



# National Health Service (Wales) Act 2006

## 2006 CHAPTER 42

### PART 14 **E+W**

#### SUPPLEMENTARY

#### **202 Territorial limit of exercise of functions **E+W****

The functions of the Welsh Ministers under this Act are exercisable only in relation to Wales.

#### **203 Orders, regulations and directions **E+W****

- (1) This section does not apply to Part 10 (as to which, see section 157).
- (2) Subject to subsection (3), any power under this Act to make an order or regulations is exercisable by statutory instrument.
- (3) Subsection (2) does not apply to an order under—
  - (a) section 26(2),
  - (b) section 159(4),
  - (c) paragraph 20, 21, 22 or 24 of Schedule 2,
  - (d) paragraph 9, 27 or 29 of Schedule 3, or
  - (e) paragraph 2 of Schedule 12.
- (4) Subject to subsections (5) to (7), a statutory instrument made by virtue of this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (5) Subsection (4) does not apply to a statutory instrument containing an order under—
  - (a) section 18,
  - (b) Schedule 3, or
  - (c) paragraph 1(1) of Schedule 4.

*Status: Point in time view as at 01/04/2019.*

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(6) A statutory instrument containing an order under section 141(4) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

[<sup>F1</sup>(6A) A statutory instrument containing the first regulations under section 82A (pharmaceutical needs assessments) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.]

(7) If a statutory instrument made by virtue of this Act, which is subject to annulment in pursuance of a resolution of the National Assembly for Wales—

- (a) contains subordinate legislation made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers, the First Minister or the Counsel General),
- (b) contains subordinate legislation relating to an English border area, or
- (c) contains subordinate legislation relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales),

the statutory instrument is subject also to annulment in pursuance of a resolution of either House of Parliament.

(8) In subsection (7), “English border area” and “cross-border body” have the meaning given by the Government of Wales Act 2006 (c. 32).

(9) Any power under this Act to make orders, regulations or schemes, and any power to give directions—

- (a) may be exercised 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) may be exercised 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, and

(c) may, in particular, make different provision for different areas.

(10) Any such power includes power—

- (a) to make such incidental, supplementary, consequential, saving or transitional provision (including, in the case of a power to make an order or regulations, provision amending, repealing or revoking enactments) as the person or body exercising the power considers to be expedient, and
- (b) to provide for a person to exercise a discretion in dealing with any matter.

#### Textual Amendments

**F1** S. 203(6A) inserted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 111(2), 126(2)**; [S.I. 2019/829](#), **art. 2**

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

- C1** S. 203(4)-(8) excluded (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 5, 8\(2\), Sch. 3 para. 10\(5\)](#) (with Sch. 3 Pt. 1)
- C2** S. 203(9)(10) applied (1.3.2007) by [2006 c. 28, s. 70\(3\)](#) (as substituted by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 2, 8\(2\), Sch. 1 para. 285](#) (with Sch. 3 Pt. 1))
- C3** S. 203(9) applied by [2007 c. 18, s. 42\(5C\)](#) (as inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 287\(3\), 306\(1\)\(d\), \(4\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9))

**204 Further provision about orders and directions under this Act** **E+W**

- (1) Where under or by virtue of any provision of this Act—
- (a) an order may be made, or
  - (b) directions may be given,
- that provision includes power to vary or revoke the order or directions by subsequent order or by subsequent directions.
- (2) Subsection (1) does not affect section 14(b) of the Interpretation Act 1978 (c. 30).
- (3) A direction under this Act by the Welsh Ministers must be given—
- (a) (subject to paragraphs (b) and (c)), by an instrument in writing,
  - (b) in the case of a direction under—
    - (i) section 12(1)(a),
    - (ii) section 24 about a function under section 4, 145 or 146, or
    - (iii) section 147(2),by regulations,
  - (c) in the case of—
    - (i) any other direction under section 12,
    - (ii) any other direction under section 24, or
    - (iii) a direction under section 13, 19, 23, 45, 52(4), 60 or 66(4),by regulations or an instrument in writing.
- (4) Subsection (3) does not apply to a direction under section 46 (as to which, see that section).

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

- C4** S. 204(1) applied by [2007 c. 18, s. 42\(5C\)](#) (as inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 287\(3\), 306\(1\)\(d\), \(4\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9))

**205 Supplementary regulatory powers** **E+W**

Regulations may provide for—

- (a) prescribing the forms and manner of service of notices and other documents,
- (b) prescribing the manner in which documents may be executed or proved,
- (c) exempting judges and justices of the peace from disqualification by their liability to rates.

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## 206 Interpretation **E+W**

(1) In this Act (except where the context otherwise requires)—

[<sup>F2</sup>“clinical commissioning group” means a body established under section 14D of the National Health Service Act 2006,]

“dental practitioner” means a person registered in the dentists register under the Dentists Act 1984 (c. 24),

“facilities” includes the provision of (or the use of) premises, goods, materials, vehicles, plant or apparatus,

<sup>F3</sup>

“financial year” means a period of 12 months ending with 31st March in any year,

“functions” includes powers and duties,

“goods” include accommodation,

“the health service” means the health service continued under section 1(1) and under section 1(1) of the National Health Service Act 2006 (c. 41),

“health service hospital” means a hospital vested in the Welsh Ministers for the purposes of their functions under this Act or vested in an NHS trust,

“hospital” means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution, and “hospital accommodation” must be construed accordingly,

“illness” includes [<sup>F4</sup>any disorder or disability of the mind] and any injury or disability requiring medical or dental treatment or nursing,

“local authority” means a county council, a county borough council, a district council, a London borough council, and the Common Council of the City of London,

<sup>F5</sup>

“local pharmaceutical services” means such services as are prescribed under section 92(7) or paragraph 1(7) of Schedule 7,

“local social services authority” means the council of a non-metropolitan county, of a county borough or of a metropolitan district or London borough, or the Common Council of the City of London,

“medical” includes surgical,

“medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the Interpretation Act 1978 (c. 30),

“medicine” includes such chemical re-agents as are included in a list approved by the Welsh Ministers for the purposes of section 80,

“modifications” includes additions, omissions and amendments,

[<sup>F6</sup>“NHS body” means—

- (a) a Special Health Authority,
- (b) an NHS trust,
- (c) an NHS foundation trust,

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- (d) a Local Health Board,
- (e) the National Health Service Commissioning Board, and
- (f) a clinical commissioning group.]

“NHS trust” includes an NHS trust established under the National Health Service Act 2006 [<sup>F7</sup>(including a body that becomes a National Health Service trust by virtue of an order made under section <sup>F8</sup>... 65E(1) of that Act)],

“officer” includes servant,

“optometrist” means a person registered in the register of optometrists maintained under section 7 of the Opticians Act 1989 (c. 44) [<sup>F9</sup>, or in the register of visiting optometrists from relevant European States maintained under section 8B(1)(a) of that Act,] or a body corporate registered in the register of bodies corporate maintained under section 9 of that Act carrying on business as an optometrist,

“patient” includes a woman who is pregnant or breast-feeding or who has recently given birth,

“prescribed” means prescribed by regulations made by the Welsh Ministers,

<sup>F10</sup>  
...

“property” includes rights,

[<sup>F11</sup>“registered pharmacist” means a person registered as a pharmacist in Part 1 or 4 of the register maintained under article 19 of the Pharmacy Order 2010,]

[<sup>F12</sup>“Regulation (EC) No. 883/2004” means Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems,]

“regulations” means regulations made by the Welsh Ministers,

“Special Health Authority” includes a Special Health Authority established under the National Health Service Act 2006 (c. 41),

<sup>F13</sup>  
...

“university” includes a university college,

“voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

- (2) In this Act (except where the context otherwise requires) any reference to a body established under this Act or the National Health Service Act 2006 (c. 00) includes a reference to a body continued in existence by virtue of this Act or that Act.
- (3) Any reference in this Act to the purposes of a hospital is a reference to its general purposes and to any specific purpose.

#### Textual Amendments

- F2** Words in s. 206(1) inserted (1.2.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 38\(1\)\(a\)](#); S.I. 2012/2657, art. 2(4) (with art. 13)
- F3** S. 206(1): definition of “the FHSAA” omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), [Sch. 2 para. 140](#)
- F4** S. 206(1): words in definition of “illness” substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 1(4), 56(1), [Sch. 1 para. 25](#); S.I. 2008/1900, art. 2(a) (with art. 3, Sch.)

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- F5** S. 206(1): definition of "local education authority" omitted (5.5.2010) by virtue of [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 5(1)(2), [Sch. 2 para. 61\(4\)](#), Sch. 3 Pt. 2
- F6** Words in s. 206(1) inserted (1.2.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 38\(1\)\(b\)](#) (with [Sch. 21 para. 38\(2\)](#)); S.I. 2012/2657, art. 2(4) (with art. 13)
- F7** Words in s. 206(1) inserted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\)](#), [ss. 18\(12\), 40\(1\)](#); S.I. 2010/30, [art. 3\(b\)](#)
- F8** Words in s. 206(1) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 173\(8\), 306\(4\)](#); S.I. 2012/2657, art. 2(2)
- F9** S. 206(1): words in definition of "optometrist" inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), [reg. 204](#)
- F10** Words in s. 206(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 38\(1\)\(c\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F11** S. 206(1): definition of "registered pharmacist" substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\)](#), arts. 1, 68, [Sch. 4 para. 14\(4\)](#); S.I. 2010/1621, [art. 2\(1\)](#), Sch.
- F12** S. 206(1): definition of "Regulation EC No. 883/2004" inserted (1.6.2010) by [The National Health Service \(Reimbursement of the Cost of EEA Treatment\) Regulations 2010 \(S.I. 2010/915\)](#), [reg. 7](#)
- F13** Words in s. 206(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 38\(1\)\(d\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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

- C5** Ss. 71, 72, 78, 80, 109, 198, 206 modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [ss. 5, 8\(2\)](#), [Sch. 3 para. 4](#) (with [Sch. 3 Pt. 1](#))
- C6** S. 206 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [ss. 4, 8\(2\)](#), [Sch. 2 para. 11](#) (with [Sch. 3 Pt. 1](#))
- C7** S. 206(1) modified (temp.) (1.2.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 38\(2\)](#); S.I. 2012/2657, art. 2(4) (with art. 13)

## 207 Index of defined expressions **E+W**

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

body established under this Act	section 206(2)
commissioner, in relation to an NHS contract	section 7(1)
contractor, in relation to a general dental services contract	section 57(4)
contractor, in relation to a general medical services contract	section 42(5)
fraud case	section 107(3)
general dental services contract	section 57(2)
general medical services contract	section 42(2)
general ophthalmic services	section 71(10)
NHS body	section 22(6)
LPS scheme	paragraph 1(2) of Schedule 7
NHS contract	section 7(1)

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NHS trust order	section 18(2)
ophthalmic list	section 72(7)
optical appliances	section 128(5)
pharmaceutical list	section 83(11)
pharmaceutical services	section 80(8)
pilot scheme	section 92(2)
practitioner	section 107(9)
primary dental services	section 56
primary medical services	section 41
purposes of a hospital	section 206(3)
provider, in relation to an NHS contract	section 7(1)
relevant dental service	section 125(4)
section 50 arrangements	section 50(7)
section 64 arrangements	section 64(7)
special trustees	section 160(1)
supplementary list	section 105(2)
terms of service	section 104(7)
unsuitability case	section 107(4)

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## 208 Commencement **E+W**

- (1) Subject to this section, this Act comes into force on 1st March 2007.
- (2) In this section—
  - (a) “the 1977 Act” means the National Health Service Act 1977 (c. 49), and
  - (b) “the 2006 Act” means the Health Act 2006 (c. 28).
- (3) Subsection (4) applies to—
  - (a) subsections (1) and (2) of section 40 of the Health and Social Care Act 2001 (c. 15) and section 28J of, and Schedule 8A to, the 1977 Act as inserted by those subsections (see section 102 of, and Schedule 7 to, this Act),
  - (b) subsection (7) of section 45 of the Nationality, Immigration and Asylum Act 2002 (c. 41) and paragraph 2(2B) of Schedule 8 to the 1977 Act as substituted by that subsection (see paragraph 2(7) of Schedule 15 to this Act),
  - (c) paragraph 3 of the Schedule to the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2006 (S.I. 2006/1056) and section 41B(2) and (6)(b) of the 1977 Act as amended by that paragraph (see section 82 of this Act),
  - (d) sub-paragraphs (a) and (b) of paragraph 5 of that Schedule and section 4A(1) and (3) of the National Health Service and Community Care Act 1990 (c. 19) as amended by those sub-paragraphs (see section 9 of this Act),

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- (e) sub-paragraph (c) of paragraph 5 of that Schedule and section 4A(4) of the National Health Service and Community Care Act 1990 (c. 19) as added by that sub-paragraph (see section 9 of this Act),
  - (f) section 34 of the 2006 Act, and section 42B of the 1977 Act as inserted by that section (see section 85 of this Act),
  - (g) section 35 of the 2006 Act, and subsections (2B) and (2C) of section 42 of the 1977 Act as inserted by that section (see section 83 of this Act),
  - (h) subsection (1) of section 36 of the 2006 Act, and section 43(2) of the 1977 Act as substituted by that subsection (see section 86 of this Act),
  - (i) subsection (2) of section 42 of the 2006 Act, and paragraph 2A(1)(b) of Schedule 12 to the 1977 Act as substituted by that subsection (see section 129 of this Act),
  - (j) sections 44 to 55 of the 2006 Act, and sections 76 to 78 of that Act so far as relating to those sections (see Part 10 of this Act),
  - (k) section 56 of, and paragraph 24(a) of Schedule 8 to, that Act and—
    - (i) section 98 of the 1977 Act as substituted by section 56 of that Act, and
    - (ii) Schedule 12B to the 1977 Act as inserted by that section,
 (see section 178 of, and Schedule 9 to, this Act),
  - (l) paragraphs 7(2) and (3), 29 and 46 of Schedule 8 to, the 2006 Act (which relate to primary ophthalmic services) and—
    - (i) the 1977 Act,
    - (ii) section 4A of the National Health Service and Community Care Act 1990, and
    - (iii) Schedule 1 to the Health and Social Care Act 2001 (c. 15),
 to the extent that a provision mentioned in any of sub-paragraphs (i) to (iii), as amended by any of those provisions of the 2006 Act, relates to primary ophthalmic services,
  - (m) paragraphs 10, 12(b), 13(3) and (4), 14, 18, 19, 21(a) and 24(b) of Schedule 8 to the 2006 Act (which relate to the substitution of “optometrist” for “ophthalmic optician”) and any provision of the 1977 Act as amended by such a provision.
- (4) To the extent that—
- (a) this Act re-enacts a provision to which this subsection applies, and
  - (b) the provision has not come into force before the commencement of this Act, the re-enactment by this Act of the provision does not come into force until the provision which is re-enacted comes into force; and the re-enactment comes into force immediately after, and to the extent that, the provision which is re-enacted comes into force.
- (5) Accordingly, the re-enactment by this Act of the provision does not affect any power to bring the provision into force.

## 209 Short title, extent and application E+W

- (1) This Act may be cited as the National Health Service (Wales) Act 2006.
- (2) This Act extends to England and Wales only.
- (3) The Secretary of State may by order provide that this Act, in its application to the Isles of Scilly, has effect with such modifications as may be specified in the order.



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- (4) An order under subsection (3) has effect as if made under the National Health Service Act 2006 (c. 41) (and accordingly, sections 272 and 273 of that Act apply to any such order).

**Status:**

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