



# Health and Social Care Act 2008

## 2008 CHAPTER 14

### PART 5

#### MISCELLANEOUS

##### *Financial assistance related to provision of health or social care services*

#### **149 Power of Secretary of State to give financial assistance**

- (1) The Secretary of State may give financial assistance to qualifying bodies which are engaged in—
  - (a) the provision in England of health services or of social care services, or
  - (b) the provision to other persons of services that are connected with the provision in England by those other persons of health services or of social care services.
- (2) The Secretary of State may also give financial assistance to persons for the purposes of the establishment by them of qualifying bodies which satisfy any conditions prescribed for the purposes of this subsection and which are to be engaged in—
  - (a) the provision in England of health services or of social care services, or
  - (b) the provision to other persons of services that will be connected with the provision in England by those other persons of health services or of social care services.

#### **Commencement Information**

- II** S. 149 in force at 1.4.2009 by [S.I. 2008/2994](#), [art. 3\(2\)\(a\)](#)

#### **150 Qualifying bodies**

- (1) A body is a qualifying body for the purposes of this group of sections if—
  - (a) a reasonable person might consider that its activities are being carried on for the benefit of the community in England,

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- (b) except in the case of a body of a prescribed kind, it satisfies prescribed conditions relating to the distribution of its profits,
  - (c) it is carrying on a business, and
  - (d) it satisfies such other conditions as may be prescribed.
- (2) Regulations may provide that—
- (a) a body may only be a qualifying body if it is of a prescribed kind;
  - (b) activities of a prescribed description are to be treated as being, or as not being, activities which a reasonable person might consider are activities carried on for the benefit of the community in England.
- (3) “Community” includes a section of the community; and regulations may make provision about what does, does not or may constitute a section of the community.

#### Commencement Information

- I2** S. 150 partly in force; s. 150 in force for specified purposes at Royal Assent, see s. 170
- I3** S. 150 in force at 1.4.2009 in so far as not already in force by [S.I. 2008/2994](#), [art. 3\(2\)\(b\)](#)

### 151 Forms of assistance under s. 149

- (1) Subject to subsection (3), financial assistance under section 149 may be given in any form.
- (2) Assistance may, in particular, be given by way of—
- (a) grants,
  - (b) loans,
  - (c) guarantees, or
  - (d) in the case of assistance under section 149(1) given to a company, purchasing share capital of the company.
- (3) Financial assistance under section 149(2) given to a company may not be given by way of purchasing share capital of the company.

#### Commencement Information

- I4** S. 151 in force at 1.4.2009 by [S.I. 2008/2994](#), [art. 3\(2\)\(c\)](#)

### 152 Terms on which assistance under s. 149 is given

- (1) Financial assistance under section 149 may be given on such terms as the Secretary of State considers appropriate.
- (2) The terms may, in particular, include provisions as to—
- (a) circumstances in which the assistance is to be repaid, or otherwise made good, to the Secretary of State, and the manner in which that is to be done;
  - (b) the keeping, and making available for inspection, of accounts and other records.
- (3) The person receiving assistance under section 149 must comply with the terms on which it is given, and compliance may be enforced by the Secretary of State.

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#### Commencement Information

**I5** S. 152 in force at 1.4.2009 by [S.I. 2008/2994](#), [art. 3\(2\)\(d\)](#)

### 153 Directions to certain NHS bodies

- (1) The Secretary of State may direct—
  - (a) a Primary Care Trust,
  - (b) a Strategic Health Authority,
  - (c) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in England, or
  - (d) a Special Health Authority performing functions only or mainly in respect of England,to exercise any functions of the Secretary of State in relation to financial assistance under section 149.
- (2) The Secretary of State may give directions to any of the bodies mentioned in subsection (1) about the exercise by it of any function of the Secretary of State which it exercises by virtue of that subsection.

#### Commencement Information

**I6** S. 153 in force at 1.4.2009 by [S.I. 2008/2994](#), [art. 3\(2\)\(e\)](#)

### 154 Arrangements with other third parties

- (1) The Secretary of State may make arrangements for—
  - (a) financial assistance under section 149 to be given, or
  - (b) other functions relating to such assistance to be exercised,by a person other than a body mentioned in section 153(1) or an English local authority.
- (2) A person with whom the Secretary of State makes arrangements under subsection (1) is referred to in this section as P.
- (3) Arrangements under subsection (1) may provide for the functions concerned to be exercised by P—
  - (a) either wholly or to such extent as may be specified in the arrangements, and
  - (b) either generally or in such cases or circumstances as may be so specified.
- (4) Arrangements under subsection (1) may make provision—
  - (a) subject to section 151(3), as to the forms of financial assistance which may be given by P, and
  - (b) as to the terms on which financial assistance may be given by P.
- (5) Arrangements under subsection (1) may—
  - (a) provide for the Secretary of State to make payments to P, and
  - (b) make provision as to the circumstances in which any such payments are to be repaid to the Secretary of State.

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- (6) In subsection (1) “English local authority” includes a non-metropolitan district council for an area for which there is a county council.

**Commencement Information**

**I7** S. 154 in force at 1.4.2009 by [S.I. 2008/2994](#), [art. 3\(2\)\(f\)](#)

**155 Power to form company**

The Secretary of State may form, or participate in forming, one or more companies with a view to making arrangements under section 154(1) with the companies for financial assistance under section 149 to be given, or other functions relating to such assistance to be exercised, by the company.

**Commencement Information**

**I8** S. 155 in force at 1.12.2008 by [S.I. 2008/2994](#), [art. 3\(1\)\(a\)](#)

**156 Interpretation of group of sections**

- (1) In this section and sections 149 to 155 “this group of sections” means this section and those sections.

- (2) In this group of sections—

“company” means a company as defined by section 1 of the Companies Act 2006 (c. 46);

“English local authority” means—

- (a) a county council in England,
- (b) a metropolitan district council,
- (c) a non-metropolitan district council for an area for which there is no county council,
- (d) a London borough council,
- (e) the Common Council of the City of London, or
- (f) the Council of the Isles of Scilly;

“health services” means services which must or may be provided for the purposes of the health service continued under section 1(1) of the National Health Service Act 2006 (c. 41) or services which are similar to such services;

“prescribed” means prescribed by regulations;

“qualifying body” has the meaning given by section 150;

“regulations” means regulations made by the Secretary of State;

“social care services” means services which an English local authority must or may provide or arrange to be provided under any of the following provisions—

- (a) Part 3 of the National Assistance Act 1948 (c. 29),
- (b) section 45 of the Health Services and Public Health Act 1968 (c. 46),
- (c) section 117 of the Mental Health Act 1983 (c. 20), and
- (d) section 254 of, and Schedule 20 to, the National Health Service Act 2006 (c. 41),

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or services which are similar to such services.

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

- C1** S. 156 modified (temp.) (1.4.2009) by [The Health and Social Care Act 2008 \(Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/462\)](#), arts. 1(1)(b), **14**

**Commencement Information**

- I9** S. 156 partly in force; s. 156 in force for specified purposes at Royal Assent, see s. 170
- I10** S. 156(1) in force at 1.12.2008 in so far as not already in force by [S.I. 2008/2994](#), **art. 3(1)(b)(i)**
- I11** S. 156(2) in force at 1.12.2008 for specified purposes by [S.I. 2008/2994](#), **art. 3(1)(b)(ii)**
- I12** S. 156(2) in force at 1.4.2009 in so far as not already in force by [S.I. 2008/2994](#), **art. 3(2)(g)**

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