the Secretary of State—
 - (a) on such matters relating to the services with which the committee is concerned as it considers appropriate, and
 - (b) on any questions referred to it by the Secretary of State relating to those services.
- (4) Schedule 19 makes further provision about standing advisory committees.

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Patient information

251 Control of patient information **E+W**

- (1) The Secretary of State may by regulations make such provision for and in connection with requiring or regulating the processing of prescribed patient information for medical purposes as he considers necessary or expedient—
 - (a) in the interests of improving patient care, or
 - (b) in the public interest.
- (2) Regulations under subsection (1) may, in particular, make provision—
 - (a) for requiring prescribed communications of any nature which contain patient information to be disclosed by health service bodies in prescribed circumstances—
 - (i) to the person to whom the information relates,
 - (ii) (where it relates to more than one person) to the person to whom it principally relates, or
 - (iii) to a prescribed person on behalf of any such person as is mentioned in sub-paragraph (i) or (ii),
 in such manner as may be prescribed,
 - (b) for requiring or authorising the disclosure or other processing of prescribed patient information to or by persons of any prescribed description subject to compliance with any prescribed conditions (including conditions requiring prescribed undertakings to be obtained from such persons as to the processing of such information),
 - (c) for securing that, where prescribed patient information is processed by a person in accordance with the regulations, anything done by him in so processing the information must be taken to be lawfully done despite any obligation of confidence owed by him in respect of it,
 - (d) for creating offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale or such other level as is prescribed or for creating other procedures for enforcing any provisions of the regulations.
- (3) Subsections (1) and (2) are subject to subsections (4) to (7).
- (4) Regulations under subsection (1) may not make provision requiring the processing of confidential patient information for any purpose if it would be reasonably practicable to achieve that purpose otherwise than pursuant to such regulations, having regard to the cost of and the technology available for achieving that purpose.
- (5) Where regulations under subsection (1) make provision requiring the processing of prescribed confidential patient information, the Secretary of State—
 - (a) must, at any time within the period of one month beginning on each anniversary of the making of such regulations, consider whether any such provision could be included in regulations made at that time without contravening subsection (4), and
 - (b) if he determines that any such provision could not be so included, must make further regulations varying or revoking the regulations made under subsection (1) to such extent as he considers necessary in order for the regulations to comply with that subsection.

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- (6) Regulations under subsection (1) may not make provision for requiring the processing of confidential patient information solely or principally for the purpose of determining the care and treatment to be given to particular individuals.
- (7) Regulations under this section may not make provision for or in connection with the processing of prescribed patient information in a manner inconsistent with any provision made by or under the Data Protection Act 1998 (c 29).
- (8) Subsection (7) does not affect the operation of provisions made under subsection (2) (c).
- (9) Before making any regulations under this section the Secretary of State must, to such extent as he considers appropriate in the light of the requirements of section 252, consult such bodies appearing to him to represent the interests of those likely to be affected by the regulations as he considers appropriate.
- (10) In this section “patient information” means—
 - (a) information (however recorded) which relates to the physical or mental health or condition of an individual, to the diagnosis of his condition or to his care or treatment, and
 - (b) information (however recorded) which is to any extent derived, directly or indirectly, from such information,whether or not the identity of the individual in question is ascertainable from the information.
- (11) For the purposes of this section, patient information is “confidential patient information” where—
 - (a) the identity of the individual in question is ascertainable—
 - (i) from that information, or
 - (ii) from that information and other information which is in the possession of, or is likely to come into the possession of, the person processing that information, and
 - (b) that information was obtained or generated by a person who, in the circumstances, owed an obligation of confidence to that individual.
- (12) In this section “medical purposes” means the purposes of any of—
 - (a) preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of health and social care services, and
 - (b) informing individuals about their physical or mental health or condition, the diagnosis of their condition or their care and treatment.
- (13) In this section—

“health service body” means any body (including a government department) or person engaged in the provision of the health service that is prescribed, or of a description prescribed, for the purposes of this definition,

“processing”, in relation to information, means the use, disclosure or obtaining of the information or the doing of such other things in relation to it as may be prescribed for the purposes of this definition.

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252 Patient Information Advisory Group **E+W**

- (1) For the purposes of subsections (2) and (3), there continues to be a committee known as the Patient Information Advisory Group (“the Advisory Group”).
- (2) Before laying before Parliament a draft of any statutory instrument containing regulations under section 251(1), or making any regulations pursuant to section 251(5)(b), the Secretary of State must seek and have regard to the views of the Advisory Group on the proposed regulations.
- (3) The Secretary of State may seek the views of the Advisory Group on such other matters connected with the processing of patient information or of any information (other than patient information) obtained or generated in the course of the provision of the health service as he considers appropriate.
- (4) The Secretary of State may by regulations make provision about the Advisory Group and the regulations may, in particular, make provision as to—
 - (a) the persons or bodies who are to be represented by members of the Advisory Group,
 - (b) the terms of appointment of members,
 - (c) the proceedings of the Advisory Group, and
 - (d) the payment by the Secretary of State of—
 - (i) such expenses incurred by the Advisory Group, and
 - (ii) such allowances in respect of expenses incurred by members of the Advisory Group,
 as he may determine.
- (5) The Secretary of State must publish, in such manner as he considers appropriate, any views which he receives from the Advisory Group pursuant to subsection (2).
- (6) In this section “the health service”, “patient information” and “processing” have the meaning given by section 251.

Emergency powers

253 Emergency powers **E+W**

- (1) The Secretary of State may give directions under this section if he considers that by reason of an emergency it is necessary to do so in order to ensure that a service falling to be provided under or by virtue of this Act is provided.
- (2) Directions under this section may direct that, during the period specified by the directions, a function conferred on any body or person under or by virtue of this Act is to the exclusion of or concurrently with that body or person to be performed by another body or person.
- (3) The powers conferred on the Secretary of State by this section are in addition to any other powers exercisable by him.
- (4) The references in this section to this Act do not include a reference to Chapter 5 of Part 2 (NHS foundation trusts).

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Local social services authorities

254 Local social service authorities **E+W**

- (1) Subject to paragraphs (d) and (e) of section 3(1), the services described in Schedule 20 in relation to—
 - (a) care of mothers,
 - (b) prevention, care and after-care,
 - (c) home help and laundry facilities,are functions exercisable by local social services authorities.
- (2) A local social services authority which provides premises, furniture or equipment for any of the purposes of this Act may permit the use of the premises, furniture or equipment by—
 - (a) any other local social services authority,
 - (b) any of the bodies established under this Act, or
 - (c) a local education authority.
- (3) The permission may be on such terms (including terms with respect to the services of any staff employed by the authority giving permission) as may be agreed.
- (4) A local social services authority may provide (or improve or furnish) residential accommodation for officers—
 - (a) employed by it for the purposes of any of its functions as a local social services authority, or
 - (b) employed by a voluntary organisation for the purposes of any services provided under this section and Schedule 20.
- (5) In this section and Schedule 20 “equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle.

Supplies by the Secretary of State

255 Supplies not readily obtainable **E+W**

- (1) Where the Secretary of State has acquired—
 - (a) supplies of human blood for the purposes of any service under this Act,
 - (b) any part of a human body for the purpose of, or in the course of providing, any such service, or
 - (c) supplies of any other substances or preparations not readily obtainable,he may arrange to make such supplies or that part available (on such terms, including terms as to charges, as he considers appropriate) to any person.
- (2) The Secretary of State may exercise the powers conferred by subsection (1) only if, and to the extent that, he is satisfied that anything which he proposes to do or allow under those powers—
 - (a) will not to a significant extent interfere with the performance by him of any duty imposed on him by this Act to provide accommodation or services of any kind, and
 - (b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at health

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service hospitals (whether as resident or non-resident patients) otherwise than as private patients.

- (3) “Health service hospital” includes such a hospital within the meaning of section 206 of the National Health Service (Wales) Act 2006 (c. 42).

Community services

256 Power of Primary Care Trusts to make payments towards expenditure on community services E+W

- (1) A Primary Care Trust may make payments to—
- (a) a local social services authority towards expenditure incurred or to be incurred by it in connection with any social services functions (within the meaning of the Local Authority Social Services Act 1970 (c. 42)), other than functions under section 3 of the Disabled Persons (Employment) Act 1958 (c. 33),
 - (b) a district council, or a Welsh county council or county borough council, towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (meals and recreation for old people),
 - (c) an authority which is a local education authority for the purposes of the Education Act 1996 (c. 56), towards expenditure incurred or to be incurred by it in connection with its functions under the Education Acts (within the meaning of that Act), in so far as it performs those functions for the benefit of disabled persons,
 - (d) a local housing authority within the meaning of the Housing Act 1985 (c. 68), towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of that Act (provision of housing), or
 - (e) any of the bodies mentioned in subsection (2), in respect of expenditure incurred or to be incurred by it in connection with the provision of housing accommodation.
- (2) The bodies are—
- (a) a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act),
 - (b) the Commission for the New Towns,
 - (c) a new town development corporation,
 - (d) an urban development corporation established under the Local Government, Planning and Land Act 1980 (c. 65),
 - (e) the Housing Corporation.
- (3) A Primary Care Trust may make payments to a local authority towards expenditure incurred or to be incurred by the authority in connection with the performance of any of the authority's functions which, in the opinion of the Primary Care Trust—
- (a) have an effect on the health of any individuals,
 - (b) have an effect on, or are affected by, any NHS functions, or
 - (c) are connected with any NHS functions.
- (4) “NHS functions” means functions exercised by an NHS body.

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- (5) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (6) The Secretary of State may by directions prescribe conditions relating to payments under this section or section 257.
- (7) The conditions include, in particular, conditions requiring, in such circumstances as may be specified—
 - (a) repayment of the whole or part of a payment under this section, or
 - (b) in respect of property acquired with a payment under this section, payment of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (8) No payment may be made under this section in respect of any expenditure unless the conditions relating to it conform with the conditions prescribed under subsection (6) for payments of that description.
- (9) “A disabled person” is a person who has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities or who has such other disability as may be prescribed.

Modifications etc. (not altering text)

- C1** S. 256(3) modified by 2004 c. 17, s. 4(5)(a)(i) (as substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 258\(a\)](#) (with [Sch. 3 Pt. 1](#)))

257 Payments in respect of voluntary organisations under section 256 **E+W**

- (1) This section applies where the expenditure in respect of which a payment under section 256 is proposed to be made is expenditure in connection with services to be provided by a voluntary organisation.
- (2) Where this section applies, the Primary Care Trust may make payments to the voluntary organisation towards the expenditure incurred or to be incurred by the organisation in connection with the provision of those services, instead of or in addition to making payments under section 256(1) or (3).
- (3) Where this section applies—
 - (a) a body falling within any of paragraphs (a) to (d) of section 256(1) which has received payments under the paragraph, and
 - (b) a local authority which has received payments under section 256(3),may make out of the sums paid to it payments to the voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of those services.
- (4) No payment may be made under subsection (2) or (3) except subject to conditions which conform with the conditions prescribed for payments of that description under section 256(6).

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Modifications etc. (not altering text)

- C2** S. 257(2) modified by 2004 c. 17, s. 4(5)(a)(i) (as substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 258(a)** (with Sch. 3 Pt. 1))

Universities

258 University clinical teaching and research **E+W**

- (1) The Secretary of State must exercise his functions under this Act so as to secure that there are made available such facilities as he considers are reasonably required by any university which has a medical or dental school, in connection with—
 - (a) clinical teaching, and
 - (b) research connected with clinical medicine or clinical dentistry.
- (2) Regulations may provide for any functions—
 - (a) exercisable by a Strategic Health Authority, Primary Care Trust, Special Health Authority or Local Health Board,
 - (b) in relation to the provision of facilities such as are mentioned in subsection (1), to be exercisable by the body jointly with one or more NHS body other than an NHS foundation trust.

Sale of medical practices

259 Sale of medical practices **E+W**

- (1) It is unlawful to sell the goodwill of the medical practice of a person to whom any of subsections (2) to (4) applies, unless the person—
 - (a) no longer provides or performs the services mentioned, and
 - (b) has never carried on the practice in a relevant area.
- (2) This subsection applies to a person who has at any time provided general medical services under arrangements made—
 - (a) with any Council, Committee or Authority under the National Health Service Act 1946 (c. 81) or the National Health Service Reorganisation Act 1973 (c. 32), or
 - (b) with any Primary Care Trust, Health Authority or Local Health Board under section 29 of the National Health Service Act 1977 (c. 49).
- (3) This subsection applies to a person who has at any time provided or performed personal medical services in accordance with section 28C of the National Health Service Act 1977 (prior to the coming into force of section 16CC of that Act).
- (4) This subsection applies to a person who has at any time, in prescribed circumstances or, if regulations so provide, in all circumstances, provided or performed primary medical services—
 - (a) in accordance with section 28C arrangements (within the meaning given by section 28D of the National Health Service Act 1977),
 - (b) in accordance with arrangements under section 16CC(2)(b) of that Act,

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- (c) under a general medical services contract (within the meaning of section 28Q(2) of that Act),
 - (d) in accordance with section 92 arrangements or section 50 arrangements,
 - (e) in accordance with arrangements under section 83(2)(b) of this Act, or section 41(2)(b) of the National Health Service (Wales) Act 2006 (c. 42),
 - (f) under a general medical services contract or a Welsh general medical services contract.
- (5) In this section—
- “goodwill” includes any part of goodwill and, in relation to a person practising in partnership, means his share of the goodwill of the partnership practice,
 - “medical practice” includes any part of a medical practice,
 - “relevant area”, in relation to any Council, Committee, Primary Care Trust, Local Health Board or Authority by arrangement or contract with whom a person has at any time provided or performed services, means the area, district or locality of that Council, Committee, Primary Care Trust, Local Health Board or Authority (at that time),
 - “section 50 arrangements” means arrangements for the provision of services made under section 50 of the National Health Service (Wales) Act 2006 (c. 42), and
 - “Welsh general medical services contract” means a contract under section 42(2) of the National Health Service (Wales) Act 2006.
- (6) Schedule 21 makes further provision in relation to this section.

Price of medical supplies

260 Control of maximum price of medical supplies other than health service medicines **E+W**

- (1) The Secretary of State may by order provide for the control of maximum prices to be charged for any medical supplies, other than health service medicines, required for the purposes of this Act.
- (2) The Secretary of State may by direction given with respect to any undertaking, or by order made with respect to any class or description of undertakings, require persons carrying on the undertaking or undertakings of that class or description—
 - (a) to keep such books, accounts and records relating to the undertaking as may be prescribed by the direction, the order or a notice served under the order,
 - (b) to furnish at such times, in such manner and in such form as may be so prescribed such estimates, returns or information relating to the undertaking as may be so prescribed.
- (3) The power to make an order under this section includes power to provide for any incidental and supplementary provisions which the Secretary of State considers it expedient for the purposes of the order to provide.
- (4) Schedule 22 makes further provision in relation to this section.
- (5) In this section and Schedule 22—

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“medical supplies” includes surgical, dental and optical materials and equipment, and

“undertaking” means any public utility undertaking or any undertaking by way of trade or business, which is concerned with medical supplies required for the purposes of this Act,

and “equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle.

261 Powers relating to voluntary schemes **U.K.**

- (1) The powers under this section may be exercised where there is in existence a scheme (referred to in this section and sections 262 and 263 as a “voluntary scheme”) made by the Secretary of State and the industry body for the purpose of—
 - (a) limiting the prices which may be charged by any manufacturer or supplier to whom the scheme relates for the supply of any health service medicines, or
 - (b) limiting the profits which may accrue to any manufacturer or supplier to whom the scheme relates in connection with the manufacture or supply of any health service medicines.
- (2) For the purposes of this section and sections 262 and 263, a voluntary scheme must be treated as applying to a manufacturer or supplier to whom it relates if—
 - (a) he has consented to the scheme being so treated (and has not withdrawn that consent), and
 - (b) no notice is in force in his case under subsection (4).
- (3) For the purposes of this section a voluntary scheme has effect, in relation to a manufacturer or supplier to whom it applies, with any additions or modifications made by him and the Secretary of State.
- (4) If any acts or omissions of any manufacturer or supplier to whom a voluntary scheme applies (a “scheme member”) have shown that, in the scheme member's case, the scheme is ineffective for either of the purposes mentioned in subsection (1), the Secretary of State may by a written notice given to the scheme member determine that the scheme does not apply to him.
- (5) A notice under subsection (4) must give the Secretary of State's reasons for giving the notice, and the Secretary of State may not give a notice under that subsection until he has given the scheme member an opportunity to make representations about the acts or omissions in question.
- (6) Consent under subsection (2)(a) must be given, or withdrawn, in the manner required by the Secretary of State.
- (7) The Secretary of State may after consultation with the industry body require any manufacturer or supplier to whom a voluntary scheme applies to—
 - (a) record and keep any information, and
 - (b) provide any information to the Secretary of State,
 which the Secretary of State may require for the purpose of enabling the scheme to operate or facilitating its operation or for the purpose of giving full effect to any provision made under subsection (8).
- (8) The Secretary of State may—

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- (a) prohibit any manufacturer or supplier to whom a voluntary scheme applies from increasing any price charged by him for the supply of any health service medicine covered by the scheme without the approval of the Secretary of State, and
- (b) provide for any amount representing any increase in contravention of that prohibition in the sums charged by that person for that medicine, so far as the increase is attributable to supplies to the health service, to be paid to the Secretary of State within a specified period.

262 Power to control prices **U.K.**

- (1) The Secretary of State may, after consultation with the industry body—
 - (a) limit any price which may be charged by any manufacturer or supplier for the supply of any health service medicine, and
 - (b) provide for any amount representing sums charged by that person for that medicine in excess of the limit to be paid to the Secretary of State within a specified period.
- (2) The powers conferred by this section are not exercisable at any time in relation to a manufacturer or supplier to whom at that time a voluntary scheme applies.

263 Statutory schemes **U.K.**

- (1) The Secretary of State may, after consultation with the industry body, make a scheme (referred to in this section and section 264 as a statutory scheme) for the purpose of—
 - (a) limiting the prices which may be charged by any manufacturer or supplier for the supply of any health service medicines, or
 - (b) limiting the profits which may accrue to any manufacturer or supplier in connection with the manufacture or supply of any health service medicines.
- (2) A statutory scheme may, in particular, make any provision mentioned in subsections (3) to (6).
- (3) The scheme may require any manufacturer or supplier to whom it applies to—
 - (a) record and keep information, and
 - (b) provide information to the Secretary of State.
- (4) The scheme may provide for any amount representing sums charged by any manufacturer or supplier to whom the scheme applies, in excess of the limits determined under the scheme, for health service medicines covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (5) The scheme may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or supplier to whom the scheme applies in connection with the manufacture or supply of health service medicines covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (6) The scheme may—
 - (a) prohibit any manufacturer or supplier to whom the scheme applies from increasing, without the approval of the Secretary of State, any price charged by him for the supply of any health service medicine covered by the scheme, and

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- (b) provide for any amount representing any increase in contravention of that prohibition in the sums charged by that person for that medicine, so far as the increase is attributable to supplies to the health service, to be paid to the Secretary of State within a specified period.
- (7) A statutory scheme may not apply to a manufacturer or supplier to whom a voluntary scheme applies.

264 Statutory schemes: supplementary **U.K.**

- (1) The Secretary of State may, after consultation with the industry body, make any provision he considers necessary or expedient for the purpose of enabling or facilitating—
 - (a) the introduction of a statutory scheme or of a limit under section 262, or
 - (b) the determination of the provision to be made in a proposed statutory scheme.
- (2) The provision may, in particular, require any person to whom such a scheme or limit may apply to—
 - (a) record and keep information,
 - (b) provide information to the Secretary of State.
- (3) Where the Secretary of State is preparing to make or vary a statutory scheme, he may make any provision he considers necessary or expedient for transitional or transitory purposes which could be made by such a scheme.

265 Enforcement **U.K.**

- (1) Regulations may provide for a person who contravenes any provision of regulations or directions under sections 261 to 264 to be liable to pay a penalty to the Secretary of State.
- (2) The penalty may be—
 - (a) a single penalty not exceeding £100,000, or
 - (b) a daily penalty not exceeding £10,000 for every day on which the contravention occurs or continues.
- (3) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of section 261(8)(b), 262(1)(b) or 263(4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (4) Regulations may provide for any amount payable to the Secretary of State by virtue of provision made under section 261(8)(b), 262(1)(b) or 263(4), (5) or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.
- (5) Provision may be made by regulations for conferring on manufacturers and suppliers a right of appeal against enforcement decisions taken in respect of them in pursuance of sections 261 to 264 and this section.
- (6) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994 (c. 40), reading—
 - (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision,

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- (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (7) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to—
 - (a) require a specific manufacturer or supplier to provide information to him,
 - (b) limit, in respect of any specific manufacturer or supplier, any price or profit,
 - (c) refuse to give his approval to a price increase made by a specific manufacturer or supplier,
 - (d) require a specific manufacturer or supplier to pay any amount (including an amount by way of penalty) to him,and in this subsection “specific” means specified in the decision.
- (8) A requirement or prohibition, or a limit, under sections 261 to 264, may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (9) The Secretary of State must consult the industry body before making any regulations under this section.
- (10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2).

266 Controls: supplementary **U.K.**

- (1) Any power conferred on the Secretary of State by sections 261(6) to (8) and 262 to 264 may be exercised by—
 - (a) making regulations, or
 - (b) giving directions to a specific manufacturer or supplier.
- (2) Regulations under subsection (1)(a) may confer power for the Secretary of State to give directions to a specific manufacturer or supplier; and in this subsection “specific” means specified in the direction concerned.
- (3) The powers to refuse approval under section 261(8)(a) or 263(6)(a) or to impose a limit under section 262(1)(a) or 263(1) are exercisable only with a view to limiting by reference to the prices or profits which would be reasonable in all the circumstances—
 - (a) the prices which may be charged for, or
 - (b) the profits which may accrue to any manufacturer or supplier in connection with,the manufacture or supply for the purposes of the health service of health service medicines.
- (4) In so exercising those powers (in the case of sections 262(1)(a) and 263(1) and (6)(a)) the Secretary of State and any other person must bear in mind, in particular—
 - (a) the need for medicinal products to be available for the health service on reasonable terms, and
 - (b) the costs of research and development.
- (5) The powers conferred by sections 261 to 264 do not affect any other powers of the Secretary of State to control prices or profits.

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(6) In this section and sections 261 to 265—

“health service” includes the health services within the meaning of the National Health Service (Scotland) Act 1978 (c. 29) and the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)),

“health service medicine” means a medicinal product used to any extent for the purposes of the health service,

“the industry body” means any body which appears to the Secretary of State appropriate to represent manufacturers and suppliers,

“manufacture” includes assemble and “manufacturer” means any person who manufactures health service medicines,

“medicinal product” has the meaning given by section 130 of the Medicines Act 1968 (c. 67),

“supplier” means any person who supplies health service medicines,

and contravention of a provision includes a failure to comply with it, and supplying medicines includes selling them.

Use of facilities in private practice

267 Permission for use of facilities in private practice E+W

- (1) A person to whom this section applies who wishes to use any relevant health service accommodation or facilities for the purpose of providing medical, dental, pharmaceutical, ophthalmic or chiropody services to non-resident private patients may apply in writing to the Secretary of State for permission under this section.
- (2) Any application for permission under this section must specify—
 - (a) which of the relevant health service accommodation or facilities the applicant wishes to use for the purpose of providing services to such patients, and
 - (b) which of the kinds of services mentioned in subsection (1) he wishes the permission to cover.
- (3) On receiving an application under this section the Secretary of State—
 - (a) must consider whether anything for which permission is sought would interfere with the giving of full and proper attention to persons seeking or afforded access otherwise than as private patients to any services provided under this Act, and
 - (b) must grant the permission applied for unless in his opinion anything for which permission is sought would so interfere.
- (4) Any grant of permission under this section is on such terms (including terms as to the payment of charges for the use of the relevant health service accommodation or facilities pursuant to the permission) as the Secretary of State may from time to time determine.
- (5) The persons to whom this section applies are—
 - (a) medical practitioners, registered pharmacists or other persons who provide pharmaceutical services under Chapter 1 of Part 7,
 - (b) chiropodists who provide services under this Act at premises where services are provided under that Chapter,

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- (c) persons providing primary medical services, primary dental services or primary ophthalmic services under a general medical services contract, a general dental services contract or a general ophthalmic services contract, or in accordance with section 92 arrangements or section 107 arrangements.
- (6) “Relevant health service accommodation or facilities”, in relation to a person to whom this section applies, means—
- (a) any accommodation or facilities available at premises provided by the Secretary of State by virtue of this Act, being accommodation or facilities which that person is authorised to use for purposes of this Act, or
 - (b) in the case of a person to whom this section applies by virtue of subsection (5) (b), accommodation or facilities which that person is authorised to use for purposes of this Act at premises where services are provided under Chapter 1 of Part 7.

Health service development

268 Persons displaced by health service development **E+W**

- (1) Subsection (2) applies—
- (a) where the carrying out of a scheme for the provision by the Secretary of State in pursuance of this Act of hospital accommodation or other facilities will involve the displacement from any premises of persons living in the premises, and
 - (b) in so far as it appears to the Secretary of State that there is no other residential accommodation suitable for the reasonable requirements of those persons available on reasonable terms.
- (2) The Secretary of State may make arrangements with one or more of the bodies mentioned in subsection (3) for securing the provision, in advance of the displacement, of residential accommodation which becomes necessary as the carrying out of the scheme proceeds.
- (3) The bodies are—
- (a) a local housing authority (within the meaning of the Housing Act 1985 (c. 68)),
 - (b) a housing association or housing trust (within the meaning of the Housing Associations Act 1985 (c. 69)),
 - (c) a development corporation established under the New Towns Act 1981 (c. 64),
 - (d) the Commission for the New Towns.
- (4) Arrangements under subsection (2) may include provision for the making of payments by the Secretary of State to the body with whom the arrangements are made.

Registration of information, etc

269 Special notices of births and deaths **E+W**

- (1) The requirements of this section with respect to the notification of births and deaths are in addition to, and not in substitution for, the requirements of any Act relating to the registration of births and deaths.

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- (2) Each registrar of births and deaths must furnish, to the Primary Care Trust the area of which includes the whole or part of the registrar's sub-district, such particulars of each birth and death which occurred in the area of the Primary Care Trust as are entered in a register of births or deaths kept for that sub-district.
- (3) Regulations may provide as to the manner in which and the times at which particulars must be furnished under subsection (2).
- (4) In the case of each child born—
 - (a) the child's father, if at the time of the birth he is residing on the premises where the birth takes place, and
 - (b) any person in attendance upon the mother at the time of, or within six hours after, the birth,
 must give notice of the birth to the Primary Care Trust for the area in which the birth takes place.
- (5) Subsection (4) applies to any child which is born after the expiry of the twenty-fourth week of pregnancy whether alive or dead.
- (6) Notice under subsection (4) must be given either—
 - (a) by posting within 36 hours after the birth a prepaid letter or postcard addressed to the Primary Care Trust at its offices and containing the required information, or
 - (b) by delivering within that period at the offices of the Primary Care Trust a written notice containing the required information.
- (7) A Primary Care Trust must, upon application to it, supply without charge to any medical practitioner or midwife residing or practising within its area prepaid addressed envelopes together with the forms of notice.
- (8) Any person who fails to give notice of a birth in accordance with subsection (4) is liable on summary conviction to a fine not exceeding level 1 on the standard scale, unless he satisfies the court that he believed, and had reasonable grounds for believing, that notice had been duly given by some other person.
- (9) Proceedings in respect of an offence under subsection (8) must not, without the Attorney-General's written consent, be taken by any person other than a party aggrieved or the Primary Care Trust concerned.
- (10) A registrar of births and deaths must, for the purpose of obtaining information concerning births which have occurred in his sub-district, have access at all reasonable times to—
 - (a) notices of births received by a Primary Care Trust under this section, or
 - (b) any book in which those notices may be recorded.

270 Provision of information by Registrar General E+W

- (1) The Registrar General may provide to the Secretary of State any information to which this section applies.
- (2) Any information provided under subsection (1) must be provided in such form as appears to the Registrar General appropriate for the purpose of assisting the Secretary of State in the performance of his functions in relation to the health service.

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- (3) This section applies to any information—
- (a) entered in any register kept under the Births and Deaths Registration Act 1953 (c. 20),
 - (b) entered in the Adopted Children Register maintained by the Registrar General under the Adoption and Children Act 2002 (c. 38), or
 - (c) which is kept by the Registrar General under any other enactment and relates to any birth or death.
- (4) “Enactment” includes an enactment contained in subordinate legislation.

Status:

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