



# National Health Service (Wales) Act 2006

## 2006 CHAPTER 42

### PART 11

#### PROPERTY AND FINANCE

### CHAPTER 1

#### LAND AND OTHER PROPERTY

#### **159 Acquisition, use and maintenance of property**

- (1) The Welsh Ministers may acquire—
  - (a) any land, either by agreement or compulsorily,
  - (b) any other property,required by them for the purposes of this Act.
- (2) In particular, land may be so acquired to provide residential accommodation for persons employed for any of those purposes.
- (3) The Welsh Ministers may use for the purposes of any of the functions conferred on them by this Act any property belonging to them by virtue of this Act, and they have power to maintain all such property.
- (4) A local social services authority may be authorised to purchase land compulsorily for the purposes of this Act by means of an order made by the authority and confirmed by the Welsh Ministers.
- (5) The Acquisition of Land Act 1981 (c. 67) applies to the compulsory purchase of land under this section.
- (6) Section 120(3) of the Local Government Act 1972 (c. 70) (which relates to the application of Part 1 of the Compulsory Purchase Act 1965 (c. 56) where a council is authorised to acquire land by agreement) applies to the acquisition of land by the

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Welsh Ministers under this section as it applies to such acquisition by a council under that section.

- (7) Sections 238 and 239 of the Town and Country Planning Act 1990 (c. 8) (use and development of consecrated land and burial grounds) apply to consecrated land or land comprised in a burial ground (within the meaning of section 240 of that Act) which—
- (a) the Welsh Ministers hold for the purposes of the health service, and
  - (b) has not been the subject of a relevant acquisition (within the meaning of that section) by them,

as if that land had been the subject of such an acquisition by them for those purposes.

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

- C1** S. 159 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 4, 8(2), [Sch. 2 para. 10](#) (with [Sch. 3 Pt. 1](#))
- C2** S. 159: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

## CHAPTER 2

### TRUSTS

#### 160 Special trustees for a university or teaching hospital

- (1) In this Act “special trustees” are trustees appointed in relation to Wales—
- (a) by the Secretary of State under section 29 of the National Health Service Reorganisation Act 1973 (c. 32),
  - (b) by the Secretary of State or the National Assembly for Wales under section 95 of the National Health Service Act 1977 (c. 49), and
  - (c) by the Welsh Ministers under this section,
- for any hospital falling within subsection (2).
- (2) A hospital falls within this subsection if, immediately before the day appointed for the purposes of section 29 of the National Health Service Reorganisation Act 1973, it was controlled and managed by a University Hospital Management Committee or a Board of Governors, other than—
- (a) a body on whose request an order was made under section 24(2) of that Act, or
  - (b) a preserved Board within the meaning of section 15(6) of that Act.
- (3) Special trustees must hold and administer the property transferred under the National Health Service Reorganisation Act 1973.
- (4) The number of special trustees appointed under this section is such as the Welsh Ministers may from time to time determine after consultation with such persons as they consider appropriate.
- (5) Special trustees have power to accept, hold and administer any property on trust, being a trust which is wholly or mainly for hospitals for which they are appointed, for all or any purposes relating to—
- (a) hospital services (including research), or

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- (b) any other part of the health service associated with hospitals.
- (6) The term of office of any special trustee appointed under this section is to be fixed by the Welsh Ministers, but a special trustee may be removed by the Welsh Ministers at any time during the special trustee's term of office.
- (7) Subsection (3) is subject to sections 161 and 162.

## 161 Transfers of trust property

- (1) The Welsh Ministers may, having regard to any change or proposed change—
  - (a) in the arrangements for the administration of a hospital or other establishment or facility, or
  - (b) in the area or functions of any NHS body other than an NHS foundation trust, by order provide for the transfer of any trust property from any relevant health service body to any other relevant health service body.
- (2) In this section “relevant health service body” means—
  - (a) an NHS body,
  - (b) special trustees, or
  - (c) trustees for [<sup>F1</sup>the National Health Service Commissioning Board or a clinical commissioning group,]<sup>F2</sup>... an NHS trust or an NHS foundation trust.
- (3) Where property is transferred by an order under this section to two or more bodies, it must be apportioned by them in such proportions as they may agree, or as may in default of agreement be determined by the Welsh Ministers, and the order may provide for the way in which the property must be apportioned.
- (4) Where property is so apportioned, the Welsh Ministers may by order make any consequential amendments of the trust instrument relating to the property.
- (5) In this section “special trustees” includes special trustees within the meaning of section 212 of the National Health Service Act 2006 (c. 41).

### Textual Amendments

- F1** Words in s. 161(2)(c) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 34\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** Words in s. 161(2)(c) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 34\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## 162 Transfer of functions and property to or from special trustees

- (1) If it appears to the Welsh Ministers at any time that all the functions of any special trustees should be discharged by [<sup>F3</sup>the National Health Service Commissioning Board, a clinical commissioning group,]<sup>F4</sup>... an NHS trust, a Special Health Authority or an NHS foundation trust, they may by order provide for the transfer of all trust property from the special trustees to the body or, in such proportions as may be specified in the order, to those bodies.
- (2) Before acting under subsection (1) the Welsh Ministers must consult the special trustees and other bodies concerned.

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- (3) If it appears to the Welsh Ministers at any time that—
- (a) the functions of any special trustees should be discharged by the trustees for [<sup>F5</sup>the National Health Service Commissioning Board or a clinical commissioning group]<sup>F6</sup> ... an NHS trust or an NHS foundation trust (“the trustees of the body”), or
  - (b) the functions of the trustees of the body should be discharged by special trustees,
- they may, after consulting the special trustees and the trustees of the body, by order provide for the transfer of all trust property from the special trustees to the trustees of the body, or from the trustees of the body to the special trustees.
- (4) Where property is transferred by an order under this section to two or more bodies, it must be apportioned by them in such proportions as they may agree, or as may in default of agreement be determined by the Welsh Ministers, and the order may provide for the way in which the property must be apportioned.
- (5) Where property is so apportioned, the Welsh Ministers may by order make any consequential amendments of the trust instrument relating to the property.
- (6) “Special trustees” includes special trustees within the meaning of section 212 of the National Health Service Act 2006 (c. 41).

#### Textual Amendments

- F3** Words in s. 162(1) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 35\(2\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in s. 162(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 35\(2\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Words in s. 162(3)(a) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 35\(3\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in s. 162(3)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 35\(3\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## 163 Trustees and property under section 169

- (1) Where property is given in pursuance of section 169 (power of NHS bodies to raise money) to or on trust for any purposes of a hospital for which special trustees have been appointed, the property may be held, administered and applied by the special trustees instead of by the body responsible for the hospital if that body and the special trustees agree.
- (2) The body responsible for a hospital is—
- (a) in the case of a hospital vested in an NHS trust, that trust, and
  - (b) in any other case, the Local Health Board exercising functions of the Welsh Ministers in respect of the hospital.
- (3) Subsection (4) applies where property is given in pursuance of section 169 on trust for any purposes of an NHS trust for which trustees have been appointed under paragraph 10 of Schedule 3, or paragraph 10 of Schedule 4 to the National Health Service Act 2006.

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- (4) Where this subsection applies and the trustees and the NHS trust agree, the property may be held, administered and applied by the trustees instead of by the NHS trust.
- (5) Property given in pursuance of section 169 on trust may be transferred by order of the Welsh Ministers under section 161 or 162 in the same circumstances as other trust property may be transferred under either of those sections.

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

- C3** [S. 163\(2\)\(b\)](#): Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

**164 Application of trust property: further provisions**

- (1) Any discretion given by a trust instrument to the trustees of property transferred under section 161 or 162 is exercisable by the person to whom the property is so transferred and, subject to this section, the transfer does not affect the trusts on which the property is held.
- (2) Where—
  - (a) property has been transferred under section 24 of the National Health Service Reorganisation Act 1973 (c. 32), or section 92 of the National Health Service Act 1977 (c. 49), and
  - (b) any discretion is given by a trust instrument to the trustees to apply the property, or income arising from the property, to such hospital services (including research) as the trustees consider appropriate without any restriction on the kinds of hospital services and without any restriction to one or more specified hospitals,the discretion is enlarged so as to allow the application of the property or of the income arising from the property, to such extent as the trustees consider appropriate, for any other part of the health service associated with any hospital.
- (3) Subsection (2) applies on any subsequent transfer of the property under section 161 or 162.

**165 Trusts: supplementary provisions**

- (1) This section applies in relation to—
  - (a) sections 160 to 162,
  - (b) section 164,
  - (c) section 167,
  - (d) paragraph 10 of Schedule 3, and
  - (e) paragraphs 8 and 9 of Schedule 5.
- (2) A provision—
  - (a) contained in a provision to which this section applies,
  - (b) for the transfer of any property,includes provision for the transfer of any rights and liabilities arising from that property.

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- (3) Where a transfer of property by virtue of a provision to which this section applies is of, or includes—
- (a) land held on lease from a third party, or
  - (b) any other asset leased or hired from a third party or in which a third party has an interest,
- the transfer is binding on the third party notwithstanding that, apart from this subsection, it would have required his consent or concurrence.
- (4) “Third party” means a person other than the Welsh Ministers or an NHS body.
- (5) Nothing in a provision to which this section applies affects any power of Her Majesty, [F7the court (as defined in the Charities Act 2011)] or any other person, to alter the trusts of any charity.
- (6) Nothing in section 12 of the Finance Act 1895 (c. 16) (which requires certain Acts and certain instruments relating to the vesting of property by virtue of an Act to be stamped as conveyances on sale) applies to—
- (a) a provision to which this section applies, or
  - (b) an order made in pursuance of any such provision.
- (7) Stamp duty is not payable on an order falling within subsection (6)(b).

#### Textual Amendments

- F7** Words in s. 165(5) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 112](#) (with s. 20(2), [Sch. 8](#))

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

- C4** S. 165 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 4, 8(2), [Sch. 2 para. 10](#) (with [Sch. 3 Pt. 1](#))

## CHAPTER 3

### PROPERTY TRANSFERRED UNDER THE NATIONAL HEALTH SERVICE ACT 1946

#### 166 Transferred property free of trusts

- (1) The Welsh Ministers may use any property—
- (a) which is vested in them, and
  - (b) to which section 219 of the National Health Service Act 2006 (c. 41) applies,
- for the purpose of any of their functions under this Act.
- (2) But the Welsh Ministers must so far as practicable secure that the objects for which any such property was used immediately before the transfer mentioned in subsection (1) of that section are not prejudiced by the exercise of the power conferred by this section.

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

- C5** [S. 166: Functions made exercisable by Local Health Boards \(1.10.2009\) by The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\), reg. 4, Sch.](#)

### **167 Trust property previously held for general hospital purposes**

- (1) This section applies to property—
- (a) transferred under section 23 of the National Health Service Reorganisation Act 1973 (c. 32) (winding-up of hospital endowment funds), or
  - (b) transferred under section 24 of that Act (transfer of trust property from abolished authorities) and which immediately before the day appointed for the purposes of that section was, in accordance with any provision contained in or made under section 7 of the National Health Service Act 1946 (c. 81), applicable for purposes relating to hospital services or relating to some form of research,
- including any such property which has been further transferred under section 92 of the National Health Service Act 1977 (c. 49).
- (2) This section continues to apply to any such property after any further transfer under section 161 or 162.
- (3) The person holding the property after the transfer or last transfer must secure, so far as is reasonably practicable, that the objects of any original endowment, and the observance of any conditions attached to that endowment, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by this Part of this Act.
- (4) “Original endowment” means a hospital endowment which was transferred under section 7 of the National Health Service Act 1946 and from which the property in question is derived.
- (5) Subject to subsection (3), the property must be held on trust for such purposes relating to hospital services (including research), or to any other part of the health service associated with any hospital, as the person holding the property considers appropriate.
- (6) Where the person holding the property is a body of special trustees, the power conferred by subsection (5) must be exercised as respects the hospitals for which they are appointed.

### **168 Voluntary hospitals**

- (1) Subsection (2) applies where—
- (a) any hospital provided by the Welsh Ministers in accordance with this Act was a voluntary hospital transferred by virtue of the National Health Service Act 1946, and
  - (b) the character and associations of that hospital before its transfer were such as to link it with a particular religious denomination.
- (2) Regard must be had in the general administration of the hospital to the preservation of that character and those associations.

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## CHAPTER 4

### RAISING MONEY

#### 169 Power to raise money

- (1) This section applies to any—
  - (a) Local Health Board,
  - (b) NHS trust, or
  - (c) Special Health Authority.
- (2) A body to which this section applies has power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to—
  - (a) assist the body in providing or improving any services or any facilities or accommodation which is or are, or will be, provided as part of the health service, or
  - (b) assist it in connection with its functions with respect to research.
- (3) Subject to any directions of the Welsh Ministers excluding specified descriptions of activity, the activities authorised by this section include—
  - (a) public appeals or collections,
  - (b) competitions,
  - (c) entertainments,
  - (d) bazaars,
  - (e) sales of produce or other goods, and
  - (f) other similar activities.
- (4) The activities may involve the use of land, premises or other property held by or for the benefit of the body exercising the power.
- (5) Subsection (4) is subject to any restrictions on the purposes for which trust property may be used.
- (6) Subject to this section and section 163, the body at whose instance property is given in pursuance of this section must, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for or for the purpose for which it was given.
- (7) Where property held by a body under this section is more than sufficient to enable the purpose for which it was given to be fulfilled, the excess is applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the body as it considers appropriate.
- (8) Where property held by a body under this section is insufficient to enable the purpose for which it was given to be fulfilled the body may apply so much of the capital or income at its disposal as is needed to enable the purpose to be fulfilled.
- (9) Subsection (8) is subject in the case of trust property to any restrictions on the purpose for which the trust property may be applied and, in the case of money paid or payable by the Welsh Ministers under section 171, to any directions they may give.
- (10) Where the capital or income applicable under subsection (8) is insufficient or is not applied to enable the purpose to be fulfilled, the property held by the body



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is applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the body as it considers appropriate.

- (11) Where under subsection (7) or (10) property becomes applicable for purposes other than that for which it was given the body applying the property must have regard to the desirability of applying it for a purpose similar to that for which it was given.
- (12) References in this section to the purposes for which trust property may be used or applied include, in the case of trust property which has been transferred under section 161 or 162, references to those purposes as enlarged by section 164.

## CHAPTER 5

### FORMATION OF COMPANIES

#### 170 Public-private partnerships

- (1) The Welsh Ministers may form, or participate in forming, companies to provide facilities or services to persons or bodies exercising functions, or otherwise providing services, under this Act.
- (2) The Welsh Ministers may, with a view to securing or facilitating the provision by companies of facilities or services to persons or bodies falling within subsection (1)—
  - (a) invest in the companies (whether by acquiring assets, securities or rights or otherwise), or
  - (b) provide loans and guarantees and make other kinds of financial provision to or in respect of them,or both.
- (3) For the purposes of subsections (1) and (2) it is immaterial that the facilities or services provided or to be provided by the companies in question are not provided or to be provided—
  - (a) only to persons or bodies falling within subsection (1), or
  - (b) to persons or bodies falling within subsection (1) only in their capacities as persons or bodies such as are mentioned in that provision.
- (4) “Companies” means companies [<sup>F8</sup>as defined in section 1(1) of the Companies Act 2006].
- (5) This section does not affect any powers of the Welsh Ministers exercisable otherwise than by virtue of this section.

#### Textual Amendments

- F8** Words in s. 170(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 259** (with art. 10)

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## CHAPTER 6

### FINANCE

#### *Special Health Authorities*

#### **171 Means of meeting expenditure of Special Health Authorities out of public funds**

- (1) The Welsh Ministers must pay in respect of each financial year to each Special Health Authority sums not exceeding the amount allotted for that year by the Welsh Ministers to the Special Health Authority towards meeting the expenditure of the Special Health Authority which is attributable to the performance by it of its functions in that year.
- (2) An amount is allotted to a Special Health Authority for a year under this section when it is notified by the Welsh Ministers that the amount is allotted to it for that year.
- (3) The Welsh Ministers may make an allotment under this section increasing or reducing an allotment previously so made.
- (4) The Welsh Ministers may give directions to a Special Health Authority with respect to—
  - (a) the application of sums paid to it under this section, or
  - (b) the payment of sums by it to the Welsh Ministers in respect of charges or other sums referable to the valuation or disposal of assets.
- (5) Sums falling to be paid to Special Health Authorities under this section are payable subject to such conditions as to records, certificates or otherwise as the Welsh Ministers may determine.

#### **172 Financial duties of Special Health Authorities**

- (1) Each Special Health Authority must, in respect of each financial year, perform its functions so as to secure that its expenditure which is attributable to the performance by it of its functions in that year does not exceed the aggregate of—
  - (a) the amount allotted to it for that year under section 171(1),
  - (b) any sums received by it in that year under any provision of this Act (other than sums received by it under that subsection), and
  - (c) any sums received by it in that year otherwise than under this Act for the purpose of enabling it to defray any such expenditure.
- (2) The Welsh Ministers may give such directions to a Special Health Authority as appear to be requisite to secure that the Special Health Authority complies with the duty under subsection (1).
- (3) To the extent to which—
  - (a) any expenditure is defrayed by a Special Health Authority as trustee or on behalf of a Special Health Authority by special trustees, or
  - (b) any sums are received by a Special Health Authority as trustee or under section 169,
 that expenditure and, subject to subsection (5), those sums, must be disregarded for the purposes of this section.

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- (4) For the purposes of this section sums which in the hands of a Special Health Authority cease to be trust funds and become applicable by the Special Health Authority otherwise than as trustee must be treated, on their becoming so applicable, as having been received by the Special Health Authority otherwise than as trustee.
- (5) Of the sums received by a Special Health Authority under section 169 so much only as accrues to the Special Health Authority after defraying any expenses incurred in obtaining them must be disregarded under subsection (3).
- (6) Subject to subsection (3), the Welsh Ministers may by directions determine—
  - (a) whether specified sums must, or must not, be treated for the purposes of this section as received under this Act by a specified Special Health Authority,
  - (b) whether specified expenditure must, or must not, be treated for those purposes as expenditure within subsection (1) of a specified Special Health Authority, or
  - (c) the extent to which, and the circumstances in which, sums received by a Special Health Authority under section 171 but not yet spent must be treated for the purposes of this section as part of the expenditure of the Special Health Authority and to which financial year's expenditure they must be attributed.
- (7) “Specified” means of a description specified in the directions.

### **173 Resource limits for Special Health Authorities**

- (1) Each Special Health Authority must ensure that the use of its resources in a financial year does not exceed the amount specified for it in relation to that year by the Welsh Ministers.
- (2) For the purpose of subsection (1) the Welsh Ministers may give directions—
  - (a) specifying uses of resources which must, or must not, be taken into account,
  - (b) making provision for determining to which Special Health Authority certain uses of resources must be attributed,
  - (c) specifying descriptions of resources which must, or must not, be taken into account.
- (3) The Welsh Ministers may give such directions to a Special Health Authority as appear to be requisite to secure that it complies with the duty under subsection (1).
- (4) Subsections (3) to (5) of section 172 apply in relation to the duty under subsection (1) of this section as they apply in relation to the duties under subsections (1) and (2) of that section; and for that purpose references to the defraying of expenditure and the receipt of sums are references to the incurring of liabilities and the acquisition of assets.
- (5) Where the Welsh Ministers have specified an amount under this section in respect of a financial year, they may vary the amount by a later specification.
- (6) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

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### Local Health Boards

#### 174 Public funding of Local Health Boards

- (1) The Welsh Ministers must, in respect of each financial year, pay to each Local Health Board—
  - (a) sums equal to its general ophthalmic <sup>F9</sup> . . . services expenditure, and
  - (b) sums not exceeding the amount allotted by the Welsh Ministers to the Local Health Board for that year towards meeting the Local Health Board's main expenditure in that year.
- (2) In determining the amount to be allotted for any year to a Local Health Board under subsection (1)(b) (or in varying the amount under subsection (9)), the Welsh Ministers may take into account, in whatever way they consider appropriate—
  - (a) the Local Health Board's general ophthalmic <sup>F9</sup> . . . services expenditure, and
  - (b) expenditure which would have been the Local Health Board's general ophthalmic <sup>F9</sup> . . . services expenditure but for an order under section 180(2) (special arrangements as to payment of remuneration),
 during any period the Welsh Ministers consider appropriate (or such elements of that expenditure as they consider appropriate).
- (3) Where the Welsh Ministers have made an initial determination of the amount (“the initial amount”) to be allotted for any year to a Local Health Board under subsection (1) (b), they may increase the initial amount by a further sum if it appears to them that over a period notified to the Local Health Board—
  - (a) it satisfied any objectives notified to it as objectives to be met in performing its functions, or
  - (b) it performed well against any criteria notified to it as criteria relevant to the satisfactory performance of its functions (whether or not the method of measuring its performance against those criteria was also notified to it).
- (4) “Notified” means specified or referred to in a notice given to the Local Health Board by the Welsh Ministers.
- (5) In making any increase under subsection (3), the Welsh Ministers may (whether by directions under subsection (10) or otherwise) impose any conditions they consider appropriate on the application or retention by the Local Health Board of the sum in question.
- (6) Subsection (7) applies where—
  - (a) the Welsh Ministers have, under subsection (3), increased by any sum the amount to be allotted for any year to a Local Health Board,
  - (b) the Welsh Ministers have notified the Local Health Board of the allotment, and
  - (c) it subsequently appears to the Welsh Ministers that the Local Health Board has failed (wholly or in part) to satisfy any conditions imposed in making that increase.
- (7) Where this subsection applies, the Welsh Ministers may reduce—
  - (a) the allotment made to the Local Health Board for that year, or
  - (b) when the Welsh Ministers have made an initial determination of the amount (“the initial amount”) to be allotted for any subsequent year to the Local Health Board under subsection (1)(b), the initial amount,

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- by an amount not exceeding the sum mentioned in subsection (6)(a).
- (8) An amount is allotted to a Local Health Board for a year under this section when the Local Health Board is notified by the Welsh Ministers that the amount is allotted to it for that year.
- (9) The Welsh Ministers may make an allotment under this section increasing or reducing (subject to subsection (7)) an allotment previously so made; and the reference to a determination in subsection (3) includes a determination made with a view to increasing or reducing an allotment previously so made.
- (10) The Welsh Ministers may give directions to a Local Health Board with respect to—
- (a) the application of sums paid to it under this section, or
  - (b) the payment of sums by it to the Welsh Ministers in respect of charges or other sums referable to the valuation or disposal of assets.
- (11) Sums falling to be paid to Local Health Boards under this section are payable subject to such conditions as to records, certificates or otherwise as the Welsh Ministers may determine.
- (12) “General ophthalmic<sup>F9</sup> . . . services expenditure” and “main expenditure” are defined in Schedule 8.

#### Textual Amendments

- F9** Words in s. 174(1)(a)(2)(a)(b)(12) repealed (21.5.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 140, 166, 170, Sch. 12 para. 7, [Sch. 15 Pt. 4](#); [S.I. 2010/1457](#), [art. 2](#)

## 175 Financial duties of Local Health Boards

- (1) Each Local Health Board must, in respect of each financial year, perform its functions so as to secure that its expenditure which is attributable to the performance by it of its functions in that year (not including its general ophthalmic<sup>F10</sup> . . . services expenditure) does not exceed the aggregate of—
- (a) the amount allotted to it for that year under section 174(1)(b),
  - (b) any sums received by it in that year under any provision of this Act (other than sums received by it under that section), and
  - (c) any sums received by it in that year otherwise than under this Act for the purpose of enabling it to defray any such expenditure.
- (2) The Welsh Ministers may give such directions to a Local Health Board as appear to be requisite to secure that it complies with the duty under subsection (1).
- (3) To the extent to which—
- (a) any expenditure is defrayed by a Local Health Board as trustee or on behalf of a Local Health Board by special trustees, or
  - (b) any sums are received by a Local Health Board as trustee or under section 169, that expenditure and, subject to subsection (5) those sums, must be disregarded for the purposes of this section.
- (4) For the purposes of this section sums which, in the hands of a Local Health Board, cease to be trust funds and become applicable by the Local Health Board otherwise

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than as trustee must be treated, on their becoming so applicable, as having been received by the Local Health Board otherwise than as trustee.

- (5) Of the sums received by a Local Health Board under section 169 so much only as accrues to the Local Health Board after defraying any expenses incurred in obtaining them must be disregarded under subsection (3).
- (6) Subject to subsection (3), the Welsh Ministers may by directions determine—
- (a) whether specified sums must, or must not, be treated for the purposes of this section as received under this Act by a specified Local Health Board,
  - (b) whether specified expenditure must, or must not, be treated for those purposes as expenditure within subsection (1) of a specified Local Health Board, or
  - (c) the extent to which, and the circumstances in which, sums received by a Local Health Board under section 174 but not yet spent must be treated for the purposes of this section as part of the expenditure of the Local Health Board and to which financial year's expenditure they must be attributed.
- (7) “Specified” means of a description specified in the directions.

#### Textual Amendments

**F10** Words in s. 175(1) repealed (21.5.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 140, 166, 170, Sch. 12 para. 8, [Sch. 15 Pt. 4](#); S.I. 2010/1457, [art. 2](#)

## 176 Resource limits for Local Health Boards

- (1) Each Local Health Board must ensure that the use of its resources in a financial year does not exceed the amount specified for it in relation to that year by the Welsh Ministers.
- (2) For the purpose of subsection (1) no account may be taken of any use of resources for the purpose of a Local Health Board's general ophthalmic<sup>F11</sup> . . . services expenditure.
- (3) But in specifying an amount for a Local Health Board under subsection (1) (or in varying the amount under subsection (5)), the Welsh Ministers may take into account (in whatever way they consider appropriate)—
- (a) any such use of resources, and
  - (b) the use of any resources which would have been for the purpose of the Local Health Board's general ophthalmic<sup>F11</sup> . . . services expenditure but for an order under section 180(2) (special arrangements as to payment of remuneration), during any period they consider appropriate (or such elements of such uses of resources as they consider appropriate).
- (4) For the purpose of subsection (1) the Welsh Ministers may give directions—
- (a) specifying uses of resources which must, or must not, be taken into account,
  - (b) making provision for determining to which Local Health Board certain uses of resources must be attributed,
  - (c) specifying descriptions of resources which must, or must not, be taken into account.
- (5) Where the Welsh Ministers have specified an amount under this section in respect of a financial year, they may vary the amount by a later specification.

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- (6) Subsections (3) to (5) of section 175 apply in relation to the duty under subsection (1) of this section as they apply in relation to the duty under subsection (1) of that section; and for that purpose references to the defraying of expenditure and the receipt of sums are references to the incurring of liabilities and the acquisition of assets.
- (7) The Welsh Ministers may give such directions to a Local Health Board as appear to be requisite to secure that it complies with the duty under subsection (1).
- (8) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

#### Textual Amendments

- F11** Words in s. 176(2)(3)(b) repealed (21.5.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 140, 166, 170, Sch. 12 para. 9, [Sch. 15 Pt. 4](#); S.I. 2010/1457, [art. 2](#)

### 177 Further provision about the expenditure of Local Health Boards

Schedule 8 makes further provision about the expenditure of Local Health Boards.

#### *Accounts and audit*

### 178 Accounts and audit

Schedule 9 makes provision about the accounts of certain health service bodies and the auditing of such accounts.

#### *Allowances and remuneration*

### 179 Allowances for members of certain bodies

- (1) The Welsh Ministers may pay to members of any body specified by them in an order as a body formed for the purpose of performing a function connected with the provision of services under this Act, such travelling and other allowances, including compensation for loss of remunerative time, as they may determine.
- (2) Payments under this section are subject to such conditions as to records, certificates, or otherwise as the Welsh Ministers may determine.

### 180 Special arrangement as to payment of remuneration

- (1) Subsection (2) applies where the Welsh Ministers consider it appropriate for remuneration in respect of—
  - (a) primary medical services or primary dental services,
  - (b) general ophthalmic services, or
  - (c) pharmaceutical services,to be paid by a particular body.

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- (2) Where this subsection applies, and the functions of the body do not include the function of paying the remuneration, the Welsh Ministers may by order confer that function on that body.
- (3) Any sums required to enable a body to pay the remuneration must, if apart from this section there is no provision authorising the payment of the sums by the Welsh Ministers or out of money provided by Parliament, be paid by them.
- (4) If the Welsh Ministers by order so provide with respect to remuneration in respect of such pharmaceutical services or such local pharmaceutical services as may be specified in the order—
  - (a) an NHS trust determined in accordance with the order has the function of paying sums so determined to a Local Health Board so determined in respect of the whole or any part of that remuneration, and
  - (b) subsection (3) does not apply with respect to the whole or that part of the remuneration.

## 181 Payments for certain medical examinations

- (1) Where a medical practitioner carries out a medical examination of any person with a view to an application for his admission to hospital for assessment or treatment being made under Part 2 of the Mental Health Act 1983 (c. 20) the Welsh Ministers must pay to that medical practitioner—
  - (a) reasonable remuneration in respect of that examination and in respect of any recommendation or report made by him with regard to the person examined, and
  - (b) the amount of any expenses reasonably incurred by him in connection with the examination or the making of any such recommendation or report.
- (2) No payment may be made under this section to a medical practitioner—
  - (a) in respect of an examination carried out in the provision of primary medical services for that person, or
  - (b) in respect of an examination carried out or any recommendation or report made as part of his duty as an officer of<sup>F12</sup>... [<sup>F13</sup>an] NHS trust, Special Health Authority, NHS foundation trust or Local Health Board.
- (3) This section applies only in a case where it is intended, when the medical examination of the person in question is carried out, that if he is admitted to hospital in pursuance of an application mentioned in subsection (1), the whole cost of his maintenance and treatment will be defrayed out of moneys provided by Parliament.

### Textual Amendments

**F12** Words in s. 181(2)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 36(a); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F13** Word in s. 181(2)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 36(b); S.I. 2013/160, art. 2(2) (with arts. 7-9)



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